



Shire of
Serpentine
Jarrahdale

Ordinary Council Meeting

**Confirmed
Minutes**

7.00pm

Monday, 16 November 2020

Contact Us

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In Person

Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong WA 6123
Open Monday to Friday 8.30am-5pm (closed public holidays)



www.sjshire.wa.gov.au



Councillor Attendance Register

In accordance with Ordinary Council Meeting, 16 December 2019, Resolution OCM293/12/19, clause 5 – “That Council requests the Chief Executive Officer maintain a Councillor Attendance Register recording Councillor Attendances at Ordinary Council Meetings, Special Council Meetings and Policy Concept Forums”.

Council October 2019 -

Date	Type	Cr Rich	Cr Atwell	Cr Byas	Cr Coales	Cr Dagostino	Cr Denholm	Cr McConkey	Cr Strange	Cr Strautins
02/11/20	PCF	A	✓	✓	✓	A	✓	✓	✓	✓
19/10/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
05/10/20	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/09/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
07/09/20	PCF	✓	✓	✓	✓	✓	✓	A	✓	✓
24/08/20	PCF	✓	✓	✓	✓	A	A	✓	A	✓
17/08/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
03/08/20	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
27/07/20	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
20/07/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	A
06/07/20	PCF	✓	✓	✓	✓	A	✓	✓	✓	✓
22/06/20	SCM	✓	✓	✓	✓	✓*	✓	✓	✓	✓
15/06/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/05/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
23/03/20	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
16/03/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
24/02/20	PCF	✓	✓	✓	A	✓	✓	✓	✓	✓
17/02/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
03/02/20	PCF	✓	A	✓	✓	A	✓	✓	✓	✓
03/02/20	SCM	✓	A	✓	✓	A	✓	✓	✓	✓
16/12/19	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
18/11/19	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
04/11/19	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓



Continued

Ordinary Council Meeting Minutes Monday, 16 November 2020

28/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/10/19	SCM	✓	✓	✓	✓	✓	✓	✓	✓	✓

* Councillor Dagostino was an apology for the Special Council Meeting on 22 June 2020, but attended the resumed Special Council Meeting on 29 June 2020 from 7.00pm to 7.05pm, before Declaring an Interest and leaving the meeting.

A – Apology

LOA – Leave of Absence

NA – Non Attendance



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The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(1)(e)) and *Council's Standing Orders Local Law 2002 (as amended)* – Part 14, Implementing Decisions. No person should rely on the decisions made by Council until formal advice of the Council resolution is received by that person.

The Shire of Serpentine Jarrahdale expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.



Minutes of the Ordinary Council Meeting of the Shire of Serpentine Jarrahdale held on Monday, 16 November 2020 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Councillor Rich declared the meeting open at 7.00pm and welcomed Councillors, and Staff, and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to the Traditional Owners, Elders Past, Present and Emerging.

The Shire President, Councillor Rich acknowledged and welcomed past Councillor Sandra Hawkins.

Minutes

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

Councillors: M Rich.....Presiding Member
 D Atwell
 M Byas
 R Coales
 M Dagostino
 B Denholm
 K McConkey
 L Strange
 D Strautins

Officers: Mr P Martin.....Chief Executive Officer
 Mr F SullivanDirector Corporate Services
 Mr A TrosicDirector Development Services
 Mr S HardingDirector Infrastructure Services
 Mr B Oliver.....Acting Director Community and Organisational Development
 Dr K ParkerManager Governance
 Ms A LierschAgendas and Minutes Officer (Minute Taker)

Apologies: Nil.

Observers: Members of the Public – 25
 Media – 1

**2. Public question time:****2.1 Response to previous public questions taken on notice:**

Nil.

2.2 Public questions:

Public questions commenced at 7.01pm.

Margaret Cala, 70 Randell Road, Mardella 6125

My question relates to the proposed re-alignment of the Freight Rail line South of Mundijong Road.

Earlier in the year residents in the Mardella area between Mundijong Road and Randell Road received letters from the Transport Authority informing them of soil testing to be done on their properties as a part of the process to identify a preferred route for the re-alignment of the Freight Railway line South of Mundijong Road. The letter stated that a preferred route would be identified by the end of the year 2020.

To date, no soil testing has been carried out in the area and the end of the year is some 6 weeks away. Residents are still in limbo, with no clear idea of what the future holds.

Question 1

What, if anything is the Shire doing to represent their community in progressing this assessment and route identification so that all land owners in the area know where they stand and can make appropriate plans for their futures?

Response (Director Infrastructure Services)

The proposed freight railway realignment is a State Government project and the Shire has no direct interface with potentially affected properties. However, the Shire has strongly communicated the need for the State Government to liaise with and keep updated, the affected property owners and the broader community. The Shire will raise your concern with Main Roads and continue to reinforce the need to communicate with affected residents.

Lee Bond, Box 44 Armadale WA 6112**Question 1**

What is the full cost of setting up the Watkins Road waste transfer station?

Response (Director Infrastructure Services)

Set up on Watkins Road Transfer Station included:

- | | |
|-----------------------|-----------|
| • Capital | \$220,000 |
| • Plant and Equipment | \$300,000 |
| TOTAL | \$520,000 |



Question 2

What was the full cost of a years hard waste collection and the full cost of a years green waste collection for the SJ Shire?

Response (Director Infrastructure Services)

The annual cost of hard waste removal was:

- *Hard waste collections* \$380,000
- *Green Waste collections* \$160,000
- TOTAL* \$540,000

Question 3

What is the cost of tree removal on Hopkinson Road and exactly what are they required to do and who is doing it?

Response (Director Infrastructure Services)

It is unclear which tree/s are being referred to as being cleared on Hopkinson Road. With more clarity Shire Officers can investigate further and provide a response at a later date.

If your question relates to the Hopkinson Road widening project which is now complete there was only pruning of trees undertaken no removal.

Lisa Brazier, PO Box 80, Mundijong WA 6123

Regarding 10.1.1 – Addendum to item 10.1.1 Proposed Equestrian Activity (Covered Horse Arena) - Lot 208 (434) Kargotich Road, Oakford

Question 1

The addendum clearly states the dates that requested further information was received and responded to for the Q & A session on this item. The Council voted at the last OCM to defer this matter as the Shire President stated she was waiting on further information - however the addendum does not state the date these items were received or responded to - could you please provide these dates?

Response (Director Development Services)

On 29 October 2020, Councillors were requested to identify any further information they required. Shire Officers received one email requesting further information on 3 November 2020. The response to this request is provided in the addendum on page 28 of the agenda. This being 4 November at 12:20pm by the independent planning assessor.



Regarding OCM Minutes Monday, 19 October 2020, Item 12.1 - Questions by Members of which due notice has not been given - Councillor McConkey.

Question 2

It is recorded in the OCM Minutes that:

The Chief Executive Officer, Mr Martin responded that the question would be taken on notice and a response provided within 7 days.

Has the question been responded to and if not why not and if it has been responded to, what date was this and why is it not published in this agenda tonight as is the case with all Public Questions taken on notice?

Response (Chief Executive Officer)

Yes, following Cr McConkey's question asked at the resumed Ordinary Council Meeting on 22 October 2020, an email response was provided to Cr McConkey and copied to all Councillors on Wednesday, 28 October 2020 in accordance with Clause 3.11A (2b) of the Standing Orders.

The relevant clause states that when a member asks questions of which notice has not been given:

"Where possible, the CEO, or the CEO's nominee, is to answer each question to the best of his or her knowledge and ability but, if the information is unavailable or requires research or investigation, the CEO or the CEO's nominee may ask that

(a) the question be placed on notice for the next meeting of the Council; or

(b) the answer to the question be given within 7 days to the Member."

The Department of Local Government's guidance material on the preparation of minutes advises that minutes are to be a record of the collective decision-making of Council. The guidance material goes on to advise that this is achieved by recording those elements in the minutes prescribed in the Act and its Regulations.

Regulation 11 of the Local Government (Administration) Regulations 1996 requires responses to public questions are required by to be included in the minutes.

The Department's various guidance material on public question time and the preparation of agendas and minutes notes that questions posed by Councillors at a meeting and by members of the public in public question time are distinct.

Question 3

Do we have a Councillor Dress Code? If so, where can it be found and if not – why not?

Response (Director Corporate Services)

The Shire of Serpentine Jarrahdale does not have a dress code for Councillors. Some local governments incorporate requirements within their code of conduct. Amendments to the Local Government Act 1995 will introduce a mandatory code of conduct for local governments across Western Australia. The regulations to enact these changes are being considered by the Minister. The Department of Local Government has advised that following the eventual passage of the new regulations,



when adopting the new mandatory code of conduct, Councils may give consideration to behaviours that are not currently represented in the Code that they consider are important.

Presiding Member, Councillor Rich asked if there were any public questions from the floor at 7.11pm. No further questions were asked.

Public questions concluded at 7.12pm.

3. Public statement time:

Public statement time commenced at 7.12pm.

David Maiorana, Harley Dykstra, PO Box 316 Kelmscott 6991, regarding item 10.1.2 – Retrospective ‘Transport Depot’ and ‘Plant Nursery’ - Lot 101, 132 Boomerang Road, Oldbury

Good evening Councillors. My name is David Maiorana, from Harley Dykstra.

This Public Statement is made on behalf of the landowners, Brad and Lisa Walton, in support of a development application at Lot 101 Boomerang Road, Oldbury. This proposal is listed as item 10.1.2 on the Agenda.

Brad and Lisa Walton who are present tonight in the public gallery are the landowners and operators of BWC Civil a small locally owned civil and earthmoving contractor.

In respect of our client’s application since the release of the Agenda Report, we have been liaising with staff on a proposed alternative access solution in response to a recommended condition requiring significant upgrades to Boomerang Road within 6 months following approval.

We consider that this condition is both unreasonable and unnecessary particularly given that the vehicle movements associated with the proposed Transport Depot and Plant Nursery represent a very small proportion (maximum of 0.93%) of the road’s daily capacity. In addition, the recommended approval period is for only four years.

Therefore, we are seeking the Shire’s support for an alternative access solution (via an amended proposal) whereby the existing and constructed right of carriage way easement over Lot 102 is used to provide direct access onto King Road. This would remove the need for use of Boomerang Road to access the facility and hence any requirement to upgrade this section of Boomerang Road.

To provide the Shire with enough time to properly consider this access arrangement, we are seeking your support for the application to be deferred.

If a deferral is not agreed upon, support for the alternative access solution, removal of the road upgrade condition, and support for a non-time limited approval is sought. A non-time limited approval is requested on the basis that the proposed ‘Transport Depot’ is consistent with the scale and broad range of land uses currently found in the rural zone. The Transport Depot represents a small proportion of the total site area which is far lower than the scale of two nurseries in close proximity to the site and the sand pit on Lot 101.

It should also be noted that the owners of BWC Civil personally own and live on the subject land. They intend to continue using the land for their already established and ongoing rural



activities and pursuits including the keeping, preparation, and training of racehorses and the proposed Plant Nursery which also forms part of this proposal.

BWC Civil are a longstanding local employer who wish to continue operations within the Shire. Therefore, we seek your support for the Shire to properly consider the alternative access arrangement by putting forward and supporting an alternative motion for the application to be deferred.

I trust this statement will assist the Council in supporting a deferral. Should you have any questions, I will be more than happy to assist.

Thank you.

Michael van der Lecq regarding item 10.1.8 – Proposed Outbuilding Lot 27, 14 Dalley Street, Byford

Good evening Councillors

Thank you for the opportunity to provide a statement in relation to a planning application that I lodged for an outbuilding at Lot 27, 14 Dalley Street Byford – which you will consider under agenda item 10.1.8.

I am very appreciative of the comprehensive and fair analysis that was carried out by the shire planning team after an objection was lodged by my neighbour. Having read the report that was submitted by the planning department it appears that my reasons for the location and size have been addressed and there is little I can add to influence your decision making.

I would however like to use this opportunity to draw your attention to one additional factor for the proposed shed location. We currently have 4 outdoor living/alfresco areas facing onto our property (1 from the north, 1 from the south and 2 from the eastern boundary). This fact was considered as we tried to determine the best location for a larger shed. It seems that regardless of the new shed's location there would be some impact to visual amenity of neighbouring properties, and we deem the proposed location to have the least impact.

I am also aware that our Shire is very keen to preserve established vegetation that supports local wildlife. This is also of importance to me and I am glad that no established vegetation would need to be cleared for a larger shed to be constructed.

Thankyou once again!

Lee Bond, Box 44 Armadale WA 6112

This Shire appears to be picking and choosing as to who can operate a business and it has nothing to do with rules or laws. It isn't any wonder that well known business's have left the Shire or are now considering it.

I hope all Councillors are fully aware that giving the honour of Freeman of the Shire is a serious decision and requires the recipient to be of exemplary conduct and totally deserving of this honour. Giving it to those who do not fit this description makes a mockery of this honour. Think very carefully before choosing the next person for this honour, being radical, rude, objectionable, loud and demanding does not qualify a person.



Councillor Dagostino left the Chambers at 7.19pm.

Rebecca Strickland regarding item 10.1.1 – Proposed Equestrian Activity (Covered Horse Arena), Lot 208 (434) Kargotich Road, Oakford

Good Evening my name is Rebecca and I am Michael's partner and I would like to make a statement about the indoor arena application.

Commercial Use

Firstly, I understand from what I have read in the Council Papers there has been a concern raised around potential commercial use of the arena.

Importantly, this arena is about our family - our young family and as they grow up we have decided that, if we can, we would like to have this for them to use for their own benefit.

As is expressly stated in the application and there's also an express condition in the proposed conditions of approval we don't want the arena to be for commercial use.

And in summary we don't want other people to use it, we want this to be for our family.

Water Run Off

Secondly, I see in the papers there have been queries raised in relation to the amount of rainwater run-off from the Shed, for those of you that are on non-scheme water properties you understand the value of rainwater.

I can assure you that we will be doing everything we can to use all the water we capture (eg by linking the shed tank to our house water tank) as there is nothing more annoying than having to buy water in by the truckload which we often have to do so will be trying to catch and use all the water we can off the shed roof. In addition, we also need the water to irrigate the arena surface.

Independent review

Finally, I have read in the Papers that in line with Council Policy this application was submitted for an independent review by a third party consultant. From what I have read in the papers the independent consultant has assessed the application and recommended it for approval on the terms outlined in the papers.

Thank you for consideration of the application

Councillor Dagostino returned to the Chambers at 7.21pm.

Public statement time concluded at 7.21pm.

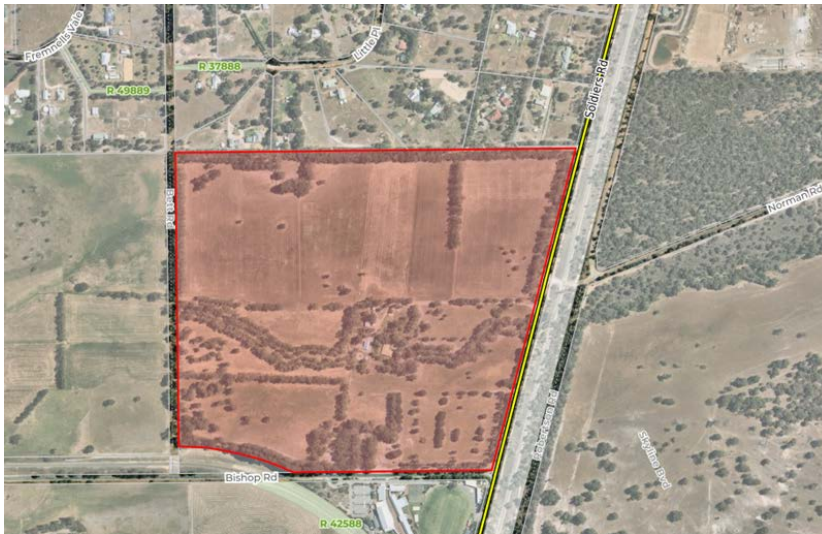


4. Petitions and deputations:

4.1 – Deputation – Mark Szabo, Associate Director, Burgess Design Group, on behalf of Land Group WA, regarding item 10.1.12 – Adoption of Amendments to the Mundijong Whitby District Structure Plan

Submission on draft Mundijong District Structure Plan (2018) as it relates to lot 30 Soldiers Road, Cardup

On behalf of Land Group WA – Cardup Pty Ltd, the registered landowner of Lot 30 (#496) Soldiers Road, Cardup



Firstly, I would like to thank Andrew Trosic and his staff for the time and effort they have given us over the last 12 months or so in helping to try and address some of the issues we have raised with these detailed and technical documents. We understand that we will not always see eye to eye nor agree on all things but it has always been an inclusive and professional relationship – and for that we are very appreciative.

Background

The draft DSP identifies our client's land as 'Development Investigation Area 2' (DIA2), for which it specifies the following objectives:

The purpose and intent of DIA2 is to explore the potential for urban expansion with consideration for innovative housing opportunities.

Our client, Land Group WA, has in fact been working for sometime on the potential to utilise this site for the future roll-out of a new and innovative form of building construction that seeks to provide a high quality form of housing and development at a more affordable cost than current development and construction forms utilised in WA.

Our clients are actually hoping to provide Elected Members with a briefing on their development intent for the site. They have asked that we liaise with staff to book an opportunity so they can provide a presentation to members on their research and outcomes for the form of housing construction and development they wish to showcase on this site.



However there are components of the DSP that will severely hamper the opportunity for Land Group WA to implement this project.

We have made a detailed submission on the Draft Structure Plan and that is contained in your notes at Submission No.7.

The main concern we have is the proposed extension of Norman Road that would bisect our client's site into two halves. This proposed road would negatively impact the amenity for future urban uses within the site, and will potentially undermine the potential for our clients to develop the site with an innovative sustainable new form of development and housing construction model.

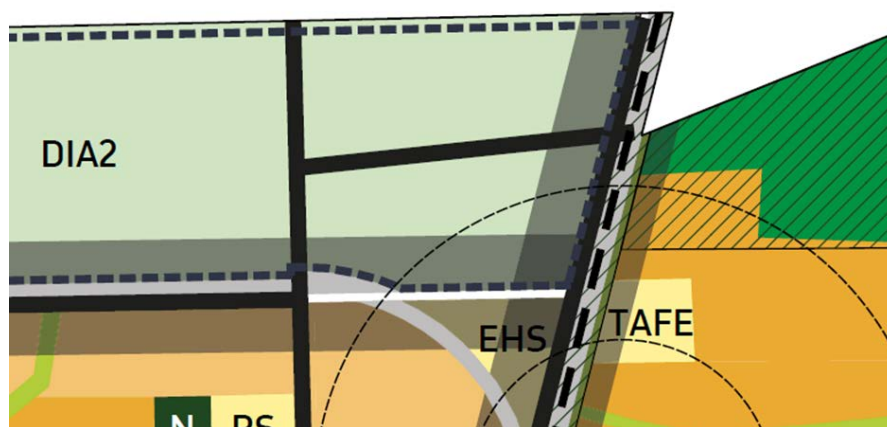
Whilst we note the response of the City's officers to our submission we do not consider that they appropriately answer the issues that have been raised nor do they make up for the lack of technical justification for this road.

The DSP and the response to our submission makes reference to a purported 'requirement' of the Sub-regional Framework to extend Norman Road in its criteria for considering development proposals for the site and to justify the inclusion of the extension in the DSP more generally.

Relevantly, the Sub-regional Framework states:

Some refinement of east-west connections may be appropriate, including the westward extension of Norman Road to connect to Bishop Road.

In this instance, the Sub-regional Framework does not 'require' the extension of Norman Road, nor does it conclude an additional east-west link is even necessary or desirable. It simply identifies that such an extension 'may be appropriate', providing for the consideration of such a linkage where justifiable.



Transport Impact Assessment (2020)

This is an important position to establish because no substantive justification has been provided for this proposed road. In fact, we consider that it is particularly important for Elected members to understand that the *Transport Impact Assessment* prepared in support of the DSP appears to provide no assessment of the impacts or justification for the extension of Norman Road, nor Doley Road for



that matter, bringing into question the purpose and efficacy of the changes proposed to the road network.

None of the modelling presented in the TIA includes the Norman Road or Doley Road extensions. Both are omitted from figures and the results set out under Section 5 and also from the modelling contained within Appendix C of the TIA. The TIA instead shows the existing arrangement, without the extension of Norman Road, is sufficient and provides a logical and legible route for traffic movements, and can accommodate the expected level of growth.

This clearly indicates the extension of Norman Road is not necessary and is not warranted particularly given the impacts it will have on the future sustainable development aspirations of our clients.

DCP Costs

The 'Mundijong Proposed Roads and Freight Network' figure within the DSP depicts the extension of Norman Road as 'future local distributor' and has not been reflected in the DCP (nor is the Doley Road extension).

No comment is provided with the DCP to explain why the Norman Road extension and Doley Road extensions have been omitted. In the absence of any explanation, we can only assume this is because they are associated with a 'Development Investigation Area', and that the Shire will seek to amend the framework to include these additional items once planning over these cells has progressed.

Including such items at some point in the future may significantly limit the capacity to fairly apportion and recover costs for such infrastructure.

This approach also appears to contradict the purpose of the DSP. Either the extension is needed for the function of the district road network, in which case it should be shown, properly assessed, and costed, or it is not (as the traffic report seems to indicate), and it should be removed.

The proposed extension of Norman Road appears to be an illogical and inefficient duplication of infrastructure that has no technical basis and for which there appears no need. Additionally, its delivery is not appropriately planned for under the DCP, and no commentary is provided to clarify its intended purpose.

The technical analysis used to inform the DSP and DCP demonstrates it is not needed; it serves no positive purpose and does not improve or substantially change the existing situation; and poses significant constraints to the efficient delivery of urban development on our clients land. On that basis – given the road is not needed (or justified) and that it would negatively affect our clients land, it is our opinion that it should be deleted from the DSP.

School Sites

I am also hoping to touch briefly on a second concern that we have with the DSP report relating to the future provision of school sites in the structure plan area.

The Schedule of Submissions states that the Department of Education has advised 13 primary schools (13.6 if going by the 1/1,500 rate) and 3 secondary schools are required for the structure plan area. 8 primary schools and 2 secondary schools are currently shown. This is a shortfall of 5 primary schools and one secondary school.

The report talks about a modification for 'additional' primary and secondary schools.



“That additional primary and secondary school locations be specifically identified within the ‘Urban Expansion’ areas (which are identified as DIA1 and DIA2), based on the feedback provided by the Department of Education and the Department of Planning, Lands and Heritage.”

We assume that this is an error or could simply be worded better as it seems to imply that any existing shortage of schools sites shall be provided in the Development Investigation Areas.

It is noted that the minimum dwelling yield (for the structure plan area) has effectively increased from 11,500 (in the 2010/2011 draft of the DSP) to the current estimate of 17,702 without any change to the planning of schools. The shortfall appears principally related to the existing structure plan areas (we assume the DIA areas are distinct and would of course be self-sufficient, noting no land uses are shown on the DSP Map).

In our experience, and in the context of the evolving policy framework, the WAPC is strengthening its position on the provision of school sites and we would recommend that the requirements for additional schools be very clearly expressed in the district structure plan.

That is the two main issues I wished to address so thank you for your time and attention.

4.2 – Deputation – Len Kosova, Director, L K Advisory, regarding item 10.1.12 - Adoption of amendments to Mundijong Whitby District Structure Plan and 10.1.14 – Consideration of adoption of Scheme Amendment No. 209

1. Madam President, Councillors, CEO and Shire Staff, my name is Len Kosova from LK Advisory and I'd like to thank you for the opportunity to make a deputation tonight on Agenda Items 10.1.12 and 10.1.14. These two items respectively relate to the Mundijong Whitby District Structure Plan and associated Development Contribution Plan proposed by Amendment No. 209 to the Shire's Town Planning Scheme No. 2.
2. I acknowledge that you have a significant Council Agenda to get through this evening, so I will keep my discussion concise and well under the 15-minute time allocation.
3. By way of background, LK Advisory was engaged by WPG Landholdings to independently review the Draft Mundijong Whitby DSP and related DCP during the public advertising period of both documents.
4. For Elected Members' reference, WPG Landholdings owns or plays a coordinating role for all privately land bounded by Mundijong, King, Leipold and Kargotich Roads, Oldbury, which is shown with a red broken line on the map contained in the body of both these Council Reports.
5. Our comprehensive feedback on the Draft DSP and DCP has been incorporated in the submission from Dynamic Planning and Developments, which is included in your agenda papers as:
 - Submission No. 9 in Attachment 2 of Agenda Item 10.1.12 (commencing page 43); and



- Submission No. 15 in Attachment 4 of Agenda Item 10.1.14.
6. Shire staff have kindly included our comments on both proposals in their entirety in the Schedule of Submissions attached to the two Council reports and I'd like to extend my thanks to the Director for doing so.
 7. I would also like to acknowledge the efforts of Shire staff to report such significant and complex matters, the subject of so many submissions, back to Council in a thorough and timely fashion – only 2½ months after the close of the public advertising period.
 8. As stated in our submission, the specific purpose of our review was to determine the value and impact of extending the Draft DSP and DCP to incorporate the WPG landholdings west of the Mundijong strategic industrial area. I will not labor the details of our submission, suffice to say that our analysis has identified that the Shire, its community and all landowners within the existing DSP area can derive significant benefits from considering this area for future urban development potential. These benefits include but are not limited to:
 - Supporting the Council and community's aspirations for the growth of Mundijong;
 - Increasing the pool for development contributions and thereby reducing the cost of contributions per lot, which in turn will improve the affordability of land for new residents;
 - Providing development contributions cashflow to accelerate the early delivery of critical community and traditional infrastructure;
 - Growing the Shire's overall rate base and adding to the Shire's long-term sustainability;
 - Mitigating the risk posed to Council of community demand for new DCP infrastructure outpacing the quantum of contributions collected to deliver that infrastructure.
 9. We acknowledge the Officer's comments that the WPG landholdings area has not previously been identified as having any further development potential beyond its current rural designation, but that importantly further information and decisions have now emerged since the trajectory of this area was initially set many years ago. Some of these relevant factors are summarised on page 163 of your agenda papers (page 8 of the DSP Agenda Item 10.1.12)
 10. We commend Shire staff for acknowledging these factors and noting that circumstances have indeed changed sufficiently to now warrant some discussion and direction being sought from the WAPC Chairman and Planning Minister regarding this matter, to clarify the role this strategic land area should play in the sub-regional planning framework.
 11. I thank you for your time and commend the Officer Recommendations to you.



4.3 - Deputation – Ingrid Maher, Planning Consultant, Planning Solutions, on behalf of the adjoining land owner, regarding item 10.1.3 - Proposed Drive-Through Bottle Shop Addition to Existing Tavern

Planning Solutions acts on behalf of the owners of Lots 24 and 25 Anstey Street, Mundijong, who will be directly affected by the proposed Drive Through Bottle Shop Additions to the Existing Tavern, as the properties adjoin the existing Mundijong Tavern at Lot 6 Paterson Street, Mundijong, to the rear.

On behalf of our client, we object to the proposed development application in the strongest possible terms, on the basis that the development application is deficient and fails to ensure there will be no adverse impacts on the amenity of adjoining residential properties.

We are disappointed to receive the Agenda for Council meeting on 16 November 2020, which includes an officer recommendation for approval of the proposed development application PA20/481, despite the fact the application is not supported by an Environmental Noise Assessment prepared by a suitably qualified acoustic consultant, which is typically required for proposed drive through land uses adjoining sensitive land uses, such as our clients' residential property at the rear of Mundijong Tavern. We also note the officer's reporting has failed to identify the adjoining residential properties as a sensitive land use within their amenity assessment, which is considered a critical matter to be considered in determining this application.

For the reasons outlined below, we respectfully request that Council refuse this proposed development application in the interest of orderly and proper planning.

Amenity impacts:

1. The application is not supported by technical acoustic reporting that demonstrates the proposal will comply with the relevant requirements of the Environmental Protection (Noise) Regulations 1997, and will have no adverse impact on the adjoining residential properties. In our experience, a proposed development application for a drive through land use adjoining sensitive residential land uses (such as that being proposed) would typically and reasonably be required by planning authorities to be supported by an Environmental Noise Assessment which addresses such matters. Given this supporting information has not been provided by the applicant, the application is considered deficient and should be refused in the interest of orderly and proper planning.
2. The Agenda reporting fails to identify the adjoining residential properties as a sensitive land use in their amenity assessment on page 63 of the Agenda, which is considered a critical omission in the officer's reporting. Appropriate consideration of the adjoining sensitive land uses would ensure any potential amenity and noise impacts on adjoining residents are appropriately addressed in the officer's reporting and recommendations to Council, as critical matters to be considered in determining a proposed drive through land use adjoining existing sensitive land uses.
3. The draft conditions of approval for Agenda item 10.1.3 also fail to consider the potential impacts on the amenity of the adjoining residents, or compliance with the relevant Noise Regulations. Specifically, draft condition 1.b. allows for hours of operation beyond what is considered reasonable or typical for a drive through bottle shop within the Perth metropolitan area; and draft condition 1.j. allows for service delivery times any time between 7pm and 11am, 7 days per week, which is not



appropriate for a commercial premises that adjoins residential properties and is inconsistent with the Noise Regulations requirements.

Should these draft conditions of approval be imposed as currently worded, the proposed development would be non-compliant with the Noise Regulations and could have a significant adverse impact on the amenity of adjoining properties by way of increased noise levels.

Car parking shortfall:

4. The car parking assessment provided in the Agenda report is flawed in that it includes two public car parking areas in proximity to the site as justification for the proposed parking shortfall, which are meant to service the adjoining train station, post office and broader district town centre. In our view, it is not appropriate to include the majority of the existing public parking bays in the area to justify a parking shortfall for an existing tavern and proposed bottle shop on private land, particularly car bays intended to service the Mundijong Train Station. On this basis, the proposed parking shortfall is not appropriately justified and therefore should not be supported by Council.

As demonstrated above, the proposed development application is deficient and should be refused in the interest of orderly and proper planning.

CONCLUSION

Without support of technical acoustic assessment reporting that demonstrates the proposal will comply with the relevant Noise Regulations and will have no adverse impact on the amenity of the adjoining residential properties, the proposed development application is considered deficient and should be refused in the interest of orderly and proper planning.

Accordingly, we respectfully request the Council refuse the proposed development application in its current form.

Thank you for your consideration. I will be available to answer questions at the Council meeting on 16 November 2020 if required.

4.4 - Deputation – Daphne Stevenson, regarding item 10.1.6 – Temporary Accommodation – Lot 848, 93 Kalyang Loop, Byford

- Actual house is finished. Now focussing on internal fit out.
- Waiting on windows to be manufactured in frames at front . Doors in place.
- Second hand kitchen \$900 being refurbished by Geoff and myself, in preparation for install. 2 more cabinets to go inside.
- Plumbing complete.
- All plasterboard has been purchased. Plasterboard will be installed pre: Christmas.
- Waiting on final quote for electrician, [circa \$3000].
- We have all ceramic tiles for wet areas [very lucky to get these second hand] at no cost. Thanks to family and friends.
- We installed a fence out the front.
- I sincerely thank you for patience, help and guidance in this.



5. President's Report:

Good evening and welcome to the November Ordinary Council Meeting for 2020.

I would like to begin with a few announcements;

Firstly, I would like to acknowledge our local winners of the Round 3 Regional Economic Development (RED) Grants for the Peel region.

Congratulations to the Jarrahdale Equestrian Centre on their \$80,000 grant which will be used for the construction of an all-weather covered arena, stables, and viewing platform enabling the arena to be used in all weather conditions and in the evening.

Congratulations also to the SJ Food & Farm Alliance for their \$30,000 grant which has helped with the establishment of the SJ Farmers Market. The Shire is also proud to be supporting the SJ Farmers Market and I was pleased to attend their first market on Saturday, 7 November, where there was a great crowd and stall holders having a successful morning.

Secondly, Congratulations Dr Sheila Twine, a former Shire President and Councillor, who was named Regional WA Senior of the Year on Friday as part of Seniors Week.

And finally, I am pleased to announce that a date has been confirmed for the opening of the Shire's Watkins Road Transfer Station and Recycling Centre.

The facility will open on Thursday, 26 November and will initially open three days a week, Thursday – Saturday from 7.30am – 6.30pm. Further information for residents is available on the Shire's website.

Moving on to my monthly calendar, it was fantastic to be able to attend the Byford Secondary College Valedictory Ceremony for the graduating class of 2020. It was great that the College was able to host the ceremony within the Shire and we wish the students all the best in their future endeavors.

I attended the East Metropolitan District Emergency Management Committee Meeting on 20 October where we discussed fire mitigation activities within the Shire. I also met with the Department of Fire and Emergency Services on 22 October to continue our advocacy for a Career Firefighting Station in the Shire and Oakford Fire Station among other emergency services related topics.

Thank you to the Equine Advisory Group members and staff for their participation in the inaugural meeting on 21 October. We look forward to seeing the work progress from this advisory group and advice in regards to the needs and priorities of the Serpentine Jarrahdale Equine Community.

On 25 October I joined the Sport Aircraft Builders Club of WA at their Annual Fly-In event in Hopeland and later in the day I attended the WA State Jumping Championships in Serpentine for the first International Equestrian Federation Australian Jumping Competition since COVID-19. Congratulations to the organising committee for pulling together such a great event.

Deputy Shire President Cr Atwell and I assisted the Serpentine Historical Society in officially opening a new gazebo at Serpentine Cemetery on 31 October. The project was made possible through a \$13,000 Shire grant and provides a comfortable space for visitors to rest and reflect. Congratulations to the Serpentine Historical Society for identifying this project and making it a reality.



I attended the Peel CCI Business Excellence Awards in Mandurah later that day where local business Peak Consultancy were runner-up in the Home-Based Business category. Congratulations to all the winners and finalists on the night.

The final local Emergency Management Committee Meeting was held in the Civic Chambers on 3 November. I would like to thank all the stakeholders involved in what has been a busy year with emergency management.

It has been fantastic to meet so many community members over the past few weeks through our Community BBQ Series. I would like to take this opportunity to personally invite all Councillors to attend the remaining community BBQs.

On behalf of Council, I would like to thank our Community Safety Team, Neighbourhood Watch Group, WA Police and local fire brigades for their collaboration in delivering these events throughout the Shire.

It was great to see so many community members pay their respects to those that have lost their lives in all wars, conflicts and peace operations at the Serpentine Jarrahdale RSL Remembrance Day service in Byford on 11 November. I would like to commend Cr Coales and Cr Strautins along with the Serpentine Jarrahdale RSL Committee for the delivery of a respectful service.

Cr Strautins and I attended the launch of the Perth Hills Tourism Alliance's new Experience Perth Hills marketing brand in Boya on 12 November. Experience Perth Hills is a collaboration between the Shire and the Cities of Armadale, Swan and Kalamunda, and the Shire of Mundaring with the aim to boost tourism across our localities by working together.

Deputy Shire President Cr Atwell and I met with Sports Minister Mick Murray last week to discuss the Keirnan Park Recreation Precinct and the State Government's \$20 million funding commitment for Stage 1. We look forward to continuing to working with the State Government to progress and deliver stage 1.

As always, my full calendar can be viewed on the following page.

Date	Meeting	Location
20 October 2020	East Metropolitan District Emergency Management Committee Meeting	Cannington
	Byford Secondary College Valedictory Ceremony	Byford
21 October 2020	Meeting with Nichola Holgate and Suellen Davey	Shire Offices
	Weekly meeting with CEO	Shire Offices
	Meeting with Hugh Jones	Shire Offices
	Equine Advisory Group - Inaugural meeting	Shire Offices
22 October 2020	Meeting with DFES	Shire Offices
	Resumption of Ordinary of Council Meeting	Civic Chambers
24 October 2020	SJ Lions Club Handing Over of Mardella Hall	Mardella



Ordinary Council Meeting Minutes

Monday, 16 November 2020

Date	Meeting	Location
25 October 2020	SABC Annual Fly In	Serpentine
26 October 2020	WALGA Managing Bushfire Risk – 'Mitigation – Fuel Reduction for Safety and Biodiversity	Webinar
	CEO Employment Committee Meeting	Civic Chambers
	CEO Self-Assessment Report Presentation	Civic Chambers
27 October 2020	Meeting with Hon Matthew Swinbourn	Shire Offices
	Weekly Meeting with CEO	Shire Offices
	Community BBQ	Oakford
29 October 2020	Community BBQ	Jarrahdale
30 October 2020	Parks and Leisure Australia - 2020 WA Awards of Excellence	Teleconference
31 October 2020	Serpentine Historical Society - Celebration of the Completion of Gazebo at Serpentine Cemetery	Serpentine
	Peel CCI Business Excellence Awards	Mandurah
2 November 2020	WALGA Road Project Procurement	Perth
	Special State Council Meeting	Perth
3 November 2020	Local Emergency Management Committee Meeting	Civic Chambers
	Community BBQ	Keysbrook
4 November 2020	Strategic Risk Register Review Workshop	Civic Chambers
5 November 2020	Meeting regarding Keirnan Park	Shire Offices
	Community BBQ	Whitby
	Community Forum Drop In Sessions	Shire Offices
6 November 2020	Alcoa Huntly - Site Visit	Shire Offices
7 November 2020	Mundijong Farmers Markets	Mundijong
	Opening Night - Aboriginal Art Exhibition	Byford
9 November 2020	CEO Employment Committee Group Discussion	Shire Offices
	Q&A Agenda Briefing	Civic Chambers
10 November 2020	Community BBQ	Serpentine



Date	Meeting	Location
11 November 2020	Weekly Meeting with CEO	Shire Offices
	Remembrance Day Service	Byford
	CEO Employment Committee Meeting	Civic Chambers
	Landcare AGM	Mundijong
	Jarrahdale Heritage Society AGM	Jarrahdale
12 November 2020	Launch of "Our Story - Deep Dive"	Boya
	Meeting with Minister Mick Murray	Perth
	Community BBQ	Darling Downs

6. Declaration of Councillors and Officer's interest:

Chief Executive Officer, Mr Paul Martin declared a Financial interest in item 8.1 – CEO Employment Committee – 26 October 2020 as Mr Martin is the Chief Executive Officer and the CEO Employment Committee deals with and makes recommendations regarding Mr Martin's employment. Mr Martin will leave the Chambers while this item is discussed.

Chief Executive Officer, Mr Paul Martin declared a Financial interest in item 8.2 – Special CEO Employment Committee – 11 November 2020 as Mr Martin is the Chief Executive Officer and the CEO Employment Committee deals with and makes recommendations regarding Mr Martin's employment. Mr Martin will leave the Chambers while this item is discussed.

Councillor Dagostino has declared a Financial Interest in item 10.1.1 - Proposed Equestrian Activity (Covered Horse Arena) – Lot 208 (434) Kargotich Road, Oakford as Councillor Dagostino is the property owner. Councillor Dagostino will leave the Chambers while this item is discussed.

Councillor Strange has declared a Financial Interest in item 10.1.1 - Proposed Equestrian Activity (Covered Horse Arena) – Lot 208 (434) Kargotich Road, Oakford as Councillor Dagostino provided Councillor Strange with the free loan of a pony following the passing of one of Councillor Strange's two horses. Councillor Strange will leave the Chambers while this item is discussed.

Shire President, Councillor Rich has declared a Financial Interest in item 10.1.2 - Retrospective 'Transport Depot' and 'Plant Nursery' - Lot 101, 132 Boomerang Road, Oldbury, as BWC Civil is a client of her family business. Councillor Rich will leave the Chambers while this item is discussed.

Councillor Strautins has declared an Impartiality Interest in item 10.1.3 - Proposed Drive-Through Bottle Shop Addition To Existing Tavern - Lot 6, 32 Paterson Street, Mundijong, as Councillor Strautins is familiar with the Publican.

Councillor Atwell has declared a Financial Interest in item 10.1.3 - Proposed Drive-Through Bottle Shop Addition To Existing Tavern - Lot 6, 32 Paterson Street, Mundijong as Councillor Atwell does contracting works for one owner. Councillor Atwell will leave the Chambers while this item is discussed.



Director Development Services, Mr Andrew Trosic has declared an Impartiality Interest in item 10.1.11 – Adoption of Amendments to Byford District Structure Plan as Mr Trosic lives in Byford and the item pertains to amendments to the Byford District Structure Plan.

Director Development Services, Mr Andrew Trosic has declared an Impartiality Interest in item 10.1.12 – Adoption of Amendments to Mundijong Whitby District Structure Plan as Mr Trosic's partner's parents own land located within Mundijong, and this land is included in the district structure plan area and the scheme amendment area.

Councillor McConkey has declared an Impartiality Interest in item 10.1.12 – Adoption of Amendments to Mundijong Whitby District Structure Plan as one of the landowners supported Councillor McConkey's Council campaign with hanging banners.

Director Development Services, Mr Andrew Trosic has declared an Impartiality Interest in item 10.1.13 – Adoption of Amendments to Byford Traditional Infrastructure Development Contribution Plan – adoption of Scheme Amendment 208 as Mr Trosic lives in Byford and the item relates to the development contribution area amendments.

Director Development Services, Mr Andrew Trosic has declared an Impartiality Interest in item 10.1.14 – Consideration of adoption of Scheme Amendment No. 209 including West Mundijong Industrial Development Contribution Plan No. 3 and Mundijong Whitby Urban Traditional Infrastructure Development Contribution Plan No. 1, as Mr Trosic's partner's parents own land located within Mundijong, and the land is included in the district structure plan.

Councillor Atwell has declared a Financial Interest in item 10.1.14 - Consideration of adoption of Scheme Amendment No. 209 including West Mundijong Industrial Development Contribution Plan No. 3 and Mundijong Whitby Urban Traditional Infrastructure Development Contribution Plan No. 1, as Councillor Atwell is part owner of land in West Mundijong Industrial Area. Councillor Atwell will leave the Chambers while this item is discussed.

Councillor McConkey declared an Impartiality Interest in item 1.1.14 - Consideration of adoption of Scheme Amendment No. 209 including West Mundijong Industrial Development Contribution Plan No. 3 and Mundijong Whitby Urban Traditional Infrastructure Development Contribution Plan No. 1 as one of the landowners supported Councillor McConkey's Council campaign with hanging banners.

Manager Community Activation, Ms Rebecca Steinki has declared an Impartiality Interest in item 10.6.1 – CONFIDENTIAL Serpentine Jarrahdale Community Recreation Centre – Revised 2020/2021 Operational Budget (November) as Ms Steinki is a member of the facility.

Councillor McConkey declared Impartiality Interest in item 10.6.1 – CONFIDENTIAL Serpentine Jarrahdale Community Recreation Centre – Revised 2020/2021 Operational Budget (November) as Councillor McConkey is a member of the Recreation Centre.



7. Confirmation of minutes of previous Council meeting(s):

7.1 Ordinary Council Meeting – 19 October 2020

OCM351/11/20

COUNCIL RESOLUTION

Moved Cr Strange, seconded Cr Atwell

That the minutes of the Ordinary Council Meeting held on Monday, 19 October 2020 be CONFIRMED (E20/12113).

CARRIED 6/3

Councillor Coales, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

*Councillors Rich, Atwell, Byas, Dagostino, Denholm and Strange voted FOR the motion.
Councillors Coales, McConkey and Strautins voted AGAINST the motion.*



8. Receipt of minutes or reports and consideration of adoption of recommendations from Committee meetings held since the previous Council meeting:

8.1 CEO Employment Committee – 26 October 2020

Chief Executive Officer, Mr Martin declared a Financial Interest in items 8.1 and 8.2 and left the Chambers at 8.13pm prior to these items being discussed.

Attachments (available under separate cover)

- **8.1 – attachment 1 - CEO Employment Committee Minutes – 26 October 2020 (E20/12183)**

Voting Requirements: Simple Majority

OCM352/11/20

COUNCIL RESOLUTION

Moved Cr Byas, seconded Cr Strange

1. That Council **RECEIVES** the Unconfirmed Minutes of the CEO Employment Committee held on 26 October 2020 (E20/12183).
2. That Council **ADOPTS** CEO Employment Committee Resolution CEO011/10/20 and **APPROVES** that the Chief Executive Officer Key Performance Indicator setting and Annual Performance Review process will be undertaken in July of each year; **APPROVES** that an independent facilitator be engaged for a period of two years, to assist with the Key Performance Indicator setting and Annual Performance Review process; and **REQUESTS** the Deputy CEO/Director Community and Organisational Development seek quotations from external facilitators.

CARRIED UNANIMOUSLY 9/0



8.2 Special CEO Employment Committee – 11 November 2020

Chief Executive Officer, Mr Martin declared a Financial Interest in items 8.1 and 8.2 and left the Chambers at 8.13pm prior to these items being discussed.

Attachments (available under separate cover)

- **8.2 – attachment 1 – Special CEO Employment Committee – Minutes – 11 November 2020**

These minutes were distributed to all Councillors on Thursday 12 November 2020, prior to the 16 November 2020 Ordinary Council Meeting.

Voting Requirements: Simple Majority

OCM353/11/20

COUNCIL RESOLUTION

Moved Cr Byas, Seconded Cr McConkey

- 1. That Council RECEIVES the Unconfirmed Minutes of the CEO Employment Committee held on 11 November 2020 (E20/13028).**
- 2. That Council ADOPTS CEO Employment Committee Resolution CEO014/11/20 and APPROVES the recommendations as contained in confidential attachment 1.**

CARRIED UNANIMOUSLY 9/0

Chief Executive Officer, Mr Martin returned to the Chambers at 8.15pm.

Shire President, Councillor Rich advised the Chief Executive Officer that the Council Resolutions for items 8.1 and 8.2 were carried unanimously.

9. Motions of which notice has been given:

Nil.



10. Chief Executive Officer reports:

10.1 Development Services reports

Item 10.1.4 - Proposed Equestrian Activity (Covered Horse Arena) - Lot 208 (434) Kargotich Road, Oakford (PA20/738) was presented to the 19 October 2020 Ordinary Council Meeting. The item was deferred to allow for further information to be provided.

The responses to the further information requested has been included in the addendum to this report.

Councillor Dagostino declared a Financial Interest in item 10.1.1, and left the Chambers at 8.15pm prior to this item being discussed.

Councillor Strange declared a Financial Interest in item 10.1.1, and left the Chambers at 8.15pm prior to this item being discussed.

10.1.1 - Proposed Equestrian Activity (Covered Horse Arena) - Lot 208 (434) Kargotich Road, Oakford (PA20/738) - including ADDENDUM	
Responsible Officer:	WA Planning and Logistics (Independent Planning Consultant)
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	<p>No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>.</p> <p>In accordance with Shire's Business Operating Procedure 1.1.0: 'Control over Employees Dealing in Land and other Business Activity', this application is required to be determined by Council as the applicant is a current elected member of the Shire. The report has also been prepared by an external consultant as required by the Business Operating Procedure.</p>

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	M Dagostino
Owner:	M Dagostino
Date of Receipt:	18 August 2020
Lot Area:	24.6782ha
Town Planning Scheme No 2 Zoning:	Rural
Metropolitan Region Scheme Zoning:	Rural



Report Purpose

The purpose of this report is for Council to consider a development application for a proposed 'Equestrian Activity' being for the construction of a covered horse arena (for private use only) and an associated water tank at Lot 208 (434) Kargotich Road, Oakford.

In accordance with Business Operating Policy 1.1.0 - Control Over Employees Dealing in Land and Other Business Activity within the Shire of Serpentine Jarrahdale (BOP), the Shire engages an independent planning consultant to assess the application and report their assessment and recommendation to Council for consideration.

The proposal is considered to be consistent with the planning framework and the report recommends that Council approve the development application subject to conditions.

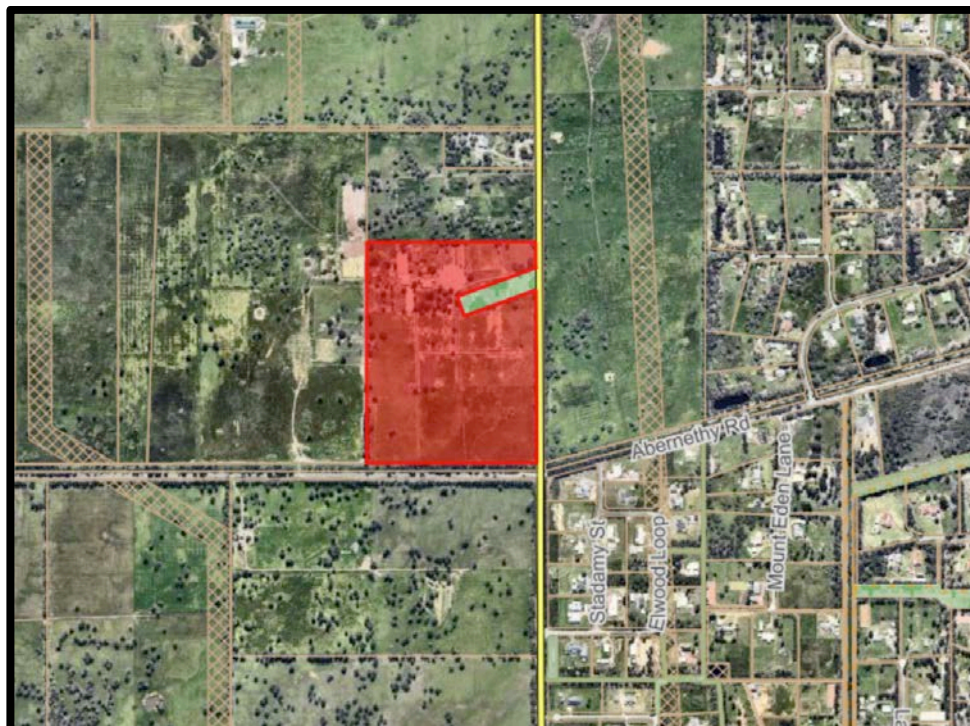
Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

Background

Existing Development

The subject site is 24.6782ha in area and is bound by Kargotich Road to the east and Abernethy Road to the south. The site is surrounded by Rural land to the north, west and south, and special rural (Rural residential under Local Planning Scheme No.3) to the east. Reserve 19895 runs through an area of the property, however this land will not be affected by this application.





The subject land contains an existing dwelling, a number of outbuildings and multiple stables that are used in conjunction with both private use and enjoyment of horses, commercial agistment of horses and also in accordance with a riding school application which was approved in 2003 (OC03/7956).



Proposed Development

An application has been lodged for the construction of a covered horse arena on Lot 208 Kargotich Road, Oakford. The arena is to be used for the private training of the owners for the purpose of providing a covered arena that will allow for training to occur in all weather conditions. This will not be open to the public for use.

The proposed structure is located 31m to the north of the existing dwelling, setback 186m from Kargotich Road and 80m from the northern lot boundary.

The arena will be 63.76m long x 25.018m wide producing an overall area of 1595.15m². The arena will measure 6.392m to the eaves and 7.049m to the ridge. The roof will be constructed of trim deck zincalume (uncoated) metal sheeting and have a 3 degree pitch to enable run off to the proposed 150,000 litre water tank.

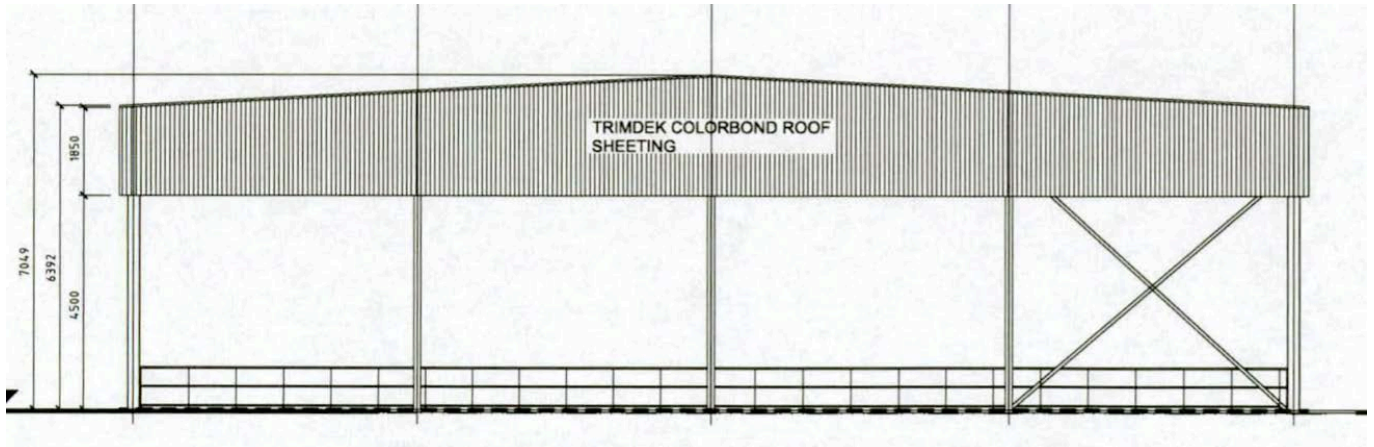
The roof will incorporate a 1.850m barge constructed with a trimdeck profile metal sheeting on the southern and western elevations in a cream colorbond colour called 'Domain'.

The eastern (facing Kargotich Road) and northern walls will be enclosed with colorbond sheeting in the colour 'Domain'.

An internal perimeter will be constructed to define the area of the arena consisting of a 1.5m high timber kickboard. No flooring or slab to be installed, sand only.



The full details of the proposal can be viewed in **attachment 1**.



The applicant has submitted the following summary of the proposal:

- *I am a high-level equestrian currently ranked 212th in the world in Eventing. I have also, in early August been named on a National Eventing Squad. I wish to continue to enhance and improve my World Eventing Ranking and to do that I need to undertake intensive training.*
- *The indoor arena facility will enable me to undertake further training in all weather conditions at all times of the year. Use of the arena will primarily be by me and my family, and for any coaching or training needed.*
- *Having the arena will also allow me to bring in international coaches and trainer, and local coaches and trainers to continue to assist me in improving my results and hence my world ranking.*
- *I believe that having another top-class indoor arena in the Shire will continue to reinforce and cement the reputation as the pre - eminent equestrian region.*
- *In addition, the fact that leading equestrians such as myself are prepared to invest significant capital in the Shire further reinforces the potential for the Shire to expand its equestrian reputation.*

Previous Applications

Table 1 below shows some of the similar applications that have been lodged with the Shire and the outcomes:

Property Address	Size of property	Size of Arena	Outcome	Date Approved
Lot 62 (102) Blair Road, Oakford	2.04ha	60mx20m	Approved	03/03/07 (Council)
Lot 281 (Reserve 46398) Gossage Road, Cardup	3.5ha	25mx60m	Approved	25/05/09 (Council)
Lot 13 Dairy Link, Mardella.	4.08 ha	60mx20m	Approved	16/03/10 (Council)
62 Leaver Way, Cardup	1.99ha	60mx20m	Approved	20/10/2010
138 Blair Road, Oakford	4.41ha	64m x 20m	Approved	PA18/681
2738 South Western Highway, Serpentine	21.49ha	64 x 24m	Withdrawn	PA19/480

Experience from these arenas indicates and identifies drainage issues (relating to stormwater collected from the roof) and visual amenity impacts as the main concerns that need to be adequately addressed and continuously monitored by the applicant. It is considered that the larger setbacks with existing mature vegetation providing a level of screening and coupled with a 150,000 litre rain water tank that these matters have been adequately addressed.

Community / Stakeholder Consultation

The application was advertised to landowners within a 500m radius of the site for a period of 21 days, in accordance with Local Planning Policy 1.4 - Public Consultation on Planning Matters Policy (LPP1.4). During the advertising period 1 submission was received in support of the proposed development. A copy of this submission can be provided to Councillors upon request.



Statutory Environment

Legislation

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

State Government Policies

- State Planning Policy 2.5 - Rural Planning;
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas;

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Rural Strategy Review 2013;
- Draft Local Planning Scheme No.3;
- Draft Local Planning Strategy;
- Local Planning Policy 1.4 - Public Consultation on Planning Matters Policy;
- Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers.

Planning Assessment

Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) lists matters to be considered in the determination of development applications.

A full assessment was carried out against the applicable matters relevant to this proposal and can be viewed within the Technical Assessment contained within **attachment 2**.

Orderly and Proper Planning

Town Planning Scheme No.2

The subject site is zoned 'Rural' under TPS2. Clause 5.10.1 sets the objective of the 'Rural zone' as follows:

"The purpose and intent of the 'Rural' zone is to allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme area".

Officers consider the proposed use to be a rural pursuit and consistent with the objective of the Rural zone.

The proposed development would be used for the training of horses and is considered to be an 'Equestrian Activity' land use meaning:

"means any land or buildings used for the showing, competition or training of horses and includes a riding school."



Within the Rural zone, an 'Equestrian Activity' land use is an 'AA' use and requires the development approval of the Shire. Equestrian developments are a common feature of the Rural zone and are considered to be an appropriate and acceptable use.

Draft Local Planning Scheme No.3

Schedule 2, Part 9, Clause 67(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* requires a Local Government to consider principles of orderly and proper planning including any proposed Local Planning Scheme.

The Draft Scheme introduces the use classification of 'Rural Pursuit/Hobby Farm' which would be applicable to the proposed development and is a 'P' use within the 'Rural' zone.

Draft Local Planning Strategy

The proposed 'Equestrian Activity' on the subject lot is considered to be consistent with the strategic intent of Draft Local Planning Strategy 2020 for the area.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

The subject site is located within Bushfire Prone Area as designated by the Department of Fire and Emergency Services (DFES).

As the structure is to be used for private equestrian activity only, constructed of non-flammable materials, open on two sides and is not within 6m of a habitable structure the subject site is considered to have a low bushfire risk and therefore no BAL assessment is recommended in this instance.

Should Council consider that further assessment is warranted for this application a suitable condition of approval could state:

"That the applicant prepare and submit a Bushfire Management Plan that demonstrates a potential Bushfire Attack Rating of BAL-29 or lower to the satisfaction of the local government prior to the commencement of the use onsite."

It is noted that the landowner/applicant regardless of the imposition of a Bushfire Management Plan is still required to adhere to the requirements of the Shire's annual Fire Notice.

Local Planning Policy 4.19 - Outbuildings, sheds, garden sheds and sea containers

The objectives of LPP 4.19 are to:

- Ensure that the siting, design and scale of outbuildings/sheds are site responsive and respect the character of the locality.
- Ensure that outbuildings/sheds do not have a detrimental visual impact which adversely affects the amenity of the surrounding area or that of adjoining landowners.



Policy Requirements

Policy Requirement	Required	Proposed	Comments (Complies/Variation Supported/Condition Required)
<u>Setbacks</u> Primary Street Rear Side	<u>Minimum</u> 20 metres 10 metres 10 metres	186 metres 195 metres 80 metres	Complies Complies Complies
Floor Area (accumulative*)	<500m ²	<i>Proposed arena only</i> 1,595m ²	Exempt from policy requirements
Wall Height	5m	6.4m	Exempt from policy requirements
Ridge Height	6m	7.04m	Exempt from policy requirements

*Note: The floor areas is based on the floor area of all outbuildings and/or sheds and stables on site.

Table 1 within LPP 4.19 specifies those developments that are exempt from approval based upon the maximum floor areas, wall height and roof heights for 'Outbuildings' and 'Shed'.

A 'Shed' under the LPP is defined as "A structure enclosed on three or more sides that is non-habitable and associated with a land use other than Residential" and similarly an outbuilding is also classified as a structure with 3 or more enclosed sides. As the proposed cover for the horse arena is not enclosed on three or more sides, it is not defined as a 'Shed' or 'outbuilding'. As such the requirements under Table 1 within LPP 4.19, relating to floor areas and maximum heights, cannot be applied to this application.

However, due regard has been given to the impact that a structure with a proposed roof area of 1595m² as well as the given wall and ridge heights in the absence of specific requirements relating to this kind of development. The structure will appear as an 'outbuilding' within its context regardless of the technicality that exempts it from meeting this Policy, however it is suitable to still have regard to the provisions of this policy to provide a level of assessment.

It is considered that the merits of this application with the large setback distances, mature vegetation and high-quality building materials that the structure can be supported.

Form of Development

Built form

There are no specific design requirements for a land use of this nature in relation to appearance and location of built form with design largely driven by the need to not have a detrimental appearance or manage any associated potential emissions.

Although the structure is large, given the rural zoning of the lot and existing equestrians uses, it is considered an appropriate structure to complement onsite activities. The use of colorbond sheeting for the walls in a cream tone (colorbond colour 'domain') will ensure that the structure takes on a more visually attractive, purposeful appearance within its context.

Access

No changes to the current access arrangements are proposed and they will not be impacted in relation to the proposed development.



Setbacks

The proposed structure is located 31m to the north of the existing dwelling, setback 186m from Kargotich Road and 80m from the northern lot boundary. This is compliant with the requirements of the Scheme. Officers consider that, given the context of the site and adequate setbacks it is unlikely that the proposed development will have visual impact on the adjoining neighbours and therefore will not impact on the amenity of the area.

Landscaping

No landscaping or revegetation plans have been provided by the applicant. It is noted that the site for the location of the proposal does not contain any remnant vegetation and therefore no clearing is required.

Stormwater Management

The proposed development would result in a significant amount of stormwater run-off, which will need to be contained on site. The recommended method is for a rainwater tank for this type of development. The applicant has proposed the installation of a 150,000 litre water tank. Generally water tanks do not require development approval and could be installed after lodgement of a building permit. Officers are satisfied that this can be managed through a condition of approval.

Amenity

The proposed development is a large structure, significantly greater than any other similar development in the local area. Being located 80m from the closest adjacent lot boundary reduces the potential to impact the amenity of adjoining neighbours by means of the visual impact of the development with also mature vegetation assisting to provide screening to adjacent properties and the roads.

The training of horses for private purposes within the arena will not create nuisance emissions in relation to noise, dust, odour or light. The structure will be closed on two sides which will assist with dust and noise emissions. Noise may be a minor impact in the short-term during constructions; however, the development proposed is not a type that generates an undue amount of noise. Officers consider the noise impacts of the development would be less than an uncovered arena, which would not require development approval.

The application does not involve the removal of vegetation and it is considered that the property contains adequate existing landscaping/remnant vegetation.



Options and Implications

With regards to the determination of the application for planning approval under TPS2, Council has the following options:

Option 1:

That Council may resolve to approve the application subject to appropriate conditions.

Option 2:

That Council may resolve to refuse the application providing appropriate reasons.

Option 1 is recommended.

Conclusion

An equestrian activity (covered horse arena) is in keeping with the rural lifestyle within this locality and complements the extensive amount of equestrian activities already occurring upon the site through the agistment of horses and training school. A covered arena will enable the landowner/applicant to conduct training activities in all weather conditions.

The proposal has been carefully assessed on its individual merit and it is considered with the proposed setbacks, management of stormwater via the installation of a large rainwater tank and measures to enhance the aesthetics of the structure, that the proposed development will maintain and enhance the specific rural area of the locality and not impact adversely on the streetscape or neighbouring properties.

Attachments (available under separate cover)

- **10.1.1 - attachment 1** - Development Plans (E20/11210)
- **10.1.1 - attachment 2** - Technical Assessment (E20/11174)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the basis of the Officer's Recommendation.

Risk	Risk Likelihood (based on history and with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
Council not approving the development application	Likely (4)	Minor (2)	Moderate (5-9)	Financial Impact - 2 Minor - \$50,000 - \$250,000	Accept Officer Recommendation

Risk Matrix

Consequence / Likelihood		Insignificant	Minor	Moderate	Major	Catastrophic
		1	2	3	4	5
Almost Certain	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk rating of **8** has been determined for this item.



**10.1.1 - ADDENDUM TO ITEM 10.1.1 Proposed Equestrian Activity (Covered Horse Arena)
- Lot 208 (434) Kargotich Road, Oakford (PA20/738)**

Ordinary Council Meeting - 19 October 2020 - OCM322/10/20

That the item be deferred (in accordance with clause 11.1(b) of the Standing Orders Local Law 2002 (as amended)) to the November 2020 Ordinary Council Meeting to allow for further information to be provided.

At the Ordinary Council Meeting held on 19 October 2020, Council considered item 10.1.4 - Proposed Equestrian Activity (Covered Horse Arena) - Lot 208 (434) Kargotich Road, Oakford. Council resolved to defer the item for further information to be provided.

This addendum sets out the additional information requested both at the October Ordinary Council Meeting Agenda Q and A on 12 October 2020, and that also subsequently requested by Councillors.

October Ordinary Council Meeting Agenda Q and A on 12 October 2020 – requested further information

- 1. Request a copy of the submission of support received;*
- 2. Request a copy of the previously approved riding school in 2003;*
- 3. Request further advice from the independent planning consultant in respect of stormwater management and what conditions would be required to be imposed if the covered horse arena was not limited to only personal use.*

Requested information provided on 14 October 2020 and set out in the following table:



1. Request a copy of the submission of support received

Planning and Development Act 2005 (As Amended)

Submission
Shire of Serpentine Jarrahdale Town Planning Scheme No. 2

Ref: PA20/738

To: Chief Executive Officer – Shire Serpentine Jarrahdale
Attention: Development Services

Please complete form in block letters **ONLY**

Name: JOHN CHARLES THORN

Postal Address: 25 WINKWATER PASS SOUTHERN RIVER WA

Email Address: _____

Phone Numbers: (Hm) _____

Address of Property Affected by Proposal (If Applicable)
(Include lot number and nearest street intersection)

LOT 100 KARGOTICH ROAD OAKFORD

Submission

(Give your comments in full and any arguments supporting your comments – if not enough space, continue on additional sheets (preferably typed, but if not possible in writing))

NO OBJECTION

Signature [Signature] Dated 17/9/2020

Submission forms can be mailed or delivered in person to:
Shire of Serpentine Jarrahdale - 6 Paterson Street, Mundijong WA 6123

Submissions may also be emailed to info@sjshire.wa.gov.au

Submissions must be received by 28 September 2020



ENTERED

23 SEP 2020

BY: _____

All submissions, including names and addresses, received in respect to the proposal will be made publicly available and will form part of the report if the item is presented to Council for determination. Names and addresses will be accessible via the internet and may be put on public record.

Content Manager - Registered - kwiseman - Wednesday, 23 September 2020



2. Request a copy of the previously approved riding school in 2003

FORM 2**NOTICE OF APPROVAL TO COMMENCE DEVELOPMENT****SHIRE OF SERPENTINE-JARRAHDAL****TOWN PLANNING SCHEME NO.2**

Name and Address of Applicant: Michael Dagostino
434 Kargotich Road
Oakford WA 6121

Name and Address of Owner of Land (if different from applicant) As above

Description of Land: Lot 208 Kargotich Road, Oakford

Description of Development: Riding School

Approval to commence development in accordance with an application dated 20 June 2003 and plans attached thereto, is granted subject to the following conditions:-

1. A building licence is to be obtained prior to commencement of any development.
2. This approval is granted to the applicant only and is not transferable.
3. Hours of operation are to be limited to 8:00am to 7:00pm seven days a week.
4. A maximum of seventeen (17) horses can be grazed in the paddocks at any one time.
5. A maximum of seven (7) horses can be housed in the stables at any one time.
6. No more than twenty-four (24) horses are to be kept on the property at any given time.
7. Stables are not to be located within 15 metres of a house or other premises.
8. Stables are to consist of an impermeable base to prevent any nutrient leaching into the soil.
9. Construction of stables and disposal of hard and liquid wastes is to be in accordance with Health Local Law 1999 – Part 6, Division 2 – ‘Keeping of Large Animals’.
10. All paddocks are to maintain a pasture coverage of at least 95 percent year round.
11. The owner must immediately establish and thereafter maintain a fenced buffer with a minimum width of 5 metres either side of the drain along the whole length of the drain running through the property.
12. The owner must establish by 30 September 2004 and thereafter maintain deep rooted vegetation in 4 rows along the drain buffer using locally native plant species at densities of no more than 3 metres apart per plant and as otherwise specified within Council’s Information Note PS03 – Landscaping and Revegetation.
13. All chemicals associated with the care of the land and stock are to be stored so as to eliminate the possibility of spillage onto permeable surfaces.
14. All declared and environmental weeds are to be eliminated from the lot.
15. Stock is to be kept out of any paddock that is partially or completely inundated with water.
16. No trees are to be damaged by ringbarking.
17. All practicable measures are to be taken by the applicant to prevent ringbarking.
18. Proposed signage on the property shall have a maximum area of 2 square metres and shall be located a maximum of 1.5 metres above ground level, in accordance with Shire’s Local Planning Policy No.5 – Control of Advertisements.
19. All parking areas on the property are to be maintained to the satisfaction of the Director Asset Services.
20. Dust from the parking areas are to be controlled on site.
21. All customer parking is to be contained wholly within the boundaries of the lot. No on-street parking is permitted.
22. On site accommodation for students is not to be provided without the prior written approval of Council.



23. Toilet facilities are to be provided in accordance with the requirements of the Building Code of Australia and the Health (Treatment of Sewerage and Disposal of Effluent and Liquid Waste) Regulations 1974.

FOOTNOTES

1. A planning consent is not an approval to commence any works. A building licence must be obtained for all works. An application for a building licence will not be accepted unless proof of payment of all bonds and guarantees accompanies the application documents.
2. Your application for a building licence must be accompanied by a photocopy of the Form 2 Approval, and all plans, where appropriate, must satisfy the conditions specified.
3. Native vegetation is valued and protected in the Shire of Serpentine-Jarrahdale. You are advised that Council's Town Planning Scheme requires separate approval for the clearing of native trees in most instances if approval for this is not given above.
4. The construction or deepening of drains outside of the above approval requires separate approval by the Commissioner of Soil and Land Conservation.
5. Council can advise on energy efficient opportunities that can benefit your operations.
6. Approval does not obviate compliance with any other appropriate legislation in particular, the Environmental Protection (Noise) Regulations 1997.
7. The applicant is advised that this planning consent does not absolve the applicant or owner from time to time from complying with the restrictions contained in any restrictive covenant, estate covenants or easement pertaining to the site. This is the case even if this planning consent is in respect of a development which if constructed or carried out, would necessarily breach such a covenant or easement. Any such restrictive covenant, estate covenant or easement is a matter of private rights between the applicant or owner from time to time and the owner and owners of the land with the benefit of that restrictive covenant, estate covenant or easement, and this planning consent does not authorise a breach of such private rights or prevent such owners from enforcing such rights.
8. The applicant is advised in relation to this development approval, the consent of the Minister for Indigenous Affairs under the Aboriginal Heritage Act 1972 may be required. This development approval does not constitute a consent under that Act, and the Shire does not take responsibility for assessing the site of the development in terms of compliance with the Aboriginal Heritage Act. The applicant is advised to pursue their own enquiries with the Department of Indigenous Affairs to ensure compliance with the Aboriginal Heritage Act.

NOTE: "*Should the applicant be aggrieved by this decision a right of appeal may exist pursuant to the provisions of Clause 33 of the Metropolitan Region Scheme. Such an appeal shall be made in accordance with Part V of the Town Planning and Development Act 1928 (as amended).*"

If the development, the subject of this approval is not substantially commenced within a period of two years from the date of this approval, the approval shall lapse and be of no further effect. Where an approval has so lapsed, no development shall be carried out without the further approval of the responsible authority having first been sought and obtained.

Joanne Abbiss
DIRECTOR SUSTAINABLE DEVELOPMENT
16 December 2003
P01891/01:MD:td(PSD10) OC03/7956

This is not a building approval, for which a separate application is necessary.



3. Request further advice from the independent planning consultant in respect of stormwater management and what conditions would be required to be imposed if the covered horse arena was not limited to only personal use.

From: [Kathryn Jackson](#)
To: [Ashwin Nair](#)
Cc: [Heather O'Brien](#); [Andrew Trosic](#); [Jessica Moss](#)
Subject: Re: Conditions Manual
Date: Wednesday, 14 October 2020 10:57:08 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

Hello Ashwin,

In relation to the queries posed by Council I can offer the following:

STORMWATER

The applicant has proposed to install a 150,000 litre water tank to capture some of the stormwater that will be generated by the building. Given the size of the lot and the distance from boundaries this is supported by staff. If the tank is filled the overflow can easily be dispensed of within the boundaries of the lot without risk of being discharged into adjoining properties or into the road reserve. This arrangement is enforced through suggested condition 3 of the Officer recommendation which reads:

"All stormwater shall be directed so stormwater is disposed of within the property. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted."

I believe this to satisfactorily address stormwater for the site given the level of 'risk' associated with stormwater and the size and use of the lot, however should Council seek greater certainty in relation to stormwater management an alternative condition could be applied which reads:

"Prior to the application for a building permit a stormwater management plan which demonstrates stormwater being contained and disposed of on-site is to be submitted by the applicant to the requirements and approval of the Shire of Serpentine Jarrahdale. The approved Stormwater Management Plan is to thereafter be implemented and maintained to the satisfaction of the Shire of Serpentine Jarrahdale."

USE OF ARENA FOR COMMERCIAL OR COMPETITION USES

The applicant has not indicated through their application that this is an option that they wish to pursue at this time. I have also had verbal discussion with the applicant to confirm that this is not an avenue that they wished to explore at this time and that the arena is being constructed for personal use only.

The current application has therefore been assessed and advertised publicly on this basis under the land use of 'Equestrian Activity'.

Should the *applicant* wish to pursue this option I believe that this use could be considered and supported on this lot given the existing land uses. An arena of this nature would not be used 'full time' and therefore would be able to be operated within the area without detrimentally impacting neighbouring properties.

Please note that this is not a decision that Council can make on the applicants behalf.

Should the applicant wish to apply for the use of the arena as a venue for competitions or for the use by others at a charge then this can still be considered under the land use of 'Equestrian Activity' as the definition reads:



“means any land or buildings used for the showing, competition or training of horses and includes a riding school.”

However, please note that should the applicant wish to pursue this option then the application would need to be readvertised as the intent of the application has changed in relation to how the arena is to be used and surrounding landowners are required to be given the opportunity to respond should they wish to.

It would be my recommendation that if the applicant would like to pursue this option that:

- the application details be amended to outline the details of how the arena and site would be used for public use such as (but not limited to):
 - carparking
 - float parking and manoeuvring
 - likely numbers onsite at any one time for different uses (i.e. day to day use for training, number for events)
 - toilet facilities
 - any changes to the arena like seating, canteen, ticket sales, lighting, etc
 - traffic impact statement (simple assessment)
 - bushfire management plan / evacuation plan
- the application be readvertised in accordance with the Scheme
- and then placed before a meeting of Council for consideration of the updated proposal

Although this would not be my recommendation of due process in relation to an amended application and I do not believe it to be in accordance with the Scheme, should Council wish to delegate authority to Shire staff to deal with such an amended application for commercial use a motion could read:

1. Following advertising of an amended application in accordance with the Local Planning Scheme, that Council delegate authority to the CEO to make determination (refusal or approval) for an application for “equestrian activity (commercial use of arena)”, applying any conditions and advice notes as deemed necessary to ensure that the application will meet the requirements of the Shire’s Local Planning Scheme including but not limited to the control of any emissions (noise, dust, stormwater, light etc), amenity or character of the area and to adequately respond to submissions received during the advertising period.

I hope this clarifies my position in relation to this application. Should Council seek to discuss this with me directly on the day I can make myself available to attend Council physically or by phone should this be desired.

Thank you and please reach out as required for further clarification as necessary.

Kathryn Jackson
TOWN PLANNER | BUSHFIRE CONSULTANT



Address | PO Box 1570, Geraldton WA 6531



Further information requested following deferral at the October Ordinary Council Meeting

1. *What would be the difference in conditions as set for personal use and commercial use?*
2. *How would the consultant advice that compliance is enforced regarding proposed condition 5. If the proposed development is approved?*
3. *Does the current Riding School approval and conditions cover the commercial hire of the cross country course as advertised on the Oakford Equestrian Centre's Facebook page and website?*
4. *How does this effect traffic management and onsite parking?*
5. *Would the use of the covered arena to train horses provided through the State Government Off the Track WA retraining programme be considered commercial when a fee is paid by the State Government to the Off the Track WA appointed official retrainers?*

The requested information received from the Independent Planning Consultant is set out in the following table:



From: Kathryn Jackson [mailto: [REDACTED]]
Sent: Wednesday, 4 November 2020 12:20 PM
To: Ashwin Nair [REDACTED]
Subject: Re: 10.1.4 - Proposed Equestrian Activity

Hello Ashwin,

In relation to the queries raised by the Shire President I can offer the following advice:

1. What would be the difference in conditions as set for personal use and commercial use?

Conditions are imposed upon an application based on the merits of the application, the requirements of the local governments planning legislation, state legislation and any precedent that may be known by the local government based on previous decisions of Council or matters heard by the State Administrative Tribunal.

In this case the use of the arena of this nature for commercial purposes and what conditions might be likely to be imposed are going to be largely based on the applied scale. What I mean by this is the scale at which the applicant may choose to operate as a commercial premise as this has the potential for a very wide variance of use of the arena.

For example.

- A smaller scale commercial operation may seek approval for a specified maximum number (under 10) of external horse owners/riders to be able to come to the site and train only at any one time. A smaller scale operation such as this would likely not involve events or require management of visitors not directly associated with the training of horses.
- A medium scale operation may involve the training of up to 20 riders onsite as well as the ability to use the arena for small scale events (up to approx 250 persons onsite). This would require the management of both riders and trainers as well as spectators which requires a different suite of amenities and management. Past experience shows a small number of permanent facilities and the ability to bring in portable facilities as required for events.
- A large scale operation may involve training of a larger number of riders as well as the ability for large scale events (500+) and would require an ability to efficiently manage this number of people onsite with a mixture of permanent facilities and portable amenities to facilitate large events as they occur.

Whilst I would love to provide a more clear cut answer in relation to conditions as you can see any number of variations to what can be applied for would impact upon any conditions imposed.

However, as an example, I can give you an indication on the types of conditions and additional information that would be considered as part of any medium or large scale commercial use of the arena as a guide to understand the rationale behind the decision making at an officer level.

- Hours of operation:
 - Additional information: what days/hours would the site operate.
 - Conditions: to limit the times that the site can operate to reduce potential for land use conflict or nuisance.
- Noise –
 - Additional information: this would become a significant factor for consideration as larger numbers of people, riders, traffic all can produce nuisance noise emissions. An acoustic report would be required. Whilst an Acoustic Report would likely show that unless it was significant event with loud speaker calling/music etc that for the most part it would likely comply (and any noise abatement works or actions put forward by the applicant) with noise emission level requirements as officers we would still consider the potential for 'nuisance' in the context of the arena and closest habitable buildings in the area.
 - Condition: If an acoustic report was required a condition of approval would require compliance with this report. If local governments have been concerned I have also conditioned approvals in the past that require noise monitoring devices be deployed to the closest 2 residences to ascertain live readings whilst a main noise event is underway at the expense of the applicant with appropriate action (or no action) being taken based on the outcome of the testing.
- Traffic –
 - Additional Information: A Traffic Impact Assessment would be required to ascertain the level of impact on the local road network and to ensure that the properties entry is sufficient.
 - Condition: A condition of approval would require implementation of the assessment and any subsequent recommendations of the report.
- Access –
 - Additional information: amended plans with improved access potentially including a sealed driveway depending on numbers of people visiting the property.
 - Condition: condition relating to the necessary upgrades decided for access, the property crossover etc.
- Parking –
 - Additional Information: Amended plans demonstrating a designated carparking area(s) to accommodate the proposed number of visitors to the site. Depending on how the site is to be used commercially this might be a combination of sealed, drained and line marked parking and open areas and accessways designated for parking and access during events.



- Toilets –
 - Additional Information: Pertaining to toilets available for public use. We would rely on the building and health departments of the City to provide technical feedback into appropriate ratios male/female/ambulant and the number of each. This would need to include building plans for permanent toilet facilities.
 - Condition: Implementation of permanent toilet facilities onsite. A second condition relating to the number of portable toilet facilities to be bought to site for events to bolster ablution numbers.
- Kitchen/Bar/Kiosk
 - Additional Information: it is common to see food and beverage facilities at events so this information would need to be worked through depending on what they might be aiming for. i.e. small scale just a kiosk with no preparation of food up to full kitchen facilities, bar facility or the like.
 - Conditions: Conditions would be applied that would relate to the level of food or beverages that could be sold onsite. Advice notes would also be applied reminding the applicant of the need to gain separate approval from the Shires health department in relation to any proposed food facility.
- Bushfire Management
 - Additional Information: Bushfire Management Plan and Bushfire Emergency Evacuation Plan to be submitted if the site involves events and spectators.
 - Condition: Implementation and compliance with Bushfire documents.
- Lighting
 - Additional information: if events were proposed for the evening then details pertaining to lighting would be required for both internally within the site and at the property boundary to the road to ensure legibility of the entrance etc.
 - Condition: ensure that lighting is shielded from the road or adjoining properties. That appropriate lighting is set up for evening events both internally and at the crossover.

As you can see an application can be straight forward or can quickly become more complex as we move to bringing more external customers to the site. This is all hypothetical and is provided purely to show

2. How would the consultant advice that compliance is enforced regarding proposed condition 5. If the proposed development is approved?

If a development contravenes a planning scheme or approval, the responsible authority can direct the landowner or the person undertaking the development to stop and rectify the contravention. The responsible authority may also apply to the Supreme Court to grant an injunction to restrain a person from engaging in any act that contravenes a planning scheme or approval.

Infringement notices are used for minor offences where a contravention is clear and apparent, for example the advertisement of an equestrian event at the property if no commercial approval is given would clearly show that a breach has been made. Infringement notices are a common way to gain traction with compliance and it gives landowners the opportunity to rectify an offence without criminal conviction and with minimum legal cost.

3. Does the current Riding School approval and conditions cover the commercial hire of the cross country course as advertised on the Oakford Equestrian Centre's Facebook page and website?

The original 'Riding School' development approval was issued in 2003. This is important to note as this is prior to the much needed improvement in the planning system in relation to standard conditions, correct use of land uses and Schemes and the need to ensure that conditions are specific to the scale and type of development leaving as little room for ambiguity and not leaving any assumptions.

This means that the original conditions for this 'Riding School' approval are very broad. The land use was issued as 'riding school' which is a use not listed in the Scheme and therefore there is no definition available of what activities or constructions that can be considered part of this definition. Additionally, there are no conditions listed in the approval that are specific to the operation of the 'Riding School' activity and how this can or can't operate. Conditions are largely focused on the stabling and agistment of horses onsite and the management of the land.

Based on the assumption that a Riding School would hold a definition that would involve people being trained to ride a horse for a fee then I would consider the use of the cross country course to fit this definition. Rider training could cover basics of horsemanship through to complex training types such as dressage or jumping. The website associated with Oakford Equestrian Centre states:



"The OEC has a number of cross country fences available for training exercises. There are a range of different fences including coffins, trakheners, apexes, water jump and a ramp, all designed to ensure a variety of challenges for horse and rider."

Given that the course is intended for training purposes then I consider this to fall within the riding school approval.

4. How does this effect traffic management and onsite parking?

This has been covered in point 1 above.

5. Would the use of the covered arena to train horses provided through the State Government Off the Track WA retraining programme be considered commercial when a fee is paid by the State Government to the Off the Track WA appointed official retrainers?

I would need additional information in relation to who it would involve as in whether these people involved are those residing onsite or have interest in the property or whether public people can use the property to retrain etc.

ADDITIONAL CONDITIONS OF APPROVAL

I feel that there may be some hesitation and maybe uncertainty based on the mixture of uses already onsite. At the end of the day we can only be guided by the applicant as to their intentions and the information received and make determination based on planning merit on those factors.

The use 'Equestrian Activity (Covered Arena)' is defined as:

"means any land or buildings used for the showing, competition or training of horses and includes a riding school."

As shown this does not specify commercial vs uncommercial, it is a matter of the conditions being applied matching to and confirming the scale of the development permitted for the site.

I would suggest that if the applicant continues to demonstrate that they do not wish to hold events on the site that additional conditions be added to the officers recommendation to provide greater assurance to the Council that gives them confidence in moving this matter forward. For example additional conditions could include those along the lines of:

- Rewording of Condition 5 of the officers recommendation:
"The covered horse arena is only to be used in conjunction with the previously approved 'Riding School' (issued 16/12/2003) being for training purposes only. Events are not permitted.
- I believe the site large enough to accommodate parking informally especially while it is limited to training only and no events or general public admission, however if this is seen an issue Council could apply something such as:
"A designated carparking area constructed to a compacted finish (gravel, blue metal or similar) capable of parking and manoeuvring up to 10 cars and floats is to be constructed onsite adjacent to the proposed arena to the requirements and approval of the local government."

There is clearly some hesitation to this application and I would like to provide a way to keep it moving forward. Whilst the above information has been provided it largely sits outside of that which can be taken into consideration in relation to the application that is before Council being the proposed arena.

Myself or staff could liaise with the applicant again to speak through any concerns to see if we can mediate through any concerns. In order to do this I would need to understand the specific concerns being raised so that this discussion can be aptly worked through within some guidelines.

Trusting this provides some further clarification, please do not hesitate to contact me at your convenience.

Kathryn Jackson
TOWN PLANNER | BUSHFIRE CONSULTANT





Voting Requirements: Simple Majority

OCM354/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr McConkey

That Council APPROVES the development application for an 'Equestrian Activity (Covered Arena) as contained within attachment 1 at Lot 208 (434) Kargotich Road, Oakford to be approved subject to the following conditions:

- 1. The development is to be carried out in compliance with the plans and documentation endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.**
- 2. Amended plans to be received demonstrating walls for the northern and eastern elevations of the arena in trimdeck profile colorbond colour 'domain'.**
- 3. All stormwater shall be directed so stormwater is disposed of within the property. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.**
- 4. The use/development is not to interfere with the amenity of the locality or cause nuisance by reason of the emission of noise, odour, dust, light spill or waste products and shall be managed to the satisfaction of the local government.**
- 5. The covered horse arena is not to be used for any commercial activities unless the prior written approval of the Shire has been previously obtained.**

Advice Note:

- 1. A building licence is required to be issued prior to commencement of construction (including earthworks) and is to include details in relation to the proposed water tank and stormwater/drainage solution for the structure.**

CARRIED 4/3

Councillor Atwell, in accordance with Section 5.21(4)(b), Local Government Act 1995 requested the votes be recorded.

Councillors Coales, Denholm, McConkey and Strautins voted FOR the motion.

Councillors Rich, Atwell and Byas voted AGAINST the motion.

Councillor Strange returned to the Chambers at 8.37pm.

Councillor Dagostino returned to the Chambers at 8.37pm.

Presiding Member, Councillor Rich advised Councillor Strange and Councillor Dagostino of the Council Resolution for item 10.1.1.



Shire President, Councillor Rich declared a Financial Interest in item 10.1.2 and left the Chambers at 8.38pm prior to this item being discussed.

The Presiding Member, Councillor Rich vacated the Chair, and Deputy Shire President, Councillor Atwell assumed the Chair as Presiding Member at 8.38pm.

10.1.2 - Retrospective 'Transport Depot' and 'Plant Nursery' - Lot 101, 132 Boomerang Road, Oldbury (PA20/376)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Harley Dykstra
Owner:	Bradley John & Lisa Marie Walton
Date of Receipt:	15 April 2020
Lot Area:	10.05ha
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of this report is for Council to consider a development application for two separate land uses, a retrospective 'Transport Depot' and 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oldbury. The 'Transport Depot' involves parking of various commercial vehicles, trailers, and machinery. The 'Plant Nursery' involves the growing of eucalyptus and various native trees on an impermeable hardstand to accommodate the nursery operations.

The 'Transport Depot', which is owned by BWC Civil, has been operating for the past five years without development approval. The Shire approved a 'Plant Nursery' and 'Floriculture' operations in October 1997. The approval was however only valid for a period of 24 months. This subsequently expired with no further extensions in time having been given. There are also no approved plans on record to show the extent of the hardstand that forms part of the current operations.

In accordance with Council Policy on General Compliance and Enforcement, Officers have been engaging with the applicant to achieve a compliant based outcome, framed initially on having all prerequisite approvals in place. This is the basis to this retrospective development application.

This application is presented to Council as an objection was received during the consultation period. Officers do not have delegated authority to determine development applications where



objections cannot be satisfied by way of amendments or the imposition of conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Applications.

This report recommends that the retrospective 'Transport Depot' be granted subject to a time limited approval of four years, to enable a transition of the use to a more appropriate zone to occur. In this respect, the 'Transport Depot' is predominantly presented as a small civil and earthmoving contractor, which is considered more closely associated with civil contracting servicing urban, commercial and industrial sectors, versus servicing a rural area and its associated pursuits. Enabling a time limited approval of four years, will provide the business sufficient time to facilitate a relocation to a more appropriately zoned piece of land, being either the West Mundijong Industrial Area or Cardup Business Park. Cardup Business Park, for example, currently comprises a transport depot associated with civil contracting, and West Mundijong currently comprises an approved transport depot development (to be constructed) and current warehousing and roof truss manufacturing businesses. The time limited approval demonstrates a commitment to work with the applicant to enable a transition to a more appropriately zoned area.

The 'Plant Nursery' component is recommended to be conditionally approved, without any time limited approval.

Relevant Previous Decisions of Council

FORM 2	
<u>NOTICE OF APPROVAL/REFUSAL TO COMMENCE DEVELOPMENT</u>	
<u>SHIRE OF SERPENTINE-JARRAHDALE</u>	
<u>TOWN PLANNING SCHEME NO.2</u>	
Name and Address of Applicant:	P & M Cala P O Box 996, Subiaco 6008
Name and Address of Owner (if different to Applicant)	
Description of Land:	Lot 101 Boomerang Road, Mundijong
Description of Development:	Plant Nursery & Floriculture
Approval to commence development in accordance with an application dated the 14th day of August, 1997 and the plans attached thereto is granted subject to the following conditions:-	
1.	Nutrient management measures being adopted to include - i. Areas of potted plants being lined with crushed limestone. ii. preparation of a nutrient management plan.
2.	No clearing of local vegetation on site or road reserve.
This approval is valid for a period of 24 months from the date hereof. If development is not substantially commenced within that period a fresh approval must be obtained.	
R A GIBB <u>ACTING CHIEF EXECUTIVE OFFICER</u> 29 October, 1997	
FILE NO.570.6	
This is not a building approval, for which a separate application is necessary.	

There is no previous Council decision relating to the 'Transport Depot'.



Background

Existing Development

The subject site is located in a rural area towards the west of the Shire. The site is approximately 10.05ha in area and Boomerang Road runs along the north-eastern lot boundary.

The site abuts the Pony Club reserve to the north as shown in Figure 1 below. The general locality comprises of rural properties used for a variety of rural uses that include grazing, equestrian activities, poultry farms, market gardens, cattle studs and rural lifestyle lots. It has an intended rural amenity and character under the current and proposed planning frameworks for the future.



Figure 1: Location Plan

The subject site comprises an existing single dwelling, horse shelters, outbuildings associated with the single house and an existing equestrian facility for the keeping and training of race horses. The site also contains two transportable buildings which are used for office administration. The area for the proposal is generally cleared. The site however contains a significant amount of remnant vegetation concentrated on the south western portion and north eastern corner which will not be impacted by the revised proposal.

Proposed Development

The application seeks retrospective approval for a 'Transport Depot' with associated site office, a 'Plant Nursery' and an amendment to a previous approval for a shed, as depicted on the site plan below. There is a second transportable building that is to be used in conjunction with the existing dwelling.

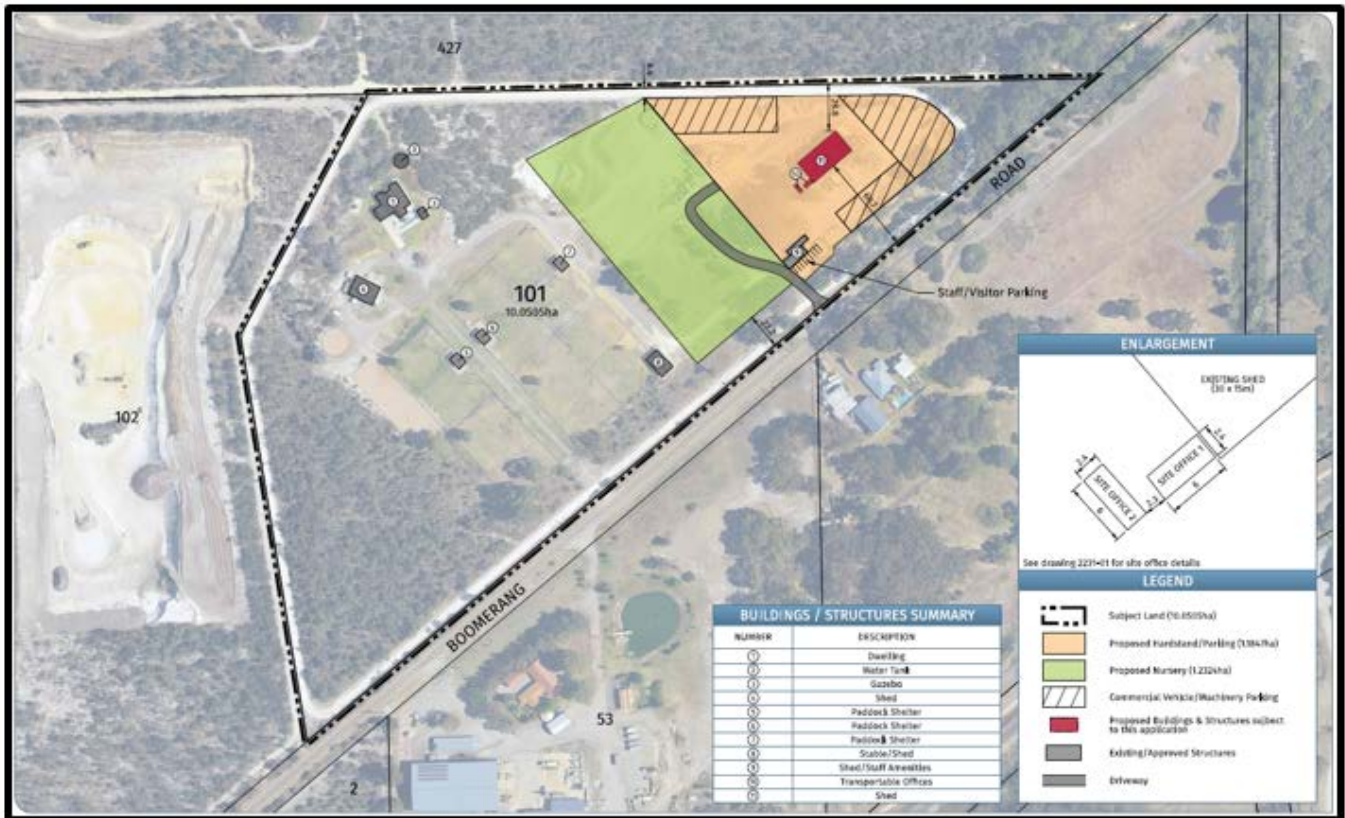


Figure 2: Site Plan

Transport Depot:

The 'Transport Depot' involves the parking of various commercial vehicles, trailers, machinery and employee vehicles. BWC Civil, who are described as a small civil and earthmoving contractor, have been operating the business from the subject site. The applicant provided information that the machines and vehicles are mobilised to site and used for construction purposes. Machinery is often left on the work site and not necessarily brought back to the subject site daily.

Specifically, the 'Transport Depot' comprises of the following aspects as shown on Figure 2:

- Construction of a 1.184ha impervious rolled limestone hardstand for parking of various commercial vehicles and machinery listed as follows:
 - 2 x Single Cab Utes;
 - 1 x Light Tool Truck;
 - 1 x Medium tray top truck;
 - 2 x 6 Wheel Trucks;
 - 1 x Prime Mover;
 - 3 x Truck Trailers.



- The following machinery would also be stored on the subject site when not mobilised as follows:
 - 2 x Front End Loaders;
 - 3 x POSI Track;
 - 3 x Excavators;
 - 2 x Rollers.
- Access to the site would be via the existing crossover onto Boomerang Road which is located 170m north west of the crossover that services the existing dwelling;
- The business currently employs five staff, six days a week on Monday to Friday between 7:00am and 5:30pm and Saturdays between 7:00am and 12:00pm;
- There would be five employees at the site whose vehicles would also be parked;
- Office 1 would be used as a playroom for the children of the landowner and office 2 would be used for administration tasks for the 'Transport Depot' (Figure 2);
- Repairs and servicing of vehicles and machinery would be carried out off site;
- A skip bin would also be occasionally stored on site for a short period before its contents taken to landfill.

Plant Nursery:

BWC Civil would also operate the 'Plant Nursey' for the wholesale of plants. Specifically, the 'Nursery involves the following:

- Nursery operations would occur on the proposed 1.3ha impervious rolled limestone hardstand area;
- Eucalypts and another native trees are planned to grow in pots to an advanced stage;
- It would operate from 7:00am to 5:00pm Monday to Friday;
- The nursery would operate as wholesale only with no retail component;
- The nursery would result in an addition of one to two truck movements per week and a maximum of one additional passenger vehicle movement per day;
- Staff employed by BWC would conduct the majority of daily tasks and a part time horticulturalist would be employed to oversee the operations;
- Amenities for staff are located within a shed.

Full details of the proposals are contained within **attachment 1**



Community / Stakeholder Consultation

The application was advertised for a period of 21 days from 3 June 2020 to 25 June 2020 to surrounding landowners within a 500m radius of the subject site, in accordance with LPP4.1 - Consultation for Planning Matters.

A total of two submissions were received, one in support of the proposal and one objecting to the proposal due to the portion of Boomerang Road being a single lane bitumen road. The objection considers that the road is not designed for constant heavy vehicle use or an increase in vehicle movements and therefore not capable to support the proposal.

A summary of the submissions including the Officers response can be viewed in **attachment 2**.

Consultation with other Agencies or Consultants

Department of Biodiversity, Conservation and Attractions (DBCA)

As the site is located near geomorphic wetlands the application was referred DBCA who have advised that they have no comments on the proposal.

Department of Water and Environment Regulation (DWER)

As the subject site contains native vegetation and the initial nursery footprint proposed removal of vegetation, the application was referred to DWER who did not object to the proposal but provided advice on the following key issues and recommendations:

- Clearing of native vegetation and advice on obtaining a clearing permit;
- Wastewater Management to occur in accordance with *Government Sewerage Policy* (Western Australian Government, 2019) as the site is located within a 'sewage sensitive area';
- Provisions of *State Planning Policy 2.1 - The Peel-Harvey Coastal Plain Catchment and Environmental Protection (Peel Inlet - Harvey Estuary) Policy 1992* as the site locates is located within the Peel-Harvey catchment area;
- Amendment of the current groundwater license for the purposes of stock watering and household garden to included groundwater for nursery and transport deport operations.

In view of the advice, the applicant amended the nursery footprint. The revised proposal does not exist within any vegetated areas and as such, a clearing permit will not be required.

DWER also provided advice on the best management practices for the 'Plant Nursery' to outlined in the *Water Quality Protection Note No. 3: Nurseries and garden centres* (DWER, 2018) and *Water Quality Protection Note No 90: Organic material - storage and recycling* (DWER, 2011). The advice include the following:

- Nursery operations shall be contained on impermeable surfaces to prevent the leaching of nutrients and contaminants into the groundwater. Gravel, rolled limestone or forestry by-products over plastic film may be used for walking paths and under plant benches;
- Any wastes should be contained in a purpose-built, weatherproof storage container, skip or on an impermeable sheltered surface until removed offsite to an authorised waste disposal facility;
- Water according to the plant development requirements, seasonal evaporation losses, variations in plant water needs and the water-holding capacity of the potting media;



- Any runoff may drain towards a settling pond for reuse or recycling, or into vegetated swales. Wastewater and clean stormwater should be kept separate. Uncontaminated stormwater should be managed as recommended in the *Stormwater Management Manual for Western Australia* (DoW, 2004-2007);
- Nursery operators should minimise nutrient losses by only applying fertiliser amounts required by the plant at various stages of its development cycle and adopting measures to reduce leaching;
- Pesticides, fertilisers, manures and soil amendment materials should be stored on impermeable surfaces that are weatherproof and exclude stormwater runoff from other areas;
- As detailed in the Nutrient and Irrigation Management Plan, groundwater quality monitoring will be carried out on-site. However, no detail has been provided regarding the proposed trigger values, contingency actions if triggers are breached and the submission of monitoring results to the Shire.

In view of the concerns that have been raised by DWER the applicant provided a revised Nutrient and Irrigation Plan which was considered to be sufficient and addressed all concerns raised. Officers are satisfied that if the proposal is carefully managed in accordance with the management practices proposed by the revised NIMP, the proposal is not likely to result in any adverse impact on the environment. Compliance with the NIMP has been included as a condition of approval in the Officer recommendation.

DWER also provided advice on the best management practices for the transport depot to include the following:

- The transport depot and parking areas must be constructed on a non-permeable concrete hardstand that will contain leaks and spills of all fuels, lubricants and wastewater in the event that the integrity of the vehicles becomes compromised;
- Mechanical servicing should be carried out on a durable, low-permeability floor or pad (such as reinforced concrete) finished and graded to contain any spilt material or washdown water;
- Washdown water containing any oils or grease emulsions should pass into a physical separator (e.g. corrugated plate interceptor) or chemical separator (e.g. chemical coagulation tank, followed by water-oil separation) allowing sufficient time to break emulsions and permit effective removal of any floating oil by skimming.

Statutory Environment

Legislation

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- *Environmental Protection (Noise) Regulations 1997*;

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;
- Metropolitan Region Scheme;



- State Planning Policy 2.5 - Rural Planning;
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas
- Environmental Protection Authority Draft Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses;

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2;
- Rural Strategy Review 2013;
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3;
- Draft Shire of Serpentine Local Planning Strategy;
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4);

Planning Assessment.

Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment was carried out against the current planning framework in accordance with Clause 67 of the Deemed Provisions which can be viewed within the Technical Assessment in **attachment 3**. For the purposes of this report, discussion is confined to the objection resulting in the proposal being presented to Council, and where Council is required to exercise discretion.

Land Use:

The proposed development is considered to fall under the two land use definitions of 'Plant Nursery' and 'Transport Depot' defined under TPS2 as follows:

'Plant Nursery': 'means any land or buildings used for the propagation, rearing and sale of plants and the storage and sale of products associated with horticultural and garden activities'

A 'Plant Nursery' is an 'AA' use in the 'Rural' zone, which means that Council may at its discretion permit the use. The use is not required to be advertised pursuant to TPS2. Officers are satisfied that the proposal fits within the land use definition of a 'Plant Nursery' and is consistent with the objectives of the rural zone and therefore capable of approval.

Under the Shire's Draft Local Planning Scheme No. 3 (LPS3), the subject land is identified to remain zoned 'Rural' whereby the Plant Nursery would fall in the land use category of 'Agriculture Intensive'. This use is a 'D' use, which remains the equivalent to 'AA' use under the current Scheme.

A 'Transport Depot' is defined in Appendix 1 of TPS2 as follows:

'Transport Depot' - 'means land or buildings designed or used for one or more of the following purposes:

- (a) The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods (including livestock) or persons.*
- (b) The transfer of goods (including livestock) or passengers from one vehicle to another vehicle.*
- (c) The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.*



The above uses (a) to (c) inclusive, singularly or collectively may, with Council's planning consent, include as an incidental use overnight accommodation of patrons of the facilities.'

Officers consider that the proposal fits within the 'Transport Depot' land use as it involves the parking and garaging of up to ten commercial vehicles (consistent with the definition of a 'commercial vehicle') and machinery for an earthmoving contractor. Table 1 - Zoning Table of TPS2 provides that 'Transport Depot' is an 'SA' use in the 'Rural' zone, meaning the use is not permitted unless Council has exercised its discretion to permit the use, after notice of the application has been given in accordance with Clause 64 of the Deemed Provisions and any submissions considered.

Officers consider that although the land use is capable of approval within the zone, the use is not considered to reflect the strategic intent of the Shire's Rural zone. Rather, considering the operational nature of the business servicing a range of earthmoving and civil construction projects within a range of sectors, it is considered to be located more appropriately within an industrial type zone.

For this reason, Officers recommend only a time limited approval for the 'Transport Depot' use of four years, whereas the 'Plant Nursery' is not proposed to be time limited.

Aims and Objectives of TPS2

The subject site is zoned 'Rural' under TPS2. The purpose and intent of the 'Rural' zone specified in clause 5.10.1 of TPS2 is to *"allocate land to accommodate the full range of rural pursuits and associated activities conducted in the Scheme Area."*

While TPS2 does not define a 'rural pursuit', the general definition as determined by SAT is something that relates to, or is a 'characteristics of the country' as sited in (*Attwell and City of Albany*) where in the *Macquarie Dictionary* rural means:

"(1) Of, relating to, or characteristic of the country (as distinguished from towns or cities), country life, or country people, rustic;

(2) Living in the country;

(3) Of or relating to agriculture.

And "pursuit.

(1) The act of pursuing; efforts to secure; quest; any occupation, pastime or the like, regularly or customarily pursued."

In considering a discretionary land use like 'Transport Depot', the Officer assessment considers the nature and extent of association with a rural pursuit or associated activity carried out within the Scheme area. Land uses not directly rural in nature, may still be considered capable of approval where they directly serve the local rural community, thereby supporting rural pursuits.

In this case, the proposal does not clearly demonstrate its association with rural pursuits or associated activities. It is considered to be more consistent with development in an industrial area, where civil construction businesses would generally be found. Such precincts have the advantages of being serviced by higher order road environments, which makes them more capable of accommodating the demands of these kinds of uses which generate higher level of commercial and freight traffic.



BWC Civil services the building and construction industry providing road stabilisation and construction, subdivisional earthworks, retaining walls and stormwater drainage systems. These works, although they can be found in rural areas, do not relate specifically to the country or are not a characteristic of the country. For this reason, Officers recommend that a time limited approval be granted for the 'Transport Depot', in order to provide a sufficient window of time for the business to relocate within an industrial area of the Shire.

This concern was raised with the applicant who provided the following information:

"While the term 'Rural Pursuits' is not defined within TPS 2, it is considered that all of the land uses which are capable of approval in the Rural Zone under Table 1 must fall in the category of the "full range of rural pursuits and associated activities" as referenced in Clause 5.10.1 of TPS 2. The Rural Zone is therefore intended to accommodate a broad range of land uses, as reflected in the Zoning Table. Furthermore, as demonstrated in the application and the accompanying Transport Impact Statement, the proposed use will not have a negative impact on the amenity of the Rural zone.

Significantly, it should be noted that the owners of BWC Civil personally own and live on the subject land, raising their children, and intend to continue using the land for their already established and ongoing rural activities and pursuits including the keeping, preparation and training of equestrian and race horses, and the establishment of a Plant Nursery. The area of the land occupied by the proposed Transport Depot represents only approximately 11.8% of the total subject land area.

BWC Civil also take great pride in providing services to the local rural area within the Shire of Serpentine - Jarrahdale and the broader Peel Region. Examples of such work include the following:

Local - Shire Serpentine Jarrahdale

- 1. SFSJ - Kargotich Road widening, Oldbury (road construction works);*
- 2. Gambara - Karnup Road (earthworks);*
- 3. Rural Activities- Earthworks for nursery and horticulture hothouse establishment;*
- 4. Private (various) - Shed pads, driveways, arena construction and general earthworks for numerous Rural properties located within the Shire".*

Officers acknowledge that while a 'Transport Depot' is a use that can be considered for approval in the 'Rural' zone, in this case the nature of the use is more closely associated with the civil construction sector. Officers recommend providing a time limited approval of four years, in order to enable the applicant to relocate to a more appropriate location (being industrial zoned land), and hopefully securing a site still within the Shire.

The 'Plant Nursery' is considered a 'rural pursuit' and is compatible with the zone.

Draft Local Planning Scheme No.3 (LPS3) and Draft Local Planning Strategy (LPS)

The subject site is designated to remain Rural under LPS3 and the LPS. The objectives of the Rural area under the draft LPS are to provide for a full range of rural uses, tourism, rural enterprise and the preservation of the rural character. LPS emphasises the importance of protecting large rural lot sizes for agriculture.

Supporting this, LPS3 refers to the protection of rural land for rural uses and protecting the rural character. The proposed 'Plant Nursery' aligns with the intent of the rural area and the objectives



of the Strategy by introducing an agricultural use that can be operated on the site with minimal environmental impact.

As outlined above, the 'Transport Depot' is not sufficiently aligned to the purpose or intent of the 'Rural' zone, and is recommended for time limited approval so as to enable an orderly transition to an appropriate industrial zoned location., it is inconsistent with the rural land designation under LPS3 and LPS. Approval of the proposal would introduce a land use that is not appropriate in the rural area and does not conform to the objectives or strategic intent for uses in this area.

The objectives of the Rural zone under LPS3 are as follows:

- To provide for the maintenance or enhancement of specific local rural character.
- To protect and accommodate broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.
- To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies including groundwater, to protect sensitive areas especially the natural valley and watercourse systems from damage.
- To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.
- To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.

This underpins the Officer recommendation that supports the 'Plant Nursery' due to its alignment with the zoned based objectives, whereas only a time limited approval for the 'Transport Depot' to enable an orderly transition to a more compatible zone.

State Planning Policy 2.5

The purpose of this policy is to protect and preserve Western Australia's rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values. Ensuring broad compatibility between land uses is essential to delivering this outcome. The relevant objectives of the policy to this proposal are to:

- support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;
- priority agricultural land is to be preserved for that purpose due to its proximity to major population centres; and (e) conversion of land from priority agriculture to other uses must be appropriately planned in strategies or schemes, where such conversion is required as a matter of State significance.

SPP2.5 requires consideration of ensuring compatibility between land uses and is relevantly focused on the need to assess potential impacts that may arise from non-rural activities on nearby rural land use and include such matters as traffic volumes, amenity, visual compatibility and noise.

Officers have considered that the proposed continuation of the plant nursery operations are supportive of the rural economy and can be carefully managed so as to not adversely impact on the environmental and landscape values, consistent with the objectives of SPP2.5 and therefore can be supported.



Officers consider that the proposed 'Transport Depot' doesn't have a sufficient relationship rural activities, and thus not sufficiently reflective of the policy framework under SPP2.5.

State Planning Policy 2.1 (SPP2.1) Peel-Harvey Coastal Plain Catchment

The subject site is located within the Peel-Harvey catchment area. The policy ensures that changes to land use within the catchment to the Peel-Harvey Estuarine System are controlled so as to avoid and minimise environmental damage. Land uses which are likely to drain towards the Peel-Harvey Estuarine System should be managed to reduce or eliminate nutrient export from the land.

Accordingly, as described within SPP2.1 measure 6.6, appropriate nutrient reduction measures to reduce groundwater contamination, nutrient entering into the groundwater profile, and movement towards the Peel Inlet need to be addressed.

With regards to the 'Plant Nursery' the applicant provided a Nutrient and Irrigation Management Plan (NIMP), which was prepared in accordance with the best practice management and protection notes, recommended by DWER.

The nursery is 1.3ha in area and undertaken on a limestone hardstand area where eucalypts and other native trees are grown in pots until they are three years old at which time they are sold by wholesale. At full development, the nursery would grow 1000 potted trees. Irrigation would be drip fed for half the year between October and April and the remaining year would rely on rainfall.

Nutrients will be applied solely by the application of slow release, low analysis commercial fertilisers specifically developed for native trees. Fertilisers will be added into the potting mix consisting of organic rich-sand.



The operations would be undertaken on a hardstand constructed of rolled limestone. As shown on the figure following:

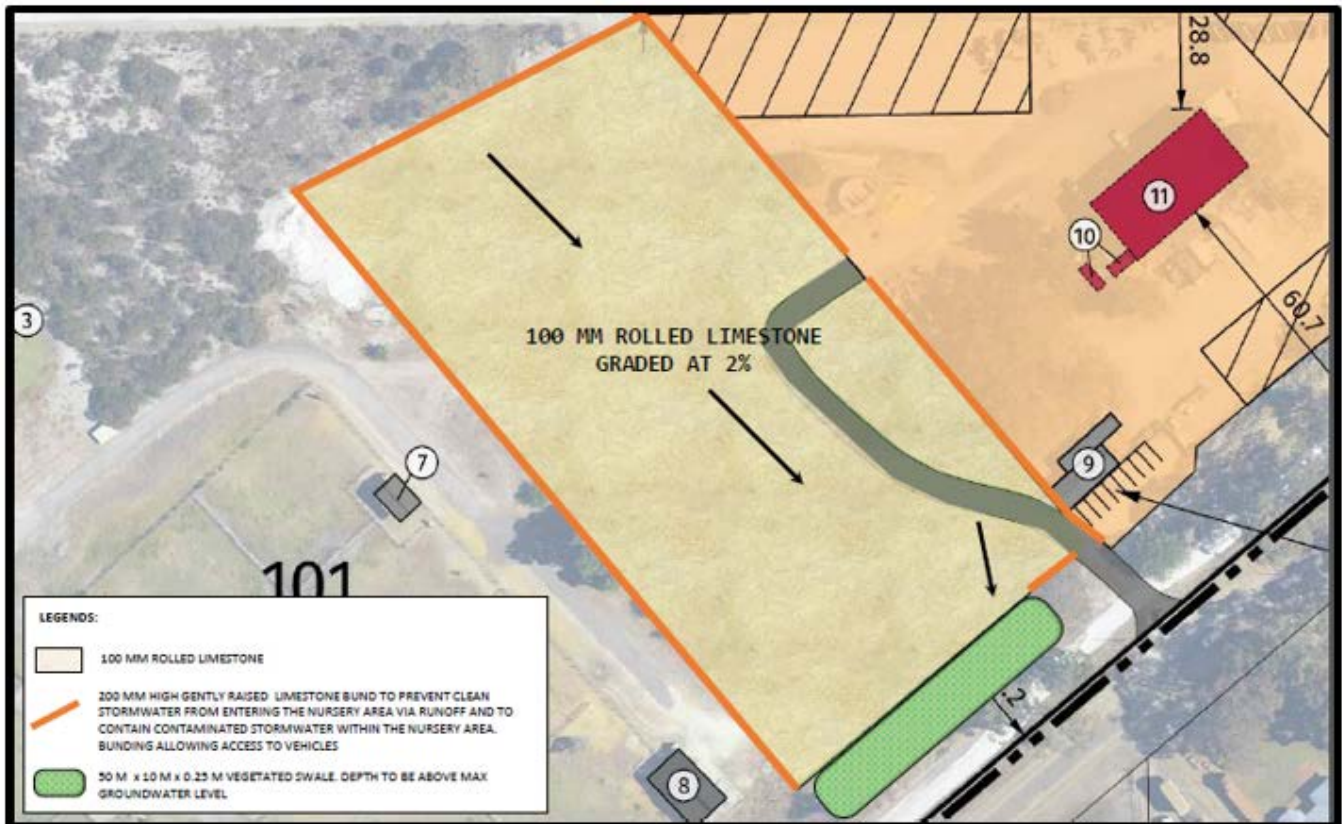


Figure 3: Run off and Stormwater Management

Runoff from the hardstand will be directed to a vegetated swale. The vegetation within the swale will absorb the nutrients from the wastewater and any excess water would be significantly depleted of nutrient contaminants. A condition is recommended to ensure that the swale is adequately lined and contains media that will sufficiently nutrient strip the water. This is consistent with the requirements of DWER. Stormwater will be kept separate from the nursery area through the establishment of gently raised 200 mm limestone bunds.

In addition, the NIMP proposes a monitoring program comparing upstream and downstream groundwater and surface water. The water monitoring and contingency proposes bores to be installed to provide data about the nursery's influence on nutrients in groundwater as well as contingency actions. All use of chemical pesticides are proposed to adhere to the industry best practice principles with chemicals to be stored in a locked area with a concrete floor.

The application details that the 'Transport Depot' would not involve washing or major servicing of vehicles onsite. In addition, the application does not propose to either store fuel or refuel commercial vehicles on site. To prevent adverse impact on the surrounding environment the plan proposes to establish dedicated areas for the parking of the commercial vehicles, trailers, machinery and employee vehicles. This is considered an acceptable management approach, noting the time limited approval recommended by officers.

As shown in Figure 4 below, the parking areas will be divided in two main categories, consisting of the existing hardstand for machinery or equipment without fuel tanks, lubricant or harmful liquid, e.g. trailers; and an impervious truck parking area (including employee vehicles) made of 100 mm of compacted asphalt profile on top of the existing hardstand.



Figure 4: Proposed spill and Stormwater Management System

This impervious truck parking area will have an infiltration $< 10^{-9}$ m/s and graded at 1% towards a concrete sump for spill and leak containment. The sump is designed for a spill volume of up to 20,000 L, allowing full containment of a spill from all trucks and employee vehicles at once. It is also noted that stormwater falling in the impervious parking area will also be discharged in the sump. The plan concludes that in the event of a fuel or other type of spill liquid will be contained in a concrete sump and isolated from the natural environment prior to being disposed off-site. This process is consistent with DWER's Water Quality Protection Notes, and particularly WQPN 51- *Industrial wastewater management* and WQPN 52 - *Stormwater management at industrial sites*.

Officers are satisfied that the management of stormwater and spill could be carefully managed so as to not cause any unacceptable risk to the environment.



Traffic and Access

Access to and from the site is proposed via Boomerang Road utilising a second driveway. During the consultation period concerns were raised regarding increase of traffic on Boomerang Road and its capability to accommodate additional traffic given it is a single carriageway. In that regard, the applicant has submitted a Traffic Impact Statement (TIS). The TIS assessed traffic generated by both the 'Transport Depot' and the 'Plant Nursery' and the potential impact on Boomerang Road. The TIS outlines the vehicle movements as follows:

- 12 employee vehicle movements per day (based on two trips daily in the morning and afternoon);
- 14 licenced work vehicle movements per day (based on two trips daily in the morning and afternoon);
- Two additional nursery truck movements per week.

The total number of vehicle movements generated by the proposal per week is estimated to be 158 movements, equalling 28 movements per day (26 for four of the six working days). This is based on two movements per vehicle per day and has been considered as the worst case scenario.

The TIS quotes the Western Australian Planning Commission's Transport Assessment Guidelines for Development (Vol. 4) which states that *"Where a traffic increase as a result of a proposed development is less than 10% of the current road capacity, it would not normally have a material impact."*

Boomerang Road is designated as an "Access Road" in accordance with the Main Roads WA Road Hierarchy. Access Roads generally have the capacity to carry a volume of 3,000 vehicles per day (28 trips is 0.93% of the roads capacity). The TIS states that at peak usage times the proposal *"would have no material impact on the surrounding road capacity. This is particularly the case given that King Road is designated as a "Regional Distributor Road" and Gossage Road a "Local Distributor Road," and due to the conservative method that weekly traffic generation has been calculated"*.

The TIS also considers that vehicles have in excess of 50m sightlines in each direction when exiting the site and no safety concerns have been identified.



Officers have considered the TIS, and also the current condition of Boomerang Road which is depicted following:



Officers consider that even with a time limited approval of four years, there is a need to improve the current standard of the road to meet the operational needs of this development. From a planning perspective, allowing this development will require the upgrade of Boomerang Road, from the driveway to King Road, which is distance of 700m. To ensure a basic road standard that supports the safe movement of vehicles, the upgrade should include a minimum seal width of 7m with 1m gravel shoulder.

Subject to this road upgrade, Officers are satisfied that the projected traffic and the type of traffic to be generated by the proposal is within the capacity of the road once upgraded and there would be no adverse traffic impact movements. Due to the retrospective nature of the approval, it is considered reasonable to provide a six month timeframe for the road upgrade to be completed.

Built Form

The application seeks retrospective approval for an existing outbuilding incidental to the residential house. The outbuilding measures 30 x 15 m (450m²) with a wall height of 6.17m and a ridge height of 7.20m. The outbuilding was previously approved under delegated authority in 2014 but was subsequently built in a slightly different location.

Officers note that large outbuildings are commonplace within rural areas and the appearance of these can be mitigated through siting, design and landscaping. Due to the existing setbacks, it is considered that the proposed shed would not adversely impact on the amenity of the streetscape or that of neighbouring properties.



Amenity

Environmental Protection Authority (EPA) - Guidance Statement No.3

The *Environmental Protection Authority's Guidance Statement 3 - Separation Distances between Industrial and Sensitive Land Uses* (Guidance Statement), sets out generic separation distances between industrial land uses and sensitive land uses.

Clause 2.3 of the Guidance Statement defines a sensitive land use as:

"Land use sensitive to emissions from industry and infrastructure. Sensitive land uses include residential development, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities, shopping centres, playgrounds and some public buildings".

The separation distance recommended between a 'Transport Depot' and sensitive land uses is 200m. The off-site health and amenity impacts associated with a 'Transport Depot' is primarily noise. Figure 5 below identifies that there is one sensitive receptor within the generic 200m separation distance which is a dwelling located at Lot 10, 133 Boomerang Road, approximately 70m from the development site.



Figure 5: Separation Distance



Given the location of a sensitive premises within the generic separation distance, an Acoustic Assessment is required to be undertaken to ensure there would be no adverse impact on the residents of this dwelling. At this stage, the report has not been undertaken. The application details that noise levels are not expected to exceed that of a typical rural property and that machinery stored on site will remain stationary except where loading and unloading occurs. On the basis of a time limited approval of four years, Officers do not recommend a further acoustic assessment be undertaken given the intended transition after four years.

Options and Implications

Option 1

That Council APPROVES the development application for the 'Transport Depot' and the 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oldbury, subject to a time limited approval of four years for the 'Transport Depot' and normal conditions otherwise.

Option 2

That Council APPROVES the development application for the 'Transport Depot' and the 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oldbury, with no time limited approval for the 'Transport Depot' and normal conditions otherwise.

Option 3

That Council REFUSES the development application for the 'Transport Depot' and the 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oldbury, for reasons stated.

Option 1 is recommended.

Conclusion

The application seeks approval for a 'Transport Depot' (involving the parking of commercial vehicles and machinery associated with a civil and earthmoving business) and a 'Plant Nursery' on 'Rural' zoned land. It is considered that the 'Plant Nursery' is consistent with the objectives of the rural zone and would not adversely impact on the character or amenity of the area or that of surrounding landowners. The 'Transport Depot' is recommended for a time limited approval of four years, given it is aligned with the objectives of an industrial zone rather than the objectives of a rural zone. A time limited approval will enable a transition over time to an appropriately zoned industrial precinct within the Shire, being West Mundijong or Cardup Business Park.



Attachments (available under separate cover)

- **10.1.2 - attachment 1** - Development Application (IN20/26240)
- **10.1.2 - attachment 2** - Technical Assessment (E20/11284)
- **10.1.2 - attachment 3** - Summary of Submission (E20/6560)
- **10.1.2 - attachment 4** - Nutrient and Irrigation Management Plan (IN20/26229)
- **10.1.2 - attachment 5** - Stormwater and Spill Management Plan (IN20/26231)
- **10.1.2 - attachment 6** - Transport Impact Statement (IN20/26226)
- **10.1.2 - attachment 7** – Development Application details for Determination (IN20/27286)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>That Council approves the development subject to a time limited approval of four years for the 'Transport Depot' and the application is appealed at the SAT</i>	<i>Town Planning Scheme No.2.</i>	Financial	Unlikely	Minor	MODERATE	Accept Officer Recommendation
2	<i>That Council approves the development application with no time limited for the 'Transport Depot'</i>	<i>Town Planning Scheme No.2.</i>	Reputation	Rare	Insignificant	LOW	Accept Officer Recommendation
3	<i>That Council refuses the development application for the 'Transport Depot' and the 'Plant Nursery' and the decision is appealed to the SAT</i>	<i>Town Planning Scheme No.2.</i>	Financial	Unlikely	Minor	MODERATE	Accept Officer Recommendation



Voting Requirements: Simple Majority

Officer Recommendation

1. That Council APPROVES the application for the 'Transport Depot' and 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oakford as contained within attachment 7, subject to the following conditions:

- a. The 'Transport Depot' is time limited to a four year approval only, following which the use must cease unless a further time extension is granted by the Council of the Shire of Serpentine Jarrahdale.
- b. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	<ul style="list-style-type: none">1. Development Site Plan received at the Shire's on 8 September 2020;2. Stormwater and Spill Management System dated 2 September 2020 prepared by Bioscience;3. Nutrient and Irrigation Management Plan dated 2 September 2020 prepared by Bioscience.
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- c. No retail sales to the public are to be conducted from the subject land.
- d. The hours of operation of the 'Plant Nursery' and 'Transport Depot' are restricted to 6:00am to 5.00pm Monday to Friday and 7.00am to 12.00 on Saturdays .
- e. The storage of chemicals, pesticides and other toxic or hazardous substances on site shall be in accordance with the Department of Water and Environmental Regulation Water Quality Protection Note 65 (April 2006) Toxic and Hazardous Substances - Storage and Use.
- f. Prior to commencement of the 'Plant Nursery', details of the nutrient retaining media to be used in the swale shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the vegetated swale shall be constructed and maintained in accordance with the approved details.
- g. Within six months of the date of approval, the section of Boomerang Road from the property entrance to the intersection with King Road being upgraded to a minimum bitumen sealed width of 7m, with 1m gravel shoulders, to the satisfaction of the Shire of Serpentine Jarrahdale. Plans and specifications depicting the road upgrade are to be submitted to and approved by the Shire of Serpentine Jarrahdale within three months of the date of this approval, to allow completion of the road upgrade within the following three months, in order to meet the six month timeline.



OCM355/11/20

COUNCIL RESOLUTION

Moved Cr McConkey, seconded Cr Denholm

That Council DEFERS consideration of the application for the 'Transport Depot' and 'Plant Nursery' at Lot 101, 132 Boomerang Road, Oakford, to enable the applicant to submit further details of proposed access arrangements, so that these can be considered by Officers (as part of the application), and the whole matter presented back to Council at the December 2020 meeting.

CARRIED UNANIMOUSLY 8/0

Reason for difference to Officer Recommendation

To enable Officers to meet with the applicant to consider alternative access arrangements.

Councillor Rich returned to the Chambers at 8.41pm and resumed the Chair as Presiding Member.

Councillor Atwell advised the Shire President, Councillor Rich of the Council Resolution for item 10.1.2.



Councillor Strautins declared an Impartiality Interest in item 10.1.3.

Councillor Atwell declared a Financial Interest in item 10.1.3 and left the Chambers at 8.42pm prior to this item being discussed.

10.1.3 - Proposed Drive-Through Bottle Shop Addition To Existing Tavern - Lot 6, 32 Paterson Street, Mundijong (PA20/481)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Harvey Construction
Owner:	Mundijong Land Pty Ltd and Wormall Pty Ltd
Date of Receipt:	8 June 2020
Lot Area:	2,028.45m ²
Town Planning Scheme No 2 Zoning:	Urban Development
Metropolitan Region Scheme Zoning:	Urban

Report Purpose

The purpose of this report is for Council to consider a development application for a proposed drive-through bottle shop addition to the existing Mundijong Tavern at Lot 6, 32 Paterson Street, Mundijong. Although located on separate adjoining lots, the development is intended to read as an integrated overall building and place.

The application is presented to Council as objections were received during the consultation period. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Applications. The development is also an addition to an important heritage building, being Mundijong Tavern which is listed under Appendix 7 of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 ("Scheme"). Appendix 7 lists places of natural beauty, historic buildings and objects of historical or scientific interest which have additional planning controls applied under the Scheme.

The proposal is considered to be consistent with the planning framework and the report recommends that Council approve the development application, subject to appropriate conditions.



Relevant Previous Decisions of Council

Ordinary Council Meeting - 29 January 2008 - SD057/01/08:

The application for approval to commence development was granted subject to conditions for additions to the Mundijong Tavern on Lots 5 and 6 (32) Paterson Street, Mundijong.

Background

Existing Development

The subject site is 2,028.45m² in area and is bound by Paterson Street to the east, an unconstructed laneway to the west, the Mundijong Hotel to the south and Mundijong Hair Salon to the north. The subject site is currently vacant and used informally for parking for the Mundijong Hotel.

The surrounding land comprises of commercial development along Paterson Street to the north and south, residential development to the west and the railway line to the east.



Proposed Development

The application seeks approval for an extension to the Mundijong Hotel that would operate as a drive-through bottle shop, with associated car parking. The features of the proposed development include:

- A 223m² single storey extension comprising of a display area and one way undercover drive-through;
- Retrofitting of part of the Mundijong Hotel to include part of the display area and a cool room;
- Construction of a bin store area;



- Construction of a car parking area comprising of 41 parking bays (inclusive of two universal access bays), one loading bay and landscaping;
- Construction of a full movement crossover to Paterson Street and an entry only from the laneway to the rear.

During the assessment process, amendments were made to the proposed site plans to address concerns about general vehicle access from the laneway to the rear and the potential impact on the residential amenity on adjoining properties. As a result, the plans were amended to remove all access from the laneway to the rear, include an additional 3 parking bays and erect a 2m high masonry wall along the rear lot boundary. This will be discussed further in the report.

The bottle shop is proposed to operate as an extension to the Mundijong Hotel and would operate across the same hours as the Mundijong Hotel, being 9:00am - 10:00pm Sunday to Thursday and 9:00am to 11:00pm Friday and Saturday.

The full details of the initial proposal can be viewed in **attachment 1** and the amended site plan can be viewed in **attachment 2**.

Community / Stakeholder Consultation

The application was advertised to landowners within a 500m radius of the site for a period of 21 days, in accordance with Local Planning Policy 1.4 - Public Consultation on Planning Matters Policy (LPP1.4). During the advertising period two submissions were received, objecting to the proposed development. The content of the submissions and the applicant responses can be viewed in **attachment 3** to this report.

The themes of the submissions relate to: Insufficient information; traffic impacts; parking availability; social impacts; amenity impacts and crime. These are assessed in detail within this report.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Environmental Protection (Noise) Regulations 1997.*

State Government Policies

- State Planning Policy 3.7 - Planning in Bushfire Prone Areas.

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Rural Strategy Review 2013;
- Draft Local Planning Scheme No. 3;
- Draft Local Planning Strategy;
- Mundijong - Whitby District Structure Plan;
- Local Planning Policy 1.4 - Public Consultation on Planning Matters Policy;
- Local Planning Policy 3.4 - Paterson Street Design Guidelines;



- Local Planning Policy 4.16 - Landscape and Vegetation Policy.

Planning Assessment

Schedule 2, Part 9, Clause 67 of the Deemed Provisions lists matters to be considered in the determination of development applications. A full assessment was carried out against the applicable matters relevant to this proposal and can be viewed within the Technical Assessment contained within **attachment 4**. 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.

Land Use:

The proposed development primarily entails the retail sale of liquor and is considered to be most closely associated with a 'Shop' land use under Town Planning Scheme No. 2 (TPS2). A '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 collector's yard, timber yard or land and buildings used for the sale of vehicles or for any purpose falling within the definition of industry.'

Officers must also have regard for the seriously entertained Draft Local Planning Scheme No. 3, which introduces a new land use of 'Liquor Store - Small'. This means:

'premises the subject of a liquor store licence granted under the Liquor Control Act 1988 with a net lettable area of not more than 300 m2.'

The subject site is currently zoned 'Urban Development' under TPS2. Within this zone, the Zoning Table does not provide for any land use permissibility, rather clause 5.18 of TPS2 relating to the Urban Development zone requires the preparation of a Structure Plan to guide development. The subject site is designated as 'Centre' under the current Mundijong-Whitby District Structure Plan, and referred to as a 'Neighbourhood/Local Centre'. Within the 'Neighbourhood Centre' zone under TPS2, a 'Shop' land use would be a 'P' permitted land use.

Under the Draft District Structure Plan currently being progressed, the subject land is designated within the Mundijong District Centre. This provides that:

"Mundijong District Centre will continue to perform its role as the Shire's 'Civic and Governance Precinct' centred around the existing urban core on Paterson Street. In a retail sense the Mundijong District Centre will also continue its role as a neighbourhood centre. It has been classified as a District Centre due to the range of uses provided and significant role the centre plays in the context of the Shire. In the long-term Mundijong District Centre also has capacity to expand its retail function and become a TOD, however, this is dependent on the outcomes of METRONET."

The subject site is also proposed to be zoned 'Urban Development' under the seriously entertained Draft Local Planning Scheme No. 3 (LPS3). A 'Liquor Store - Small' land use is listed as a 'D' use within the Urban Development zone under LPS3, meaning that the use is not permitted unless the local government has exercised its discretion by granting development approval.



The proposed development is thus consistent with the current and intended future planning framework.

Parking:

Table V - Parking Requirements of TPS2 sets out car parking requirements for specific land uses. This proposal, as discussed, involves formalising of car parking that will serve the current 'Tavern' development, as well as the new 'Shop' expansion which is proposed as a drive through bottle shop.

Under Table V of TPS2, a 'Tavern' generates a car parking rate of 1 bay per 2 square metres of bar and lounge area. The applicant has identified that the existing tavern has a patronage area and alfresco area totaling 222m², which would result in a requirement for 111 parking bays under TPS2. A 'Shop' use generates a car parking requirement of 1 bay per 15sqm of gross leasable area. For the 150sqm shop display component, this would generate a further 10 bays. This creates a total of 121 bays.

Under LPS3, which is a seriously entertained planning proposal, Schedule 4.3 - Car Parking Requirements states that a 'Tavern' land use requires 1 car bay per 4m² of dining, drinking and/or lounge areas and 1 bay per 4m² of public assembly areas. Based on the existing patronage area and alfresco area totaling 222m², the development would result in a requirement for 56 parking bays under LPS3. The 'Liquor Store - Small' generates a car parking requirement of 1 bay per 20sqm of gross leasable area, which would result in eight bays. This creates a total of 64 bays.

LPS3 reflects the intended future planning framework, and particularly provides the most specific car parking treatment for how development within a 'District Centre' should be considered. The risk in not using LPS3, is that development is not considered or advanced in a manner which Council intends under its new adopted LPS3.

The proposal includes the provision of 41 new car parking bays.

The existing Mundijong Hotel development does not have any formal parking areas servicing the site. There are currently two on-street bays directly outside the front of the Mundijong Hotel and a 12 bay car parking area accessed from Paterson Street, directly opposite the subject site. The site of the proposed drive through bottle shop has been used as informal parking for the Mundijong Hotel, there is also an informal car parking area between the Mundijong Hotel and the Post Office, with space to facilitate approximately 16 parking spaces, as shown below:



Existing Car Parking

Accounting for the existing formal and adjacent car parking bays within a reasonable proximity to the subject site, the proposed development will create in excess of the minimum 64 bays required under LPS3.

Developer Contributions (DCA3):

This development falls within the proposed development contribution area DCA3 (Mundijong Urban DCP). It is anticipated that the Amendment 209, which introduces this DCA, will be a seriously entertained document (having been adopted by Council and submitted to the WAPC), at the time this application is determined. As such it will be required to contribute towards the cost of common infrastructure under the Mundijong Urban Development Contribution Plan.

As a non-residential development, 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 recommended as a condition of development approval for the Building Permit stage.

What this methodology seeks to achieve is that for new development taking place in the neighbourhood and district centres of Mundijong (just like Byford), an equitable approach is used which bases a contribution payment on a theoretical development yield for land. This yield is arrived at by dividing the land area by an average residential lot size of 350sqm. This is considered a fair and equitable approach that equalises contributions based on land area across the precinct. Officers are mindful that attempting to base contribution amounts on other criteria like intensity of development, could have inadvertent negative consequences of discouraging development for retail or commercial purposes. Accordingly, the area of this land is used in arriving at the contribution amount.



The current lot area is 2,028.80m², which gives a total lot yield of 4.5 lots (the lot area divided by 350m² (the average R25 zoned dwelling size)).

Under the current draft DCP (as advertised) the contribution value will be circa \$13,063 per lot, giving a total contribution due of circa \$75,770.

It is noted that recommendations for modifications to the Amendment 209 are being submitted to the November Council Meeting, which will amend this amount to reduce the overall per lot rate. This is a result of reviewing all infrastructure and costings in order to reflect more accurate assumptions and development patterns.

Traffic:

A Traffic Impact Statement (TIS) was provided as additional information to the application, which can be viewed in **attachment 5** to this report. The TIS demonstrates the traffic impacts of the proposed development will not have an undue impact on the current or future local road network and is acceptable in terms of potential traffic safety issues arising from the proposal.

Paterson Street is classified as a Local Distributor Road under the Main Roads Western Australia (MRWA) road hierarchy and has a speed limit of 60 km/h. The TIS is based current site traffic generation and based on the modelled traffic growth volume over the next ten years.

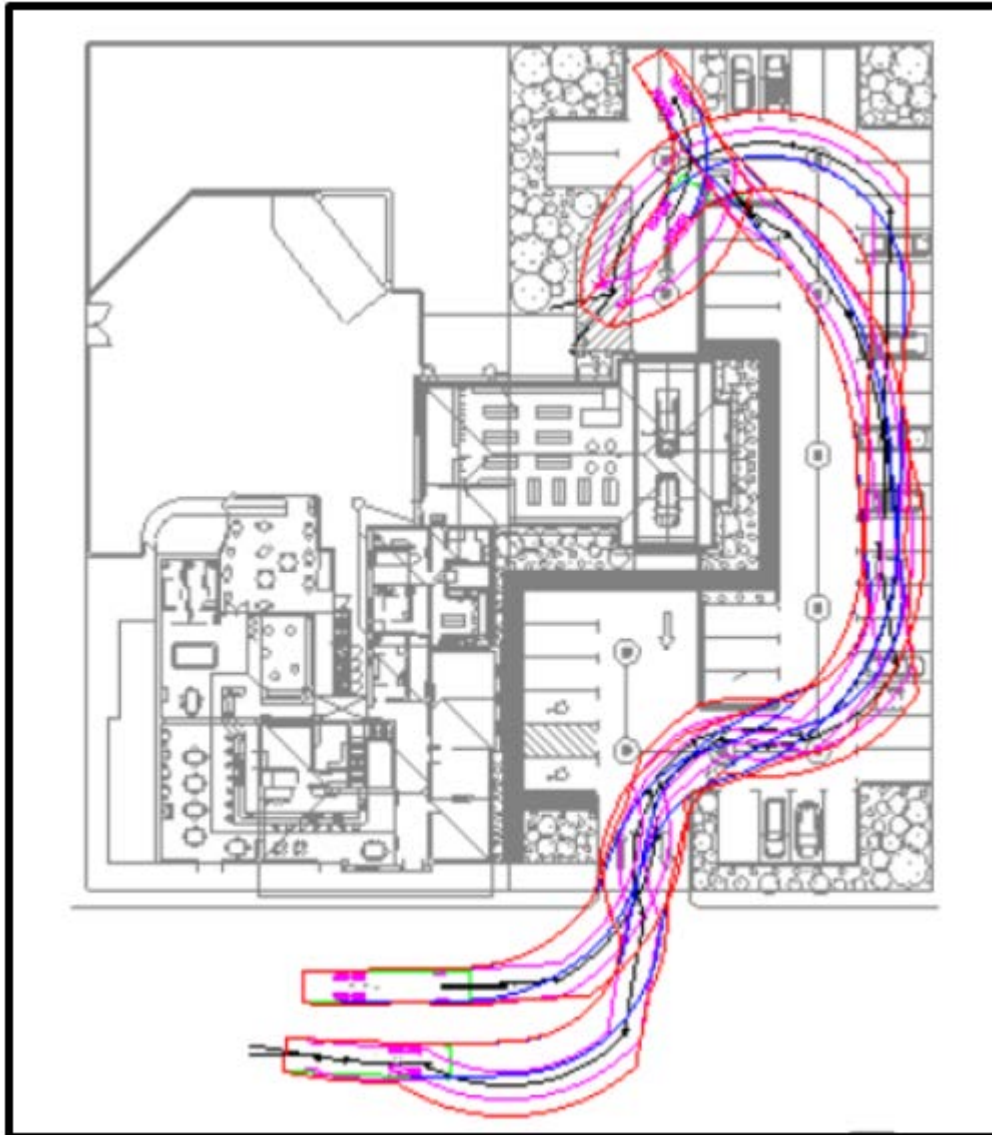
The TIS includes the following table for existing traffic on Paterson Street

Paterson Street	North Bound (VPH)	South Bound (VPH)	Total
AM Network Peak	201	98	299
PM Network Peak	146	130	276

The site is anticipated to generate a total of 29 trips in the PM traffic peak hour (6pm to 7pm).

The WAPC guideline document “*Transport Impact Assessment Guidelines*” (2016) provides guidance on the assessment of traffic impacts and states “*As a general guide, an increase in traffic of less than 10 percent of capacity would not normally be likely to have a material impact on any particular section of road but increases over 10 percent may.* Based on the information provided, the proposal would not increase the existing traffic movements more than 10% and it is therefore considered that the road network is capable of accommodating the proposed development.

The TIS also highlights a fairly complex internal maneuvering arrangement for servicing vehicles, which could only be undertaken at times when the car parking area is almost entirely empty, as shown following. There is no option to move the access further north on the site due to the existence of a bus shelter and street lighting infrastructure.



Turning Templates

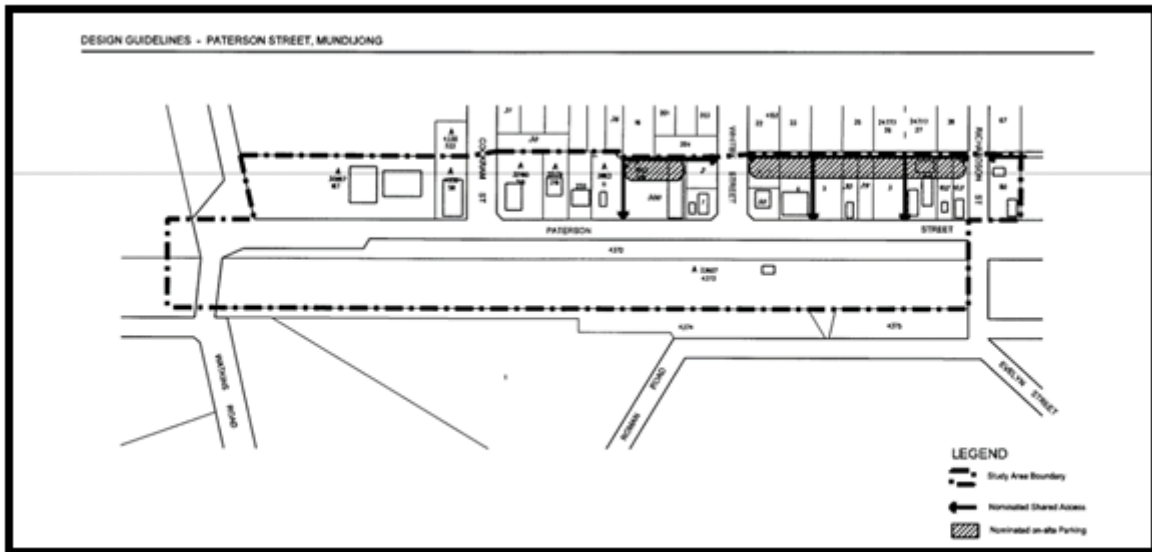
There is the option of restricting loading and unloading times to times where the car park will most likely be empty, which is considered a relevant and incidental component of the development that can be conditioned. Through limiting loading/unloading times to outside peak utilization times (deemed 11am to 7pm daily), the proposed configuration of development can be supported.

This support however is conditional upon plans and specifications being submitted and approved by the Shire, and particularly through this process consider incidental elements like curbing design, drainage location, landscaping types such that the safe maneuverability of loading and unloading can be achieved.



Local Planning Policy 3.4 Paterson Street Design Guidelines:

LPP 3.4 envisages that the rear laneway that adjoins the development will be fully constructed in the future, to cater for two way vehicle movements. This would require a 10 m laneway width being constructed in the future, compared to the current 5m width. Officers recommend imposition of a condition that requires 2.5 metres of land across the full length of the subject site, which is both Lot 6 (32) Paterson Street and Lot 5 (34) Paterson Mundijong. These two lots combine to represent the ultimate development site, with a condition imposed that requires amalgamation prior to issue of a Building Permit.



Shared Access Arrangements -LPP 3.4 Paterson Street Design Guidelines

Form of Development:

The application seeks approval for a single storey extension to the existing Tavern building to the northern elevation and conversion of part of the existing Tavern into a cool room and display area for the bottle shop. The display area would have a floor area of 150m² and a drive-through measuring 61.4m². The extension would be set back 25.7m from the primary street boundary behind the front wall of the existing Tavern.

Local Planning Policy 3.4 - Paterson Street Design Guidelines (LPP3.4) sets out design standards for development on Paterson Street. The objectives of LPP3.4 seek to maintain the heritage of Paterson Street by encouraging development forms that will *“enhance the character of the town and strengthen its identity”*. LPP3.4 also identifies significant features of the urban fabric. The existing Tavern is located on a lot designated as an ‘other landmark site’ under LPP3.4 and the subject site is designated as a ‘nominated square’. A full assessment against the provisions of LPP3.4 is contained within the Technical Assessment.



Guideline Statement	Proposal/Officer Comment
<p>Primary Street setbacks should be to the greater dimension as per figure 6 of the LPP</p>	<p>Figure 6 shows a 2m minimum setback from the primary street. The proposal would be set back 25.7m from the primary street, compliant with the LPP.</p> <p>The rationale of the setback requirements is due to the unique character of Paterson Street and the variety of existing setbacks. The 2m setback is encouraged to achieve an active street frontage for uses such as shops and restaurants</p> <p>The setback of the proposed development is considered consistent with maintaining the variety and would ensure that the existing historic building appears more dominant within the streetscape.</p>
<p>Forecourts or Squares are encouraged for those locations notated as "Nominated Squares" in Figure 7 of these Guidelines</p>	<p>Forecourts and Squares are encouraged to enhance key heritage buildings and provide a venue for commercial. Cultural and community events.</p> <p>The application does not propose a forecourt or square as encouraged by the LPP. It is noted that this is a desirable provision and not a mandatory provision. It is considered that given the land use, a forecourt or square would not be appropriate.</p>
<p>The minimum side setback shall be 8m.</p> <p>A side setback may be relaxed to nil where:</p> <p>i) the subject development is proposed on those lots nominated to have a minimum front setback of 2.0 metres (on Figure 6),</p> <p>ii) the proposed development is a shop, restaurant, café or office, and iii) the boundary to which the relaxation is being sought is not affected by the "Nominated Shared Access" easement depicted in Figure 8.</p>	<p>The subject site and the existing Tavern are nominated under the LPP to have shared vehicular access which is achieved under the proposal. However, the development proposes a nil setback given it is an extension of the existing building which also currently has a nil setback.</p> <p>The proposal is nominated to have a 2m front setback on figure 6. The proposed development is a 'Tavern'. The setback would not adversely impact on the shared access arrangements.</p>



Guideline Statement	Proposal/Officer Comment
<p>10% of the gross area of a site in the commercial zone to be landscaped.</p> <p>Four circumstances may exist which could allow Council to consider variations:</p> <ul style="list-style-type: none"> a) where the proponent contributes to or carries out, landscape improvements to the street contiguous to the site (including but not limited to, street trees, street furniture, paving, etc), to a value of ten percent of the englobo land value of the site, b) where the proponent contributes to or carries out, the provision of public art within or contiguous to the site, to a value of ten percent of the englobo land value of the site, c) where the proponent creates a town square or forecourt, compliant with the requirements of Guideline statement 1.2.3, or d) combinations of the above to a total value of ten percent of the englobo land value of the site. 	<p>The LPP also states that variations may be considered where provision of on-site landscaping to improve amenity may not be appropriate. The policy states <i>“it is also recognised that town centre development must nevertheless contribute to the streetscape amenity through other means, such as landscaping within the street, public art, or (where appropriate) a forecourt or square”</i>.</p> <p>The submitted site plan shows areas of proposed landscaping alongside the front boundary, adjacent to the drive-through and within the car park behind the development. This demonstrates that landscaping can be achieved to create an attractive street frontage. A condition is recommended for a landscaping plan to be submitted to detail the species of trees and the density prior to commencement of works.</p>
<p>On-site loading areas to be at the rear and be gated for after-hours security and concealed by fencing of a minimum height of 2m</p>	<p>The loading bay is located to the rear of the drive-through extension so as to preserve the amenity of the streetscape. This area is no fenced off or gated for out of hours however the building would be closed off with a roller shutter door which is considered to be sufficient for security purposes and would not result in a secluded area.</p>
<p>Fencing should be transparent and no higher than 1.8m. Front fencing shall comprise either painted open picket or wrought iron.</p>	<p>No fencing is proposed to the front or side lot boundaries. A 2m high masonry wall is proposed along the rear to prevent access to the laneway. The intent of this is to preserve the residential amenity of adjacent landowners to the rear.</p>



Guideline Statement	Proposal/Officer Comment
	A fence/wall in this location is also considered of benefit to prevent pedestrians from purchasing liquor and having direct access to the laneway to the rear.
The architectural style of new buildings should (in the case of additions and extensions) match that of their principal building, and in the case of new development, should be closely sympathetic to the architectural style of the key 19th and 20th Century buildings in the Precinct.	<p>The extension would be of brick construction with use of render to the drive-through to match the external appearance of the existing building. It is considered that the external appearance of the extension is cotemporary in design whilst in keeping with the appearance of the existing building.</p> <p>Given the scale and siting of the proposed development, it would appear subservient in scale to the existing building. It would have a hipped roof with a gable facing onto Paterson Street. The form of the extension reflects the form of the existing building and is considered appropriate in its context.</p>
WINDOWS: AT STREET LEVEL No less than sixty (40) percent of the vertical area of a building façade facing a street (or formal public space such as a square) at street level shall comprise windows, or glazed doors.	The proposed vertical area of the building façade comprises approximately 8.8% windows. The design, although non-compliant, has been chosen to reflect the heritage design of the adjoining Mundijong Hotel. Compliance with the policy in this regard would result in a jarring design outcome, as such, the variation is supported in this regard.

Amenity:

Clause 67 of the Deemed Provisions, namely clause (n) requires the Local Government to consider the amenity impacts of a development specifically in relation to the character of the locality and social impacts. Generally, in assessing social impacts it is important to consider how the premises would operate including hours of operation, marketing/advertising and considering sensitive premises in the locality.

In this case, the proposal is for an extension in the form of a drive through bottle shop (with display area), with this extension being to the existing Tavern that has been operating from the site for considerable time.

In terms of sensitive premises, the following have been identified:-

- Mundijong Primary School is located approximately 175m to the north: and
- Mundijong Family Practice located approximately 3m to the north.

The frontage of the licensed premises does not take a predominant view from either of these sensitive premises and any signage would not be visible. More so, the strategic intent of the area is to provide for a mixed range of uses and the 'Tavern' is an existing and well-established operation. Regardless, sale of alcohol is required to be in accordance with the relevant regulations and principles of responsible sale.

It is considered that social impacts can be appropriately managed through the responsible operation of the business. Planning conditions including the requirement for a lighting plan and the secure storage of products will go further to mitigate the potential social impacts resultant from the proposal. Any signage would require development approval and through this process, consideration would be given to its context and potential social impacts.



Noise from the development would be generated from the potential increase of customers visiting the site and their vehicles. The level of noise is not considered to be dissimilar to the existing activities of the tavern and its outdoor seating area and these types of developments are expected to occur in Town Centres.

Officers are satisfied that the issue of noise can be managed through the *Environmental Protection (Noise) Regulations 1997* and will recommend an advice note that ensures the operator is aware that noise requires monitoring. Management of noise can be further considered through the Section 39 application for a liquor license by the Shire's Health Services.

Options and Implications

Option 1

That Council APPROVES the application subject to appropriate conditions.

Option 2

That Council REFUSES the application providing appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for a drive-through bottle shop extension to the Mundijong Hotel. The proposal received two objections during the advertising period and seeks some variations to the provisions of Local Planning Policy 3.4 - Paterson Street Design Guidelines, which has triggered the application being presented to Council for determination in accordance with Delegated Authority 12.1.1. Officers consider the proposed development to be acceptable, subject to appropriate conditions and modifications as discussed within the body of this report and recommend the application be granted approval.

Attachments (available under separate cover)

- **10.1.3 - attachment 1** - Development Plans (E20/11926)
- **10.1.3 - attachment 2** - Amended Site Plan (E20/11928)
- **10.1.3 - attachment 3** - Summary of Submissions (E20/11927)
- **10.1.3 - attachment 4** - Technical Assessment (E20/11912)
- **10.1.3 - attachment 5** - Traffic Impact Statement (IN20/24731)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>That Council approves the development application</i>	<i>Local Planning Policy 3.4 – Paterson Street Design Guidelines</i>	Reputation	Unlikely	Moderate	MODERATE	Accept Officer recommendation
2	<i>That Council refuse the development and the decision is appealed to the SAT.</i>	<i>Local Planning Policy 3.4 – Paterson Street Design Guidelines</i>	Financial	Possible	Minor	MODERATE	Council provide detailed reasoning for its decision to assist the applicant in rectifying Councils concerns with the proposal if an appeal is lodged

Voting Requirements: Simple Majority

Officer Recommendation

1. That Council APPROVES the development application for the construction of a 'Drive-Through Bottle Shop' as contained within attachment 1 at Lot 6, 32 Paterson Street, Mundijong subject to the following conditions:
 - a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Development Plans received at the Shire Offices on 8 June 2020; Traffic Impact Statement received at the Shire Offices on 16 October 2020;
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 - b. Operating hours are to be restricted to between 9:00am - 10pm Sunday to Thursday and 9:00am - 11pm Friday to Saturday, unless otherwise approved by the Shire of Serpentine Jarrahdale.
 - c. Plans submitted for a building permit are to demonstrate the following design changes to the satisfaction of the Shire of Serpentine Jarrahdale:



- i. The roller shutter door facing Paterson Street being changed to an appropriate architectural treatment of timber or steel with a horizontal timber panel door look;
 - ii. A schedule of colours and materials which create a sympathetic composition for the street facing edge of the overall building.
- d. Prior to the issue of a Building Permit, plans and specifications being submitted to and approved by the Shire of Serpentine Jarrahdale, depicting the detailed design of the carpark that ensures curbing design, drainage locations and landscaping areas will enable manoeuvrability of loading and unloading vehicles. Such plans and specifications are to also depict vehicle parking areas, access ways, customer paths and crossovers being designed, constructed, sealed, kerbed, drained, line marked and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. This infrastructure must be fully created prior to commencement of the development.
 - e. A minimum of two car parking bays are to be provided and marked for the exclusive use of vehicles displaying government issued disabled parking permits. Such bays shall be located conveniently to the principal building entrance and designed in accordance with the relevant Australian Standard.
 - f. Plans submitted for a Building Permit are to include a Landscaping Plan, showing all areas of retained vegetation and proposed additional planting, to the satisfaction of the Shire of Serpentine Jarrahdale. Once approved, the Landscaping Plan shall be implemented in its entirety and maintained thereafter to the satisfaction of the Shire.
 - g. All stormwater shall be directed so stormwater is disposed of within the property, to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
 - h. Prior to issuing of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Policy. Once approved, signage shall be displayed and maintained in accordance with the strategy.
 - i. Arrangements being made with the Shire of Serpentine Jarrahdale for the landowner/applicant to contribute towards the costs of providing common infrastructure, as established through amendment 209 (when gazetted) to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.
 - j. Service vehicles for loading and unloading purposes must not occur between peak operating hours of 11am to 7pm daily. The loading and unloading of goods must be undertaken completely onsite within the designated area during the hours of operation.
 - k. Prior to issue of a Building Permit, Lots 5 (34) & 6 (32) Paterson Street, Mundijong are to be amalgamated to the satisfaction of the Shire of Serpentine Jarrahdale. As part of this amalgamation process, 2.5m of land along the rear is to be ceded to the Crown free of cost to allow for the future widening of the laneway, to the satisfaction of the Shire of Serpentine Jarrahdale.
 - l. Prior to commencement of works, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Plan shall be prepared with a view to ensuring the car parking area and access points to the site and building are appropriately lit to mitigate the risk of antisocial behaviour.



- m. Prior to occupation, the provision of public art being provided in accordance with Local Planning Policy 1.6 – Public Art for Major Developments to the satisfaction of the Shire.

Voting Requirements: Simple Majority

OCM356/11/20

COUNCIL RESOLUTION

Moved Cr Coales, seconded Cr Dagostino

1. That Council **APPROVES** the development application for the construction of a ‘Drive-Through Bottle Shop’ as contained within attachment 1 at Lot 6, 32 Paterson Street, Mundijong subject to the following conditions:

- a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	<p>Development Plans received at the Shire Offices on 8 June 2020;</p> <p>Traffic Impact Statement received at the Shire Offices on 16 October 2020;</p>
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- b. Operating hours are to be restricted to between 9.30am – 8.30pm Monday to Thursday, 9.30am – 9.30pm Friday to Saturday, and 10am – 7pm on Sunday, unless otherwise approved by the Shire of Serpentine Jarrahdale.
- c. Plans submitted for a building permit are to demonstrate the following design changes to the satisfaction of the Shire of Serpentine Jarrahdale:
- i. The roller shutter door facing Paterson Street being changed to an appropriate architectural treatment of timber or steel with a horizontal timber panel door look;
- ii. A schedule of colours and materials which create a sympathetic composition for the street facing edge of the overall building.
- d. Prior to the issue of a Building Permit, plans and specifications being submitted to and approved by the Shire of Serpentine Jarrahdale, depicting the detailed design of the carpark that ensures curbing design, drainage locations and landscaping areas will enable manoeuvrability of loading and unloading vehicles. Such plans and specifications are to also depict vehicle parking areas, access ways, customer paths and crossovers being designed, constructed, sealed, kerbed, drained, line marked and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. This infrastructure must be fully created prior to commencement of the development.
- e. A minimum of two car parking bays are to be provided and marked for the exclusive use of vehicles displaying government issued disabled parking permits. Such bays shall be located conveniently to the principal building entrance and designed in accordance with the relevant Australian Standard.
- f. Plans submitted for a Building Permit are to include a Landscaping Plan, showing all areas of retained vegetation and proposed additional planting, to the



satisfaction of the Shire of Serpentine Jarrahdale. Once approved, the Landscaping Plan shall be implemented in its entirety and maintained thereafter to the satisfaction of the Shire.

- g. All stormwater shall be directed so stormwater is disposed of within the property, to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.
- h. Prior to issuing of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Policy. Once approved, signage shall be displayed and maintained in accordance with the strategy.
- i. Arrangements being made with the Shire of Serpentine Jarrahdale for the landowner/applicant to contribute towards the costs of providing common infrastructure, as established through amendment 209 (when gazetted) to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.
- j. Service vehicles for loading and unloading purposes must only occur between the hours of 7am – 11am Monday to Saturday only and not on Sunday, and must comply with the *Environmental Protection (Noise) Regulations 1997*. The loading and unloading of goods must be undertaken completely onsite within the designated area during the hours of operation.
- k. Prior to issue of a Building Permit, Lots 5 (34) & 6 (32) Paterson Street, Mundijong are to be amalgamated to the satisfaction of the Shire of Serpentine Jarrahdale. As part of this amalgamation process, 2.5m of land along the rear is to be ceded to the Crown free of cost to allow for the future widening of the laneway, to the satisfaction of the Shire of Serpentine Jarrahdale.
- l. Prior to commencement of works, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Plan shall be prepared with a view to ensuring the car parking area and access points to the site and building are appropriately lit to mitigate the risk of antisocial behaviour.
- m. Prior to occupation, the provision of public art being provided in accordance with Local Planning Policy 1.6 – Public Art for Major Developments to the satisfaction of the Shire.
- n. Prior to issue of a Building Permit, the applicant is to engage a suitably qualified acoustic consultant to prepare an environmental noise assessment and associated noise management plan for assessment and approval by the Shire. This is to demonstrate compliance of the development with the *Environmental Protection (Noise) Regulations 1997*, to the satisfaction of the Shire. Any design modifications required by the noise assessment and/or management plan are to be reflected in the plans submitted for a Building Permit, to the satisfaction of the Shire of Serpentine Jarrahdale. The management plan shall be implemented and maintained to the satisfaction of the Shire.”

CARRIED UNANIMOUSLY 8/0



Reason for difference to Officer Recommendation

To enable the acoustic assessment report that demonstrates that the proposal complies with the relevant noise regulations.

Councillor Atwell returned to the Chambers at 8.45pm.

Presiding Member, Councillor Rich advised Councillor Atwell of the Council Resolution for item 10.1.3.

10.1.4 - Proposed Telecommunications Tower - Lot 233, 928 Orton Road, Oldbury (PA20/585)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Telstra Corporation Ltd C/o Visionstream Australia Pty Ltd
Owner:	Algeri Nominees Pty
Date of Receipt:	13 July 2020
Lot Area:	38.25ha
Town Planning Scheme No 2 Zoning:	'Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of this report is for Council to consider a development application for a telecommunication facility to include a 40m high monopole at Lot 233, 928 Orton Road, Oldbury.

The item is presented to Council as an objection has been received during the advertising period. Officers do not have delegated authority to determine development applications where objections cannot be satisfied by way of amendments or conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Applications.

Officers consider the proposed development to be consistent with State Planning Policy 5.2 - Telecommunications Infrastructure and Local Planning Policy 4.6 - Telecommunications Infrastructure and therefore recommend that Council approve the application.



Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

Background

The subject site lies within a rural area of the Shire, to the west of Cardup. Orton Road runs along the northern boundary. Lots in the immediate locality are rural, with lots zoned 'Rural Living A' located approximately 430m to the west.

Existing Development

The subject site is developed for residential occupation and pastoral land, used for the grazing of stock. The majority of the site is undeveloped, with the dwelling located on the western side of the lot and towards the Orton Road street boundary.



Figure 1: Aerial Image

Proposed Development

The application seeks approval for the following

- Installation of one 40m high monopole;
- Installation of one triangular headframe;
- Installation of nine new panel antennas (no greater than 2.8m in length);
- Installation of one Telstra Equipment Shelter that is not more than 3m high with a base area of not more than 7.5m² at the base of the aforementioned tower;
- Installation of associated ancillary cabling and equipment;
- Installation of 8m by 11m chain-link fence with a 3m wide gate.



The development would be contained within a 9m by 11m fenced lease area. The proposed lease area would be set back 27m from the Orton Road street boundary and 2.5m from the western lot boundary.

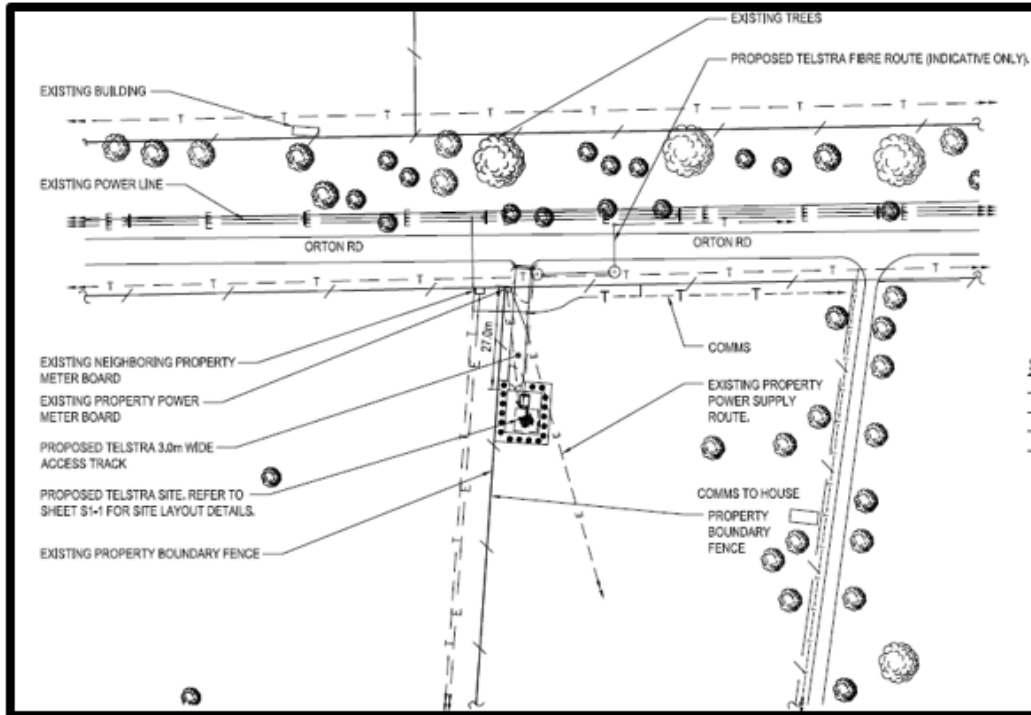


Figure 2: Proposed Site Plan

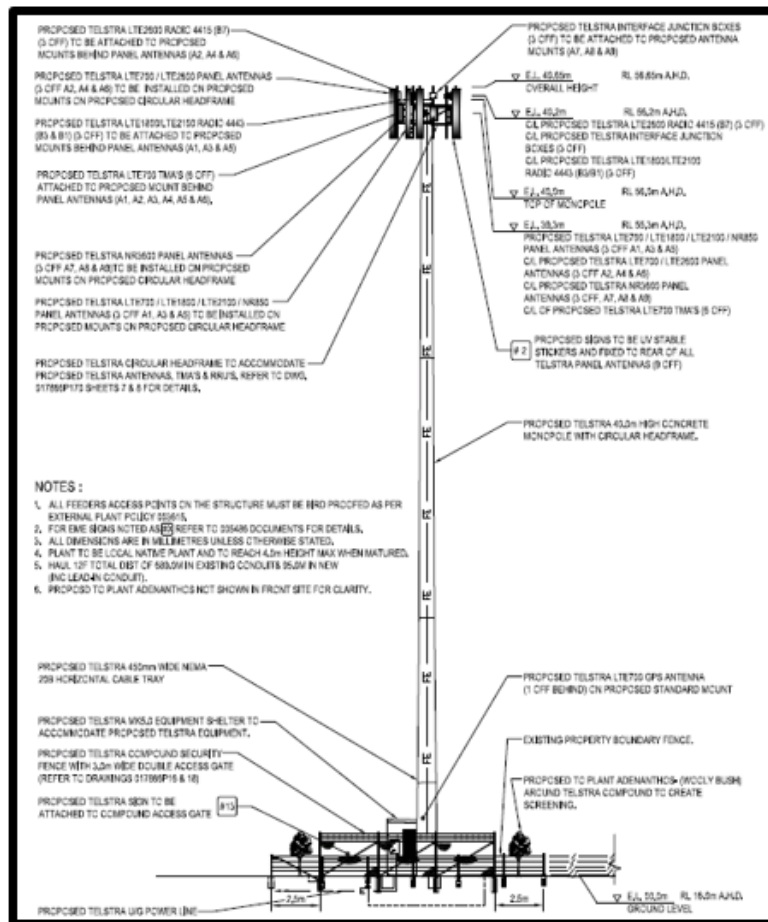


Figure 3: Proposed Elevation

The proposal is part of Telstra’s 4GX and 5G network to serve the Oldbury and Byford localities. Full details of the proposal are contained within **attachment 1**.

Community / Stakeholder Consultation

The application was advertised for a period of 21 days from 30 September 2020 to 21 October 2020 to surrounding landowners within a 1km radius of the subject site, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. During this period, two submissions were received. One raising no objections to the proposed development and one submission objecting to the proposal. The objection relates to visual impact and the fact there are already towers located to the north and south of the site. The submissions are contained within **attachment 2**.

Statutory Environment

Legislation

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- Metropolitan Region Scheme;
- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2).



State Government Policies

- Draft South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;
- State Planning Policy 2.5 - Rural Planning;
- State Planning Policy 1 - State Planning Framework;
- State Planning Policy 5.2 - Telecommunications Infrastructure.

Local Planning Framework

- Shire of Serpentine Jarrahdale Local Planning Scheme No.3;
- Rural Strategy Review 2013;
- Local Planning Policy 4.6 - Telecommunications Infrastructure.

Planning Assessment

A comprehensive assessment has been undertaken in accordance with section 67 of the *Planning and Development Regulations 2015*, the assessment can be viewed within **attachment 3**. For the purpose of this report, discussion is confined to the areas of concern or where Council is required to exercise discretion.

Land Use:

The application relates to a Telstra Telecommunications Tower, which is considered to fall within the land use classification of 'Radio, TV and Communications Installation', which is defined under TPS2 as:

'Radio, T.V. and Communication Installation - means any land or buildings used for the transmission, relay or reception of signals or pictures, both commercial and domestic, but does not include a communications antenna domestic.'

The proposed development would transmit and relay signals for telecommunications and is considered to meet the definition above. Within the 'Rural' zone, a Radio, TV and Communication Installation is an 'SA' land use, meaning it can only be approved at the discretion of the Shire/Council subject to community consultation being undertaken and consideration of any submissions being taken into account.

Under Proposed Local Planning Scheme No. 3 ("LPS3"), the proposed development is considered to meet the land use definition of 'Telecommunications Infrastructure', which is defined as:

'Telecommunications Infrastructure - means premises used to accommodate the infrastructure used by or in connection with a telecommunications network including any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure related to the network.'

Within the 'Rural' zone under LPS3, a Telecommunications Infrastructure land use is an 'AA' use, meaning it can be considered for approval at the discretion of the Shire/Council, subject to community consultation and consideration of any submissions.

Landscape setting and rural amenity issues are an important consideration in respect of telecommunication infrastructure proposals. In this regard, that amenity question also takes



account of the nearby rural residential area (and its amenity expectation), and beyond that the residential area (and its amenity expectation). This reflects that varying patterns of land use exist across the landscape, and that the rural plain currently affords vistas across the landscape from these different areas.

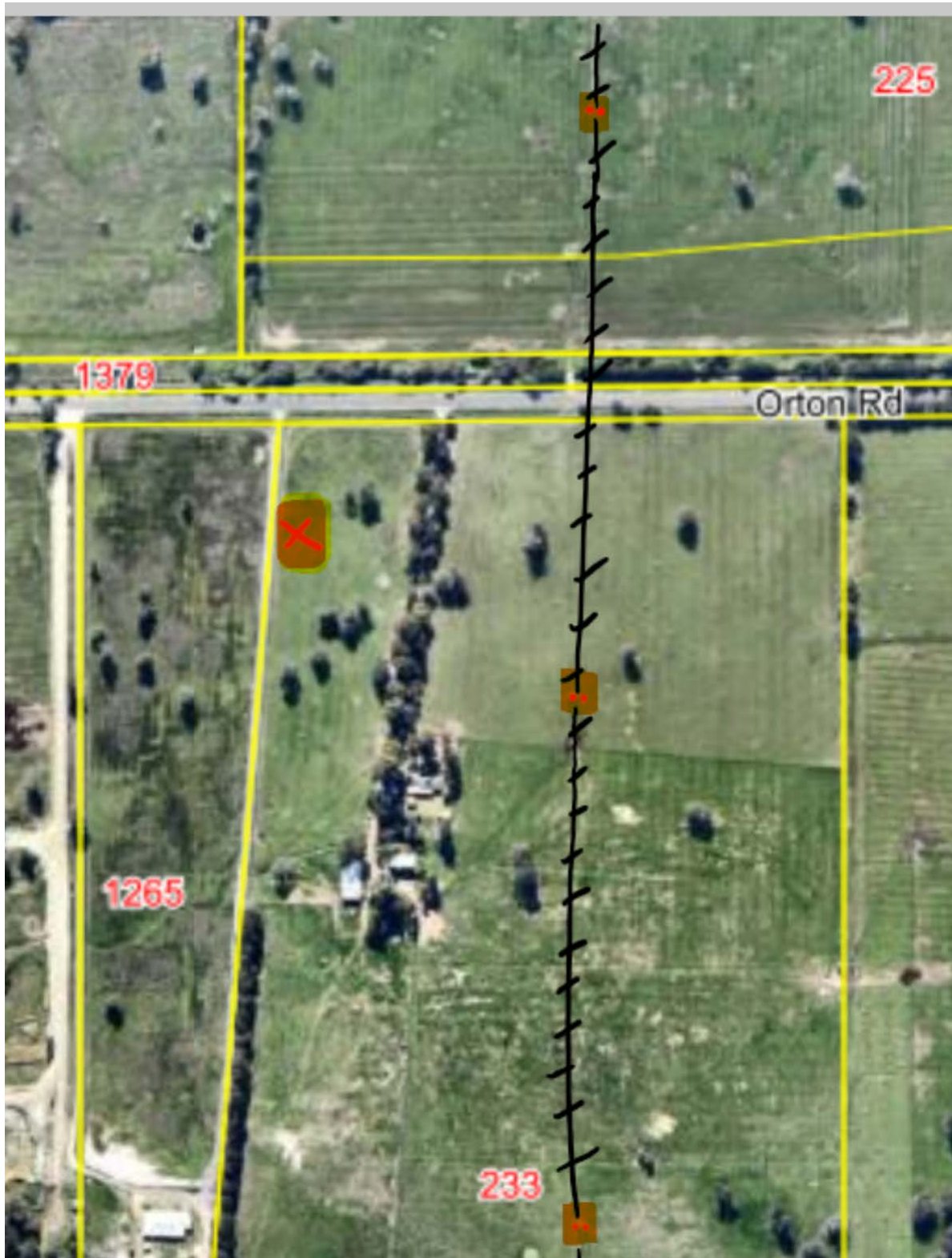
Officers consider that in respect of the rural area and nearest rural residential area, that the proposed development will be compatible with its setting. The proposal is presented as a necessary part of modern infrastructure being delivered to service the locality, and is similar to infrastructure such as power poles and radio transmitters. With respect of the setting of this proposed development, it was noted to the east that existing power infrastructure had created a visual infrastructure presence on the land as shown following:



As viewed from Orton Road looking south



Zoomed in image



Layout

Whereas the height of the monopole will be visible and is higher than the power poles (more than twice), the combination of existing power infrastructure strung to the east, and the distance from the more intensely developed rural residential area further afield, means officers do not consider that amenity is so detrimentally affected that it takes away from rural character.



Officers also note the fact that just because the proposed development will be visible does not, in and of itself, mean that the proposed development will have a negative impact on the visual amenity of the locality. As can be seen from State Planning Policy 5.2, factors such as the prominence of the development within the landscape, the extent to which visual aspects of value to the community as a whole might be compromised, and the degree to which the development is sympathetic to the surrounding landscape are relevant to this assessment. Officers consider the location, being on a plain, avoids what would otherwise be more prominent impacts if an elevated location was chosen. Likewise, the presence of nearby power infrastructure means the rural character is already influenced by the presence of power lines, and thus officers conclude it can be considered sympathetic in this case.

Rural Strategy 2013 Review:

The Shire's Rural Strategy 2013 Review (Strategy) outlines key themes that future development within rural areas should be considered against. Generally, the Strategy requires rural areas to maintain a rural character, retain natural assets and facilitate productive rural areas by ensuring the areas are economically productive.

The subject site is located within the Rural Policy Area under the Rural Strategy, within this location the objectives seek to promote the use of agricultural and rural type land uses and maintain the rural character of the area. The question of protecting character, while still ensuring essential services are provided, is part of what needs to be balanced in this regard.

Given the utility of this infrastructure for surrounding rural and rural residential areas, and the landscape setting documented above in respect of the proposal, the development is considered acceptable in this location.

Draft Local Planning Strategy:

The subject site is located within the Rural area under the Draft LPS. Within this area, the LPS seeks to preserve the natural landscape and to strengthen agricultural and rural uses. It is considered that the development can co-exist with the existing and any future rural land uses.

State Planning Policy 5.2 - Telecommunications Infrastructure:

The proposed development is subject to the provisions of SPP5.2, which seeks to balance the need for infrastructure with the potential amenity impacts generally associated with this type of development.

The objectives of this policy are to:

- a) *facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;*
- b) *manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;*
- c) *ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,*
- d) *promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure."*



Visual Impact:

As mentioned already, SPP5.2 acknowledges that telecommunication infrastructure is generally located in prominent positions where they are more likely to be visible to the public in order for them to be effective. However, it states that telecommunication infrastructure should be sited and designed to “*minimise visual impact*” and where possible be located where such will not detract from a streetscape where viewed from public or private land, under provision 5.1.1(11)(b).

The proposed location of the development, in noting the combination of existing power infrastructure strung to the east, and the distance from the more intensely developed rural residential area further afield, means officers do not consider that visual amenity is so detrimentally affected that it takes away from the rural character.

Local Planning Policy 4.6 - Telecommunications Infrastructure:

The proposed development is subject to the provisions of LPP4.6, which seeks to protect the character and amenity of areas within the Shire and ensure telecommunications infrastructure is located appropriately and with minimal impact.

In addition to SPP5.2, the provisions of LPP4.6 also encourage co-location wherever possible. In this instance, as previously stated, the nearest existing telecommunications towers are 1.5km to the south or 2.4km to the north. The application details the other telecommunications in the locality as shown on the map following.

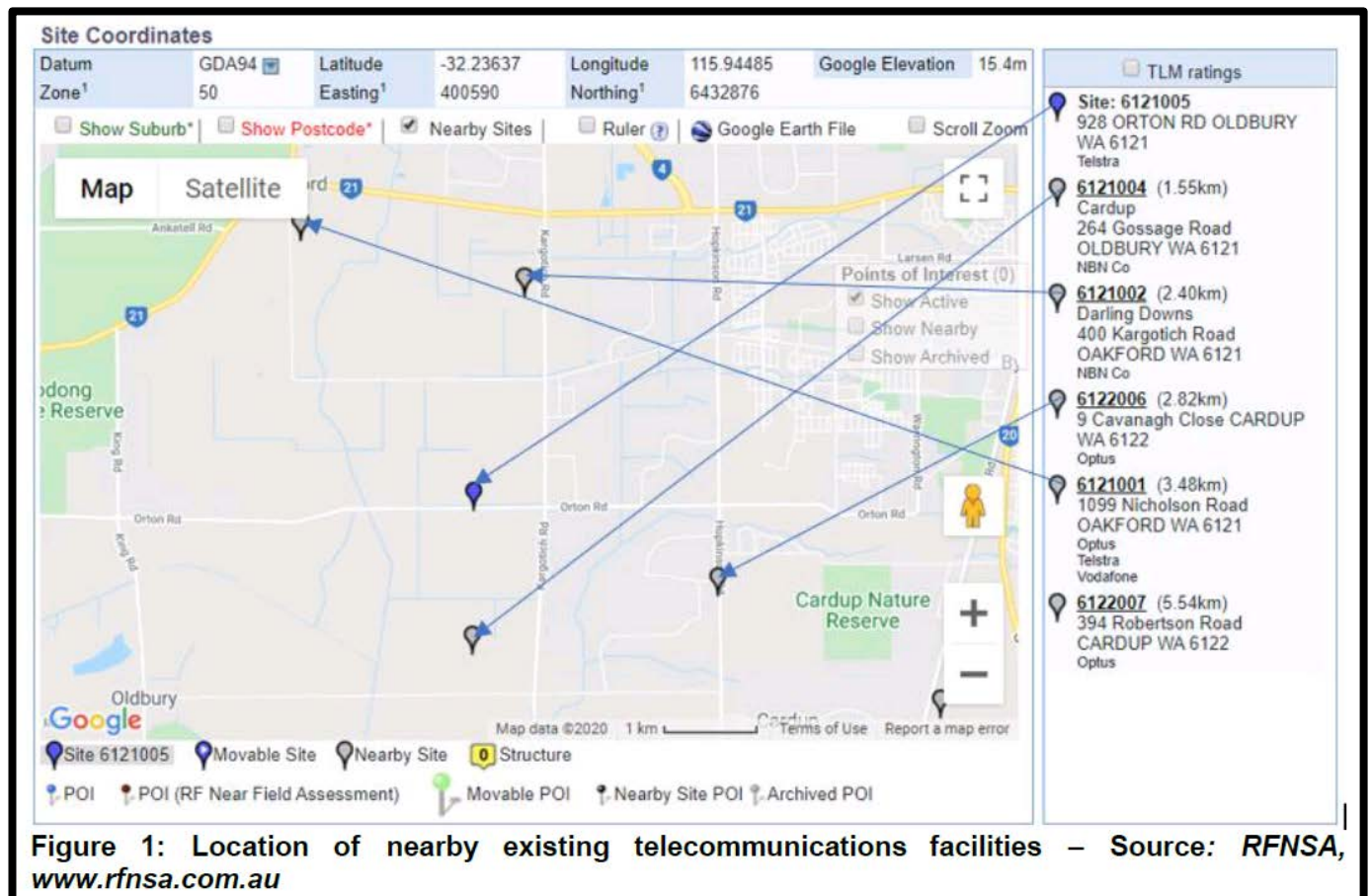


Figure 1: Location of nearby existing telecommunications facilities – Source: RFNSA, www.rfnsa.com.au



The grey marker to the south-west indicates where an existing NBN tower is located, however, the applicant states that this site is not in close enough proximity to meet the capacity and in building coverage requirements of the project. There are no other telecommunication facilities within the locality that the applicant considers capable of accommodating the proposed infrastructure.

Provision 3.2 of LPP4.6 requires telecommunications towers to be reasonably screened from view by vegetation. A condition has been imposed to require this.

Options and Implications

Option 1

That Council APPROVES the development application for proposed telecommunications tower and associated infrastructure at Lot 233, 928 Orton Road, Oldbury subject to conditions.

Option 2

That Council REFUSES the development application, as contained in attachment 1, for proposed 40m high telecommunications tower with associated infrastructure at Lot 233, 928 Orton Road, Oldbury for the following reason:

- a. The proposal by way of its siting would have an adverse impact on the character and amenity of the locality and the visual amenity of the neighbouring property to the west, in consistent with State Planning Policy 5.2 - Telecommunications Infrastructure and Local Planning Policy 4.6 - Telecommunications Infrastructure.

Option 1 is recommended.

Conclusion

In conclusion, officers have assessed the proposal, against the relevant factors such as the prominence of the development within the landscape, the extent to which visual aspects of value to the community as a whole might be compromised, and the degree to which the development is sympathetic to the surrounding landscape are relevant to this assessment. Officers consider the location, being on a plain, avoids what would otherwise be more prominent impacts if an elevated location was chosen. Likewise, the presence of nearby power infrastructure means the rural character is already influenced by the presence of power lines, and thus officers conclude it can be considered sympathetic in this case. The utility will service the surrounding rural and rural residential landscape, and balancing these relevant planning issues is recommended for approval.

Attachments (available under separate cover)

- **10.1.4 - attachment 1** - Application Details (E20/12087)
- **10.1.4 - attachment 2** - Summary of Submissions (E20/11925)
- **10.1.4 - attachment 3** - Technical Assessment (E20/11504)



Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.1	Provide well planned and maintained public open space and community infrastructure
Outcome 2.1	A diverse, well planned built environment
Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework
Outcome 2.2	A sustainable natural environment

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council approving the application.</i>	<i>State Planning Policy 5.2 – Telecommunications Infrastructure</i> <i>Local Planning Policy 4.6 – Telecommunications infrastructure</i>	Reputation	Possible	Minor	MODERATE	Accept Officer Recommendation



Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
2	<i>Council refusing the application, which may result in an appeal to the State Administrative Tribunal</i>	<i>State Planning Policy 5.2 – Telecommunications Infrastructure</i> <i>Local Planning Policy 4.6 – Telecommunications infrastructure</i>	Financial	Possible	Insignificant	LOW	Should Council refuse the application, detailed reasons should be provided to assist should an appeal be lodged.

Voting Requirements: Simple Majority

Officer Recommendation

That Council APPROVES the development application, as contained in attachment 1, for the proposed 40m high telecommunications tower with associated infrastructure at Lot 233, 928 Orton Road, Oldbury subject to the following conditions:

- a. Prior to commencement of works, a landscape plan being submitted to and approved by the Shire of Serpentine Jarrahdale. This landscape plan is to demonstrate the planting of advanced mature native tree and shrub species, intermixed with advanced medium and ground cover shrubs, to provide a series of green layers to help moderate the impact of the facility. The landscaping plan shall include the area between the property boundary and the development compound, with additional planting on the eastern and southern sides for a distance of 20m, to the satisfaction of the Shire. The landscaping shall be installed and thereafter maintained in accordance with the approved plan, to the satisfaction of the Shire.



OCM357/11/20

COUNCIL RESOLUTION

Moved Cr Coales, seconded Cr Dagostino

That Council DEFERS consideration of this proposed development application to the December Council Meeting, in order to allow the applicant to undertake further investigations and submit additional information to identify whether the following alternative options are possible to support an amended development application:

- 1. Additional boosting equipment being added to existing telecommunications infrastructure in the nearby locality, in order to expand its coverage; and/or**
- 2. Additional transmission equipment being added to existing telecommunications infrastructure in the nearby locality, in order to expand its coverage.**

CARRIED 5/4

Reason for difference to Officer Recommendation

To enable booster options and installation on existing towers in the area to be discussed.

**10.1.5 – Proposed Road Naming – Lot 8, 78 Warrington Road, Byford (SJ500-03)**

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Harley Dykstra
Owners:	8 Warrington Road Pty Ltd
Date of Receipt:	21 September 2020
Lot Area:	4.04ha
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

Report Purpose

The purpose of this report is for Council to consider a proposal for three new road names for a subdivision at Lot 8, 78 Warrington Road, Byford.

Officers recommend that Council endorse the proposed road names on the basis of their suitability in respect of assessment against the Policies and Standards for Geographical Naming in Western Australia (GNC policy) and Local Planning Policy 1.7 – Road Naming (LPP 1.7).

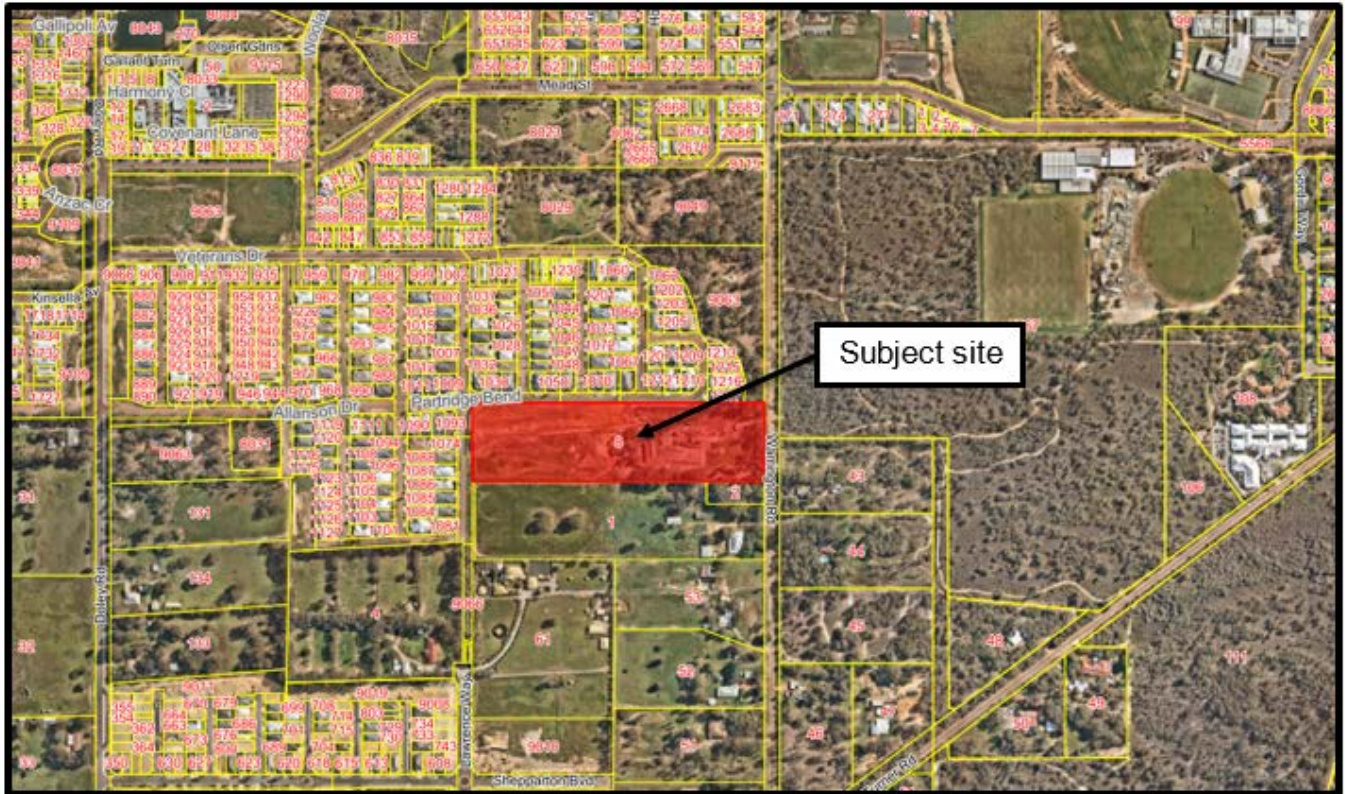
Relevant Previous Decisions of Council

There is no previous Council decision relating to this matter.



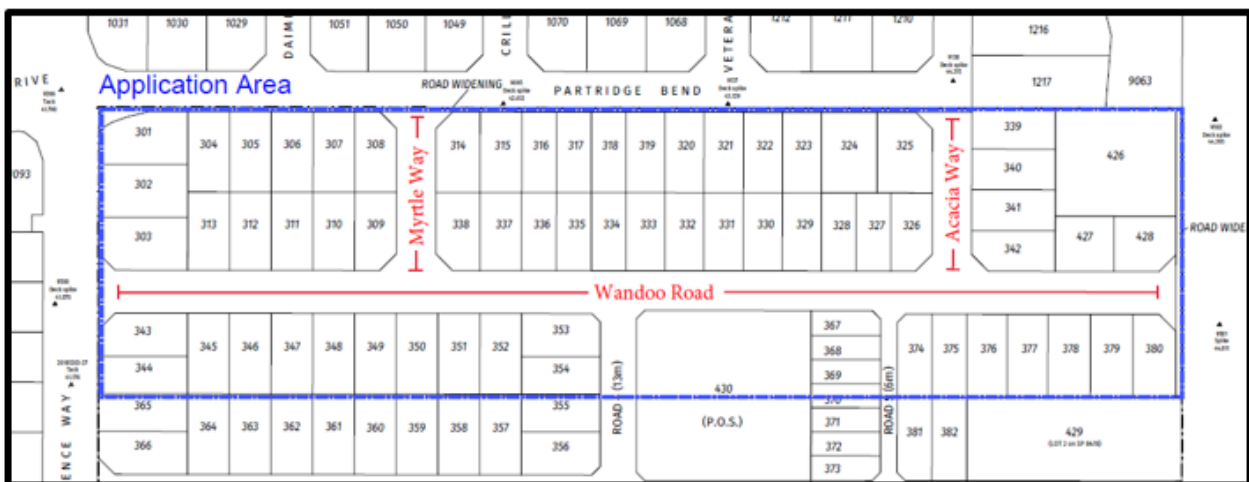
Background

The proposal relates to the subdivision of Lot 8, 78 Warrington Road, Byford, which will result in the creation of three new roads. Roads created by subdivision are required to be named in accordance with Clause 26A of the *Land Administration Act 1997*.



Location Plan

A copy of the proposal is included in **attachment 1** and the indicative road layout plan is shown below:



Road Layout Plan



Section 26A of the *Land Administration Act 1997* requires the relevant Local Government to endorse names for roads created as part of subdivision. Those names endorsed by the Local Government must then be forwarded to the Minister for Planning, Lands and Heritage for final approval. The Geographic Names Committee (GNC) has delegated authority from the Minister for Planning, Lands and Heritage to grant final approval for road names.

Community / Stakeholder Consultation

No consultation is required in accordance with Shire and GNC policy.

Statutory Environment

Legislation

- *Land Administration Act 1997.*

State Government Policies

- Policies and Standards for Geographical naming in Western Australia (GNC Policy).

Local Planning Framework

- Local Planning Policy 1.7 – Road Naming (LPP1.7).

Assessment

LPP 1.7 requires a road naming theme to be approved for a proposal involving five or more names. This generally applies at the initial stages of subdivision for an area and ensures a coordinated approach to road naming that develops and builds on the character of the area. In this instance, the proposal relates to a stage of subdivision. The proposed theme for this stage of subdivision seeks to continue and reflect the equine character of the area, aligning proposed names to racehorses.

Officers consider the alignment with the existing naming trend in the area to be suitable, and reflective of the equine character of the broader Darling Downs area.

Refer to the below table for the full list of names and associated definitions:

Road Name Table	
Proposed Names	Background/History
Road 1: Myrtle Way	A genus of flowering plant in the family Myrtaceae
Road 2: Acacia Way	A large genus of shrubs and trees in the subfamily Mimosoideae of the pea family Fabaceae.
Road 3: Wandoo Road	A small to medium sized Eucalypt endemic to the southwest of Western Australia.
2nd Preference Names	Background/History
Road 1: Grevillia Way	A diverse genus of evergreen flowering plants in the family proteaceae.



Road Name Table	
Road 2: Hovea Way	A genus of perennial shrubs native to Australia.
Road 3: Salmongum Road	A small to medium sized Eucalypt endemic to Western Australia.

The proposed names have been assessed against the GNC policy in conjunction with the Shire's LPP 1.7. The policy requirements and considerations have been provided in the table below:

Policy Assessment	
Policy Requirement	Officer Comment
Consideration of current and future street names	The proposed road names are not currently in use within the Shire area and have not been proposed to be used in the future for any other estates within the Shire.
Consideration shall be given to current and future street numbering to ensure numbering is sequential, easy to follow and considers future density increases	Officers consider the proposal to be acceptable in light of the existing and future street numbering for the area.
The origin of each name shall be clearly stated and subsequently recorded	The origin and background of the proposed road names have been documented in the road name table, earlier in this report.
Names shall not be offensive or likely to give offence, incongruous or commercial in nature	The proposed preferred and alternative names are not considered to be offensive, incongruous or commercial in nature.
Names shall be easy to read, spell and pronounce in order to assist emergency services, service providers and the travelling public	The proposed preferred and alternative names are considered to be easy to read, spell and pronounce.
Unduly long names and names that comprise of two or more words should generally be avoided	The proposed preferred and alternative names comprise of no more than nine letters and are only one word in length.
Proposals for road names shall include an appropriate road type suffix	<p>Only 'Way' and 'Road' have been utilised as suffixes in the proposal. The proposed suffixes are considered to be appropriate and are consistent with suffix definitions under the GNC policy.</p> <p>Way – Roadway affording passage from one place to another. Usually not as straight as an avenue or street.</p> <p>Road (Rd) – Open way or public passage primarily for vehicles.</p>
Practical application of road names to maps and plans shall be considered such as the	All road names proposed are between five to nine letters, are of a practical length.



Policy Assessment	
long street names should not be allocated to short roads	

Options and Implications

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

Option 1:

That Council resolves to ENDORSE the proposed road names and forward the endorsed names to the Geographic Naming Committee for approval.

Option 2:

That Council resolves NOT TO ENDORSE the proposed road names.

Option 1 is recommended.

Conclusion

Council endorsement is sought for three proposed road names to be used as part of the subdivision at Lot 8 78 Warrington Road, Byford. The proposed names are considered to be consistent with the requirements of LPP1.7 and the GNC's road naming policy. Officers support the proposal and recommend that Council endorse the proposed names.

Attachments (available under separate cover)

- **10.1.5 - attachment 1** – Road Naming Proposal (E20/11848)
- **10.1.5 - attachment 2** – Road Layout Plan (E20/11849)

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council supporting the proposed names.</i>	<i>Policies and Standards for Geographical naming in Western Australia</i> <i>Local Planning Policy 1.7 – Road Naming</i>	Reputation	Rare	Insignificant	LOW	Accept Officer Recommendation
2	<i>Council not supporting the names and this causing delays, or other names being proposed which are not compliant with the policy.</i>	<i>Policies and Standards for Geographical naming in Western Australia</i> <i>Local Planning Policy 1.7 – Road Naming</i>	Organisational Performance	Likely	Insignificant	MODERATE	Propose alternative names to replace those that are not supported



Voting Requirements: Simple Majority

Officer Recommendation

That Council

1. ENDORSES the following road names in accordance with section 26A(3) of the *Land Administration Act 1997*; and forwards the preferred names as contained within attachment 1 to the Geographic Names Committee for final approval:
 - a. Myrtle;
 - b. Acacia;
 - c. Wandoo.
2. ENDORSES the following second preference road names in accordance with section 26A(3) of the *Land Administration Act 1997*; to be used in the event that any of the first preference names are not deemed acceptable by the Geographic Names Committee:
 - a. Grevillia;
 - b. Hovea;
 - c. Salmongum.

The ITEM 10.1.5 LAPSED for want of a mover.

**10.1.6 – Temporary Accommodation – Lot 848, 93 Kalyang Loop, Byford (PA20/830)**

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	G and D Stevenson
Owner:	G and D Stevenson
Date of Receipt:	4 September 2020
Lot Area:	2,002m ²
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

Report Purpose

The purpose of this report is for Council to consider a development application to extend a previous approval for temporary accommodation at Lot 848, 93 Kalyang Loop, Byford.

The temporary accommodation was originally brought to the attention of the Shire by way of a complaint in 2017, with retrospective approval being granted at the Ordinary Council Meeting on 18 December 2017 for a period of six months. This included the option of a further six months, subject to the approval of the Shire. This full 12 month period was taken up by the applicant.

A further approval was subsequently granted for the temporary accommodation by Council at its Ordinary Council Meeting of 17 June 2019 for a period of six months, with the option to extend also for a further six months with approval from the Shire. This six month extension was granted by the Shire.

The landowners are residing in the temporary accommodation until such as time as their main dwelling has completed construction. To date the construction of the dwelling has significantly progressed, however, has not yet been completed. As such, the application seeks a further extension for temporary accommodation until 31 March 2021.



Relevant Previous Decisions of Council

Ordinary Council Meeting – 17 June 2019 – OCM108/06/19

1. That Council APPROVES the development application contained within attachment 1 for the ‘Use Not Listed’ (temporary accommodation) at Lot 848, 93 Kalyang Loop, Byford under the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and the Metropolitan Region Scheme subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plans P1 received at the Shire’s Offices on 27 December 2018.
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b. The temporary accommodation hereby approved shall be removed from the site on completion of the construction of the permanent residence or 6 months after the date of this approval, whichever is the earliest.

c. Subject to the approval of the Director Development Services, one (1) further extension period of up to 6 months may be granted.

d. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

Advice Note:

a. The applicant is required to contact the Shire of Serpentine Jarrahdale prior to the 6 month expiry.

b. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act Part 14. An application must be made within 28 days of the determination.

Background

The applicant has advised that financial constraints has delayed the construction of the dwelling and the temporary accommodation is still being resided in. Further to this, as an owner builder, the applicant has advised of difficulties in sourcing contractors to complete the dwelling which is now partially completed.

The application is presented to Council as the proposal varies Council Policy 4.1.7 – Temporary Accommodation. Officers do not have delegated authority to determine applications where a Council Policy is varied in accordance with Delegation 12.1.1 – Determination of Development Applications.



Existing Development

The subject site is zoned 'Urban Development' under the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2). The property is on the southeast side of the Thomas Road and Hopkinson Road intersection. The site has a split designation under the Structure Plan of 'Residential R20' towards the front of the property and 'Light Industry' towards the rear of the property. An existing outbuilding approved for a 'Warehouse' land use is located alongside the existing temporary accommodation within the 'Light Industry' building envelope area.

Since the previous approval was granted, significant progress has been made to the dwelling as seen in the following figures that compare the site between the previous application presented to Council in June of 2019 and this year.

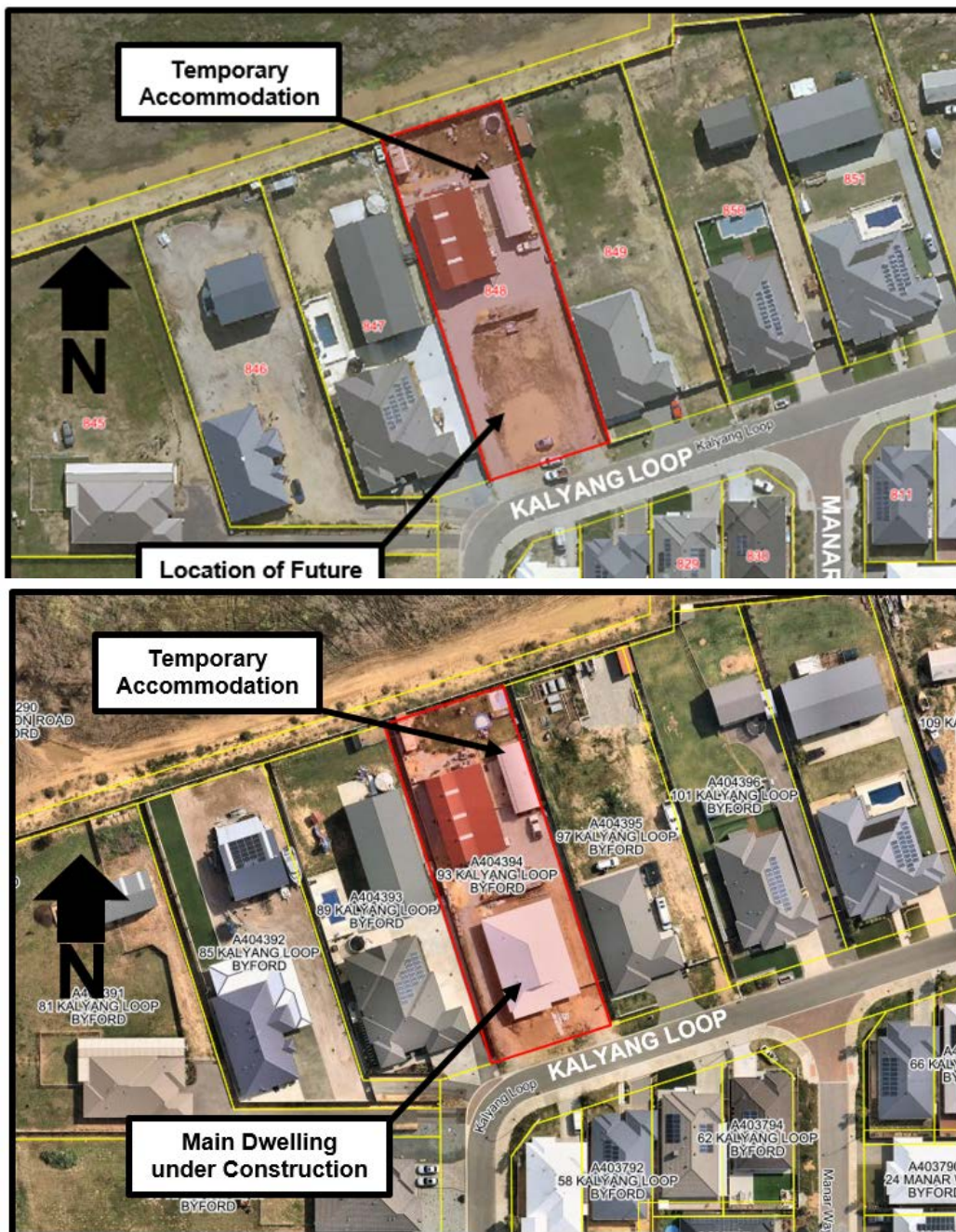


Figure 2: Aerial Image (2020)



Figure 3: Subject site and the dwelling June 2019



Figure 4: Subject site and the dwelling September 2020



Officers have been advised that since September, the roof has been constructed. It is approaching completion, and shows an intent to complete the dwelling.

Proposal

The subject application seeks a continuation of the previously approved land use until 31 March 2021. The previous approval and report to Council is contained within **attachment 1**.

The application details that the additional time would allow the dwelling construction to be finalised given the current difficulties in construction brought about by the COVID-19 economic climate. The temporary accommodation is seen in figure 5 below:



Figure 5: The existing temporary accommodation

Community / Stakeholder Consultation

Advertising was carried out for a period of 21 days, from 11 September 2020 to 2 October 2020, whereby no submissions were received.



Statutory Environment

Legislation

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

State Government Policies

- Draft South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3;
- Byford District Structure Plan;
- Redgum Brook Estate North Local Structure Plan;
- Local Development Plan No.18 – Redgum Brook Estate;
- Local Planning Policy 1.4 – Public Consultation for Planning Matters Policy;
- Local Planning Policy 4.5 – Temporary Accommodation;
- Council Policy 4.1.7 – Temporary Accommodation.

Planning Assessment

Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) lists matters to be considered in the determination of development applications. A full assessment carried out against the applicable matters relevant to this proposal can be viewed within **attachment 2**.

Land Use

The temporary accommodation is used for the purposes of human habitation on a temporary basis, until such time as the construction of the dwelling has been completed. Officers consider the development is consistent with the objectives and purpose of the zone. As such, it is considered that the development is capable of approval in accordance with the provisions of TPS2.

Town Planning Scheme No.2 (TPS2)

The subject site is zoned 'Urban Development', the purpose of this zone being:

"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."

Clause 5.18 of TPS2, relating to the 'Urban Development' zone, further details that the purpose of the zone is intended to be facilitated by means of the establishment of Structure Plans. As such, the Structure Plans are considered to form part of the purpose and objectives for the 'Urban



Development' zone in which they apply. In order to determine whether the temporary accommodation is consistent with the purpose and objectives of the 'Urban Development' zone, consideration must be given to the applicable Structure Plans.

Redgum Brook Estate North Local Structure Plan (LSP)

The LSP designates the subject site as 'Residential' at the front and 'Light Industry' at the rear. The intent of the composite designation is to ensure a buffer is provided between residential development and the noise impacts generated from Thomas Road and the future Tonkin Highway, whilst providing flexibility in land use considerations in the form of a composite lot.

While the temporary accommodation is currently located within the area designated for 'Light Industry' and is not consistent with that designation, the development is temporary in nature and will be removed upon completion of the main dwelling. Given the development has historically been approved and the works on the main dwelling are now nearing completion, Officers consider the development will not prejudice the intent of the LSP. Rather, the temporary approval of the development will allow for a compliant development to be completed, after which the temporary accommodation will need to be removed.

Redgum Brook Estate Local Development Plan (LDP)

The site lies within an LDP which sets out development standards for the subject site including setbacks. The front of the lot is designated for residential (R20) purposes and light industrial to the rear as shown on the figure below:

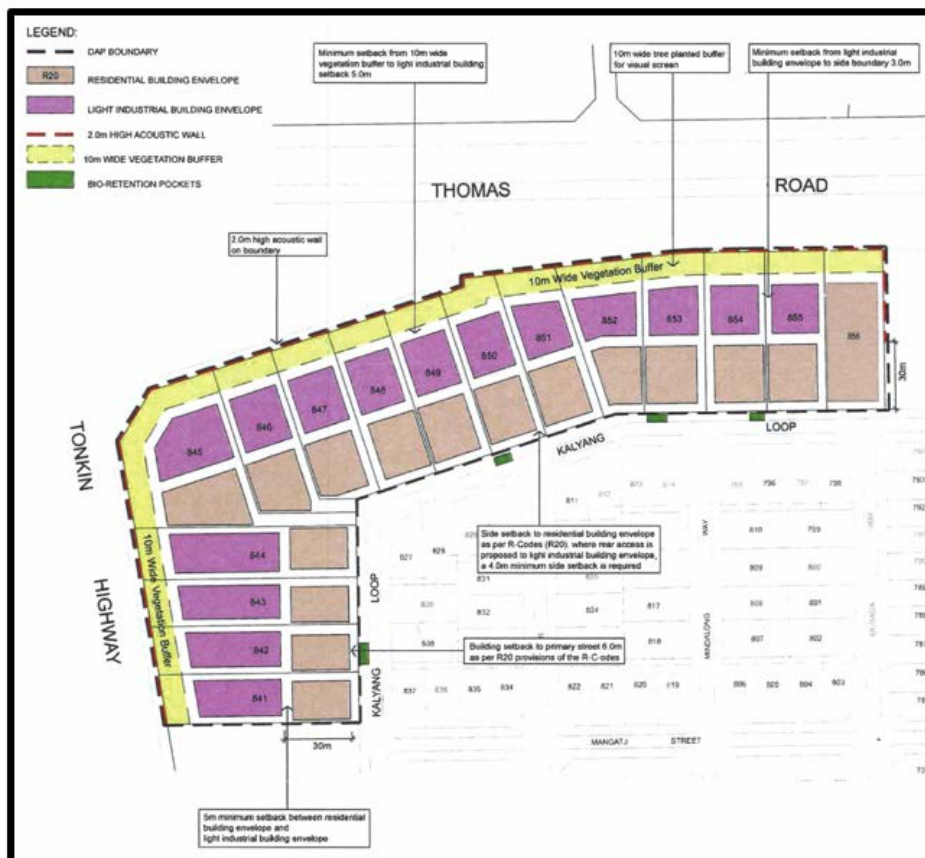


Figure 6: Extract from the LDP



The LDP allows large, bulky developments to occur within the 'Light Industry' portion of the property. Officers consider the existing development to be low scale (compared to what otherwise could be approved) and not imposing in size or unsightly, as shown in figure 5, particularly given the location of the development within the 'Light Industry' portion of the property. Therefore, the form of the development is considered consistent with the intended character of the area under the LDP.

The LDP requires a 10m wide vegetation strip to the rear of the property and a 5m buffer from the vegetation to the light industry building envelope. The temporary accommodation is located 1.1m within this buffer area. Officers consider that despite being located within the 5m buffer area, the variation can be accepted due to the temporary nature of the development.

Local Planning Policy 4.5 Temporary Accommodation

Local Planning Policy 4.5 (LPP4.5) and Council Policy 4.1.7 – Temporary Accommodation, provides guidance for temporary accommodation within the Shire. As such, Officers are required to give due regard to both.

LPP4.5 allows for temporary accommodation for a period of 6 months and allows for an extension of a further 6 months to be considered. This application is seeking a further extension to the timeframe permitted within LPP4.5 as the development has already been present for over 24 months. The table below provides an assessment of compliance against the policy provisions:

Local Planning Policy 4.5 – Temporary Accommodation Assessment		
Provision	Compliance	Officer Comment
1. Within the Rural, Farmlet, Rural Living A and B, Special Rural, Special Residential, Special Use and Urban Development zones, lots greater than 10 000m ² may have one caravan on a lot for the use of temporary accommodation for a maximum period of twelve months.	N	A transportable structure is existing on the property instead of a caravan. Officers consider that this will have less of a visual impact than a caravan. As seen in Figure 5, the transportable structure has been painted and landscaped to lessen its visual impact. Officers consider that it has similar or less visual impact than outbuildings that are commonplace within the 'Light Industry' zone. Despite variation to the lot size requirements under LPP4.5, Officers consider that the transportable structure is of a small scale and necessary to provide temporary accommodation for the owners.
2. Temporary accommodation may be approved for a period of six months. An extension of up to six months may be considered if the construction of the single house has been substantially commenced.	Y	Given the primary residence is now nearing completion, Officers consider a variation to this requirement to be reasonable despite the temporary accommodation development already existing onsite for a period of approximately than 2 years.
3. An application for temporary accommodation must be accompanied by an application for a single house, or have an	Y	An Owner Builder Permit for a dwelling was issued by the Shire on 11 December 2018.



Local Planning Policy 4.5 – Temporary Accommodation Assessment

existing approval for a single house.		
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In relation to non-compliance with provision 1, Officers consider that the variation is reasonable and capable of being supported as it does not compromise the amenity or intended character. This would meet objective 3 of LPP4.5, which seeks to ensure that temporary accommodation does not compromise the amenity of the locality.

Council Policy 4.1.7 – Temporary Accommodation

The objective of this Policy is to provide direction in relation to the conditions for the establishment of temporary accommodation during the construction of a permanent residence (if planning approval is obtained). An assessment of the temporary accommodation against the provisions of the Policy is provided below:

Council Policy 4.1.7 – Temporary Accommodation Assessment

Provision	Compliance	Officer Comment
1. The only form of temporary accommodation to be approved will be within a caravan.	N	A transportable structure is existing on the property instead of a caravan. Officers consider that this will have less of a visual impact than a caravan. This is due to the temporary accommodation having less visual impact than that of a commercial building, which are commonly found within the 'Light Industry' zone and the works done to the exterior of the temporary structure as seen in figure 5.
2. On land one hectare and over.	N	The subject property is 2,002m ² . Officers consider that there is a reasonable need for the temporary accommodation and capable of being supported on land less than one hectare in size.
3. Accompanied by an application for a permanent dwelling.	Y	A building permit for a dwelling was issued by the Shire on 11 December 2018.
4. With a statutory declaration acknowledging that approval will not exceed 12 months with the temporary accommodation to be vacated at the time or sooner, on completion of the dwelling, or if the Shire's permission to occupy the temporary accommodation is withdrawn.	Y	Officers consider that a condition of approval is satisfactory to address this requirement. Should the primary residence not be completed prior to 31 March 2021, the Shire will have the opportunity to undertake compliance action.



Council Policy 4.1.7 – Temporary Accommodation Assessment		
5. With a schedule of work for the erection of the permanent dwelling.	N	The applicant has not provided a schedule of work to the Shire. However, Officers consider it unnecessary to provide a schedule of work as the building permit has already been issued, with work well underway and approaching completion.
6. With a letter from the lending institution confirming that finance is available for the construction of the dwelling.	N	The applicant has not provided this information. Officers consider it unnecessary to provide a letter from the lending institution confirming that finances have been secured, as the building works are nearly completed.
7. Toilet, shower and laundry must be provided and connected to an approved effluent disposal system and use of the temporary accommodation will not be commenced until facilities are inspected by an Environmental Health Officer.	Y	The temporary accommodation is connected to the necessary facilities such as water, sewage and electricity.
8. Temporary accommodation will be approved for a period of six months and an extension of up to six months may be granted subject to reasonable progress in building the permanent residence.	Y	Given the primary residence is now nearing completion and the current economic climate ensuing from the impact of COVID-19, Officers consider a variation to this requirement to be reasonable.
9. Payment of the application fee as set by Council each year.	Y	The applicant has paid the required Development Application fees upon submitting applications for extension of the temporary accommodation.

Officers consider that the variations to Council Policy 4.1.7 are reasonable and justification provided to be able to consider the temporary accommodation for approval.



Options and Implications

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

Option 1

That Council approves the application subject to appropriate conditions.

Option 2

That Council refuses the application giving reasons for its decision.

Option 1 is recommended.

Conclusion

The temporary accommodation facilitates the use of the subject site in a manner which is generally consistent with the land use intent of the Local Structure Plan and Local Development Plan. The application seeks an extension of approval for development that has previously been approved by Council. Officers consider that the proposed extension to 31 March 2020 is supportable due to delays as a result of COVID-19 to the construction of the dwelling and the near completion of the dwelling would give Council confidence that no further extensions should be required. Therefore, Officers recommend the application be approved subject to conditions.

Attachments (available under separate cover)

- **10.1.6 - attachment 1** – Previous Report and Council Resolution (CR19/83)
- **10.1.6 - attachment 2** – Technical Assessment (E20/11969)

Alignment with our Strategic Community Plan)

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council approves the development application and members of the public raise concern that the development was not previously removed.</i>	<i>Local Planning Policy 4.5 – Temporary Accommodation Council Policy 4.1.7 – Temporary Accommodation</i>	Reputation	Rare	Insignificant	LOW	N/A
2	<i>Council not approving the development application resulting in an appeal to SAT.</i>	<i>Officers would defend Council's decision at the SAT should the decision be appealed.</i>	Reputation	Possible	Minor	MODERATE	Accept Officer Recommendation



Voting Requirements: Simple Majority

OCM358/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strautins

That Council:

1. APPROVES the development application contained within attachment 1 for the temporary accommodation at Lot 848, 93 Kalyang Loop, Byford under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and the Metropolitan Region Scheme, subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plans P1 received at the Shire’s Offices on 27 December 2018.
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b. The temporary accommodation hereby approved shall be removed from the site on completion of the construction of the permanent residence or by 31 March 2021, whichever is the earliest.

c. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

2. APPROVES issuing a directions notice under section 214 of the *Planning and Development Act 2005* to remove the transportable structure and to reinstate the land if the ‘Temporary Accommodation’ land use is continued or a development application has not been submitted to the Shire of Serpentine Jarrahdale for a change of use for the transportable structure.

CARRIED UNANIMOUSLY 9/0



10.1.7 – Placement of Fill – Lot 805, 63 Northerly Lane, Oakford (PA20/699)

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Carole Indriolo
Owner:	As proponent
Date of Receipt:	10 August 2020
Lot Area:	20,940.3m ²
Town Planning Scheme No 2 Zoning:	'Rural Living A'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of this report is for Council to consider a development application for the placement of fill at Lot 805, 63 Northerly Lane, Oakford.

The application is presented to Council as two objections were received during the advertising process. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments to the proposal or through planning conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

The proposed development is considered to be consistent with the planning framework and therefore the report recommends that Council approve the development application subject to conditions.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.



Background

Existing Development

The subject site of 20,940.3m² (2.09ha) is located within a rural residential area of Oakford. The site is currently developed with a single house, stable, water tank, horse shelters, paddocks and an uncovered arena. There is an approved equine land use occurring on the site. A bridle trail and swale drain directly abuts the site to the northern boundary.

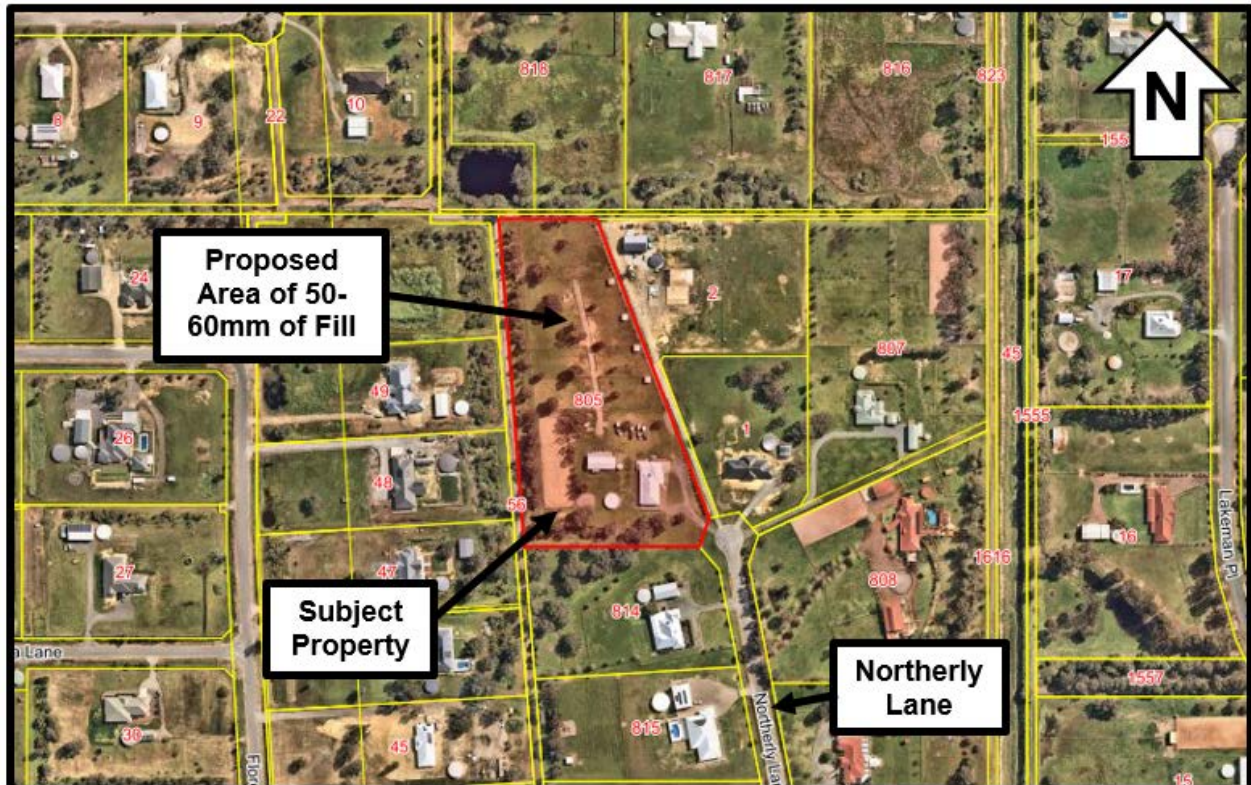


Figure 1: Aerial imagery

The subject site was created as part of a subdivision approved by the Western Australian Planning Commission (WAPC) in 2004. The general area is very low lying, mapped historically as comprising multiple use wetlands prone to waterlogging and shallow overland flooding during winter. The general locality comprises of rural living properties used predominantly for equestrian activities and rural lifestyle lots. Filling is a common feature for the development of structures, tanks, effluent disposal systems and the like to achieve separation from groundwater levels.

Proposed Development

The development application seeks approval for the placement of 50mm to 60mm of fill on the existing paddocks, associated with the approved equine land use. Full details of the proposal are contained within **attachment 1**.

The purpose of the fill is to top dress the paddocks to level the land, covering divots created from equine activities. The extent of the proposed fill is detailed in figure 2 below.



Figure 2: Extent of proposed Fill

Generally, fill of this type would be exempt from requiring development approval in accordance with Local Planning Policy 4.7 – Placement of Fill (LPP4.7) however as the site is located within the flood plain, development approval is required.



Community / Stakeholder Consultation

The application was advertised for a period of 21 days to the adjoining landowners to the east, south and west. The consultation was conducted from 2 September 2020 – 22 September 2020 in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4). Two submissions were received objecting to the proposed development which can be viewed in **attachment 2**. In summary, the objections raised the following concerns:

- The fill would result in displacement of water on to neighbouring properties;
- No more than 10mm of top dressing should be allowed as per the policy;
- Water flow being directed into the objector's property and spoon drain; and
- A recommendation for the applicant to install a spoon drain at the north-west of the subject site.

These matters are discussed later in the report.

Department of Water and Environmental Regulation (DWER)

DWER have provided a submission stating they do not object and have provided the following recommendations and advice:

Issue

Floodplain Management.

Advice

The Department provides advice and recommends guidelines for development on floodplains with the object of minimising flood risk and damage.

The Birrega and Oaklands Flood Study shows that the general area is affected by shallow overland flooding with the 1 in 100 (1%) AEP flood level estimated to be ~ 19.5 m AHD as shown on attached plan.

When development is proposed within the floodplain our department assesses each proposal based on its merits and the factors examined include depth of flooding, velocity of flow, its obstructive effects on flow, possible structural and potential flood damage, difficulty in evacuation during major floods and its regional benefit.

With regard to this proposal the following comments are provided:

- Almost the entire lot is expected to be affected by shallow overland flooding during major events with the general flow direction being south westerly (ie, from east to west at a slight angle to the Lot – similar to the hashed lines through the paddocks on P34 on information provided).
- Flood depths during 1% AEP flood are expected to be shallow, less than 0.5 m;
- Because of the shallow depths, small amounts of fill may obstruct the existing drainage flow paths and cause water to pond on the adjacent property to the east. Such an impact is evident in the photographs provided showing water ponding behind the constructed driveway in front of the dwelling under construction on the neighbouring property. This is also evident in the attached aerial photography.



It should be noted that failure to adhere to these that recommendations will result in a greater exposure to risks of flood damage.

Issue

Industry Regulation.

Advice

Based on the information provided in support of the application for Development Approval, Waste Industries, Industry Regulation does not consider that the proposed 50-60mm top-dressing using clean fill meets the definition of a Prescribed Premises under Schedule 1 of the *Environmental Protection Regulations 1987*; and therefore is not subject to the licensing provisions of Part V Division 4 of the *Environmental Protection Act 1986*.

However, this advice is based on the assumption that the proposed fill material (sand) meets the definition of "Clean fill" under the *Landfill Waste Classification and Waste Definitions 1996* (as amended 2019). i.e.

Clean fill means raw excavated natural material such as clay, gravel, sand, soil or rock fines that:

- (a) has been excavated or removed from the earth in areas that have not been subject to potentially contaminating land uses¹ including industrial, commercial, mining or intensive agricultural activities; and*
- (b) has not been processed except for the purposes of:*
 - i. achieving desired particle size distribution; and/or*
 - ii. removing naturally occurring organic materials such as roots; and*
- (c) does not contain any acid sulfate soil; and*
- (d) does not contain any other type of waste.*

Officer Comment:

It is acknowledged that the placement of fill on the subject site has the potential to impact on the existing drainage flow paths. Officers have therefore recommended a condition to ensure the fill is set back from the paddock fences to allow for the pre-development flow paths to be maintained. In relation to the nature of the fill, a condition is also recommended to ensure that prior to any fill being brought onto the site, evidence of its commercial (uncontaminated and clean) source is provided to the Shire, in accordance with the Local Planning Policy.

Statutory Environment**Legislation**

- *Planning and Development (Local Planning Schemes) Regulations 2015.*

Local Planning Framework

- Shire of Serpentine Jarrahdale Rural Strategy Review 2013 (Strategy);
- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2);
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3);



- Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4);
- Local Planning Policy 4.7 – Placement of Fill (LPP4.7).

Planning Assessment

A full technical assessment was carried out against the current planning framework in accordance with Clause 67, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which can be viewed in **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.

Land Use

The subject property is zoned 'Rural Living A' under the Shire's Town Planning Scheme No. 2 (TPS2). The applicant has advised that the fill is intended to top dress the paddocks associated with an existing equine land use. The proposal therefore falls within the 'Stables' land use which is a discretionary land use in the subject 'Rural Living A' zone, in accordance with TPS2.

Local Planning Policy 4.7 – Placement of Fill

Given Officers consider that the land use raises no concerns, it is the scale and design of the fill which requires consideration, especially to avoid impacts on surrounding landowners. This assessment has been guided by Local Planning Policy 4.7 – Placement of Fill (LPP4.7).

LPP4.7 sets out development standards for fill in Table 1. An assessment of the proposal against Table 1 of LPP4.7 is contained within the table below:

LPP4.7 – Table 1: Development Standards Assessment			
Criteria	Result	Description	Officer Comment
Nature of Fill	Acceptable Development	Consolidated clean, coarse, clay free sand. No presence of timber or other biodegradable material. Certification of fill as clean or evidence of the commercial source.	The applicant has not yet sourced the fill however has confirmed that the fill will be clean fill. A condition is recommended to require certification of the fill or evidence of the commercial source of clean fill prior to it being brought on site.
Drainage	Acceptable Development	Fill maintains existing drainage patterns in the locality. Fill is set back a minimum of 1m from side lot boundaries and a minimum of 3m from front and rear boundaries.	Officers consider that fill with a depth of between 50-60mm is minor in nature and would not significantly impact existing drainage patterns, subject to conditions. To ensure pre-development flows are maintained, Officers recommend a condition requiring all fill to be setback 0.5m from the internal fence paddocks. This will enable channeling of



LPP4.7 – Table 1: Development Standards Assessment			
Criteria	Result	Description	Officer Comment
			<p>water to occur and result in maintenance of the existing east to west flow path.</p> <p>The setbacks would result in the fill being 4m from the nearest property boundaries to the north (rear) and east (side).</p> <p>Water flows from the subject property into the drain located along the western lot boundary. The location of this drain would ensure there are not adverse drainage impacts on the property to the west.</p>
Traffic	Acceptable Development	Low/No impact on surrounding road network.	The fill proposed is of a minor scale and would have a low impact on the surrounding road network.
Environmental	Acceptable Development	Fill is set back adequately from environmental features such as watercourses and wetlands.	The subject property is not in close proximity to any environmental features such as watercourses or wetlands.
	Performance Based	<p>Some vegetation cleared.</p> <p>Protection of mature trees or provision of tree replacement (landscaping plan/flora fauna survey required).</p> <p>Fill occurs within the dripline of existing vegetation.</p>	<p>No tree clearing has been proposed.</p> <p>Fill would occur within the dripline of trees. The key concern is that fill can reduce the amount of oxygen that can enter into the soil, effecting existing tree roots.</p> <p>In this case it is considered that due to the amount of fill proposed, it would not adversely impact on the existing trees in the paddocks.</p>
Amenity	Acceptable Development	No significant impact on the natural levels or landscape character of the area taking into account cumulative impacts.	Due to the amount of fill proposed, it is not considered to result in a visible change in the landscape character or natural levels of the site.
		Dust is controlled, therefore risks to	Once the fill has been placed onsite the paddocks will be re-



LPP4.7 – Table 1: Development Standards Assessment			
Criteria	Result	Description	Officer Comment
		health and safety are minimal.	seeded therefore the fill would not be exposed to result in dust issues.
Purpose of Fill	Acceptable Development	Fill required for the purposes of a permitted or approved land use.	The fill is associated with the existing approved 'Stable' land use.

Drainage

The concerns raised in the objections primarily relate to the potential impact the proposal will have on drainage on the properties to the east and west, and also concern over the displacement of water affecting the locality more broadly. The proposal satisfies the 'Acceptable Development' criteria of LPP4.7 by way of drainage. Nevertheless, the relevant objective of LPP4.7 is to, "Ensure that drainage is appropriately managed".

Given the site is located within the floodplain seasonal inundation is common within the locality. Typically, natural surface flows traverse in an east to west direction. This is depicted in the contour map (figure 3) below. Also, shown on this, is a visual depiction of where swales could be aligned to maintain such flows (shown in yellow):



Figure 3: Contour map and natural surface flows



The eastern side of the subject site has an approximate height of 19.5 AHD while the western side is at 19.0 AHD, with a fall of 0.5m to the west side of the property. To appropriately manage drainage it is considered that the natural east to west flows should be maintained to ensure the development does not adversely impact on adjoining landowners.

The proposed height of the fill is 50mm to 60mm which is considered of a minor scale and would not alter the existing drainage pattern. It is worth noting, both the subject site and the neighbour to the east have placed fill on the firebreaks approximately 250mm to 300mm in height (as seen in figure 4). These works have been dealt with separately through previous development applications.

Currently, water is controlled to prevent flows from the east property to the subject site, with water from the east site moving north west where a spoon drain has been placed. Officers consider that due to this existing height of fill on the firebreaks along the property boundaries, the proposed 50mm to 60mm of fill being placed on the paddocks would not push surface flows back onto the eastern property over the firebreaks.

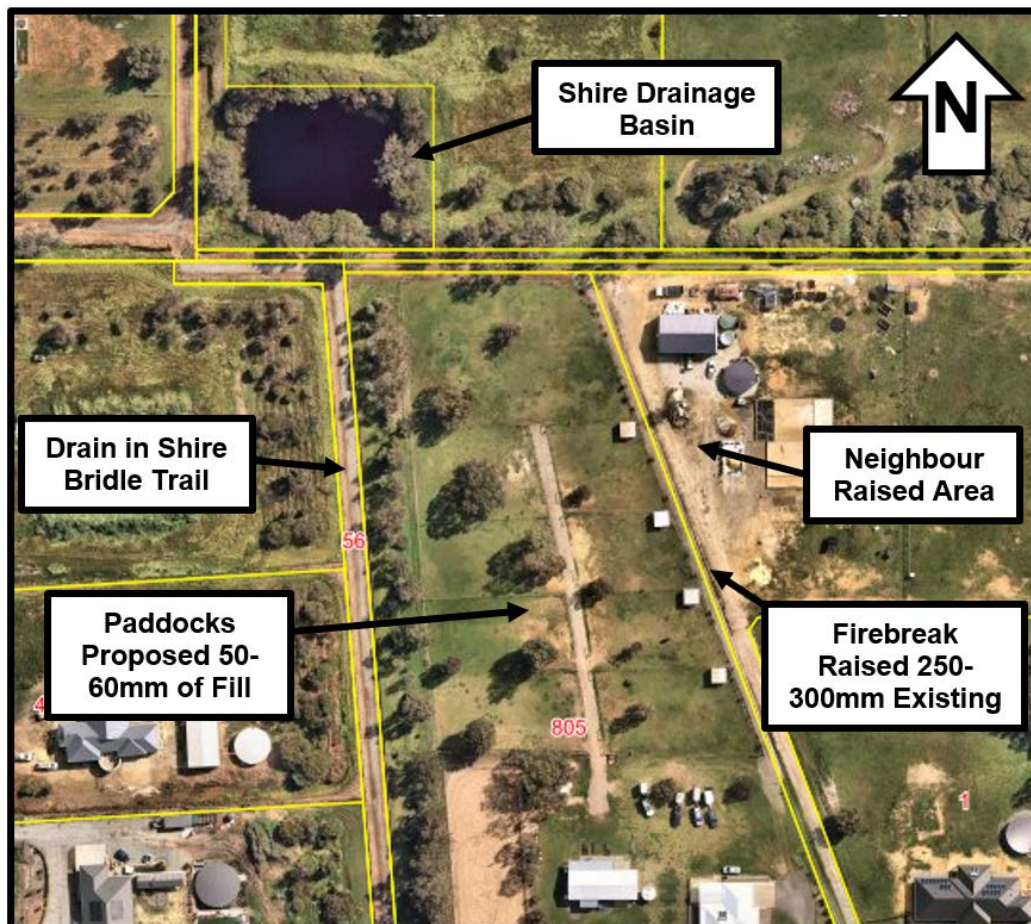


Figure 4: Existing and Proposed Fill

To ensure that predevelopment flows are maintained, Officers recommend a condition requiring that fill placed on the paddocks should be set back 0.5m from either side of the internal fences dividing the paddocks (seen as dashed lines in figure 2). This would encourage a channelisation



of water along the paddock fence lines, both helping reduce surface water on the paddocks and maintaining the east to west flows. This is nominally shaped by the swale diagram above.

In relation to the property to the west, water naturally flows in this direction however, there is a drain located in the bridle trail which separates the subject site from the property to the west. Water in this drain flows north to a drainage basin, as depicted in figure 4 above. Notwithstanding the objection, it is considered that due to the location of the drain and the amount of fill proposed, drainage patterns would be maintained and there would be no adverse impact on the adjacent property to the west.

Environmental

The proposed fill within the paddocks would extend into the dripline of approximately 11 trees and therefore the proposal does not fall within the 'Acceptable Development' criteria of LPP4.7. To be able to support the proposal it is required to be demonstrated that the performance criteria and the objectives of the policy have been met.

In this instance the relevant objectives of LPP4.7 are as follows:

- *“Ensure that the filling of land does not adversely impact on the amenity or environment of the locality in which it is being undertaken; and*
- *Minimise environmental impacts on water resources and vegetation.”*

Officers consider that there would not be an adverse impact on the health of the trees as the fill is minor in scale. The 50mm to 60mm of uncompacted fill within the dripline would not result in a significant impact on the soil oxygen exchange in the trees root zone, thereby not harming the trees. A 1m clearance from the trees trunks to the proposed fill, as recommended through a condition of approval, will ensure that there is no adverse impact to the trees. The condition is considered to ensure that the development meets both the performance criteria of the policy and the objectives.

Options and Implications

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

Option 1:

That Council approves the application subject to appropriate conditions.

Option 2:

That Council refuses the application giving reasons for its decision.

Option 1 is recommended.



Conclusion

The application seeks approval for the placement of 50mm to 60mm of fill on the paddocks of the subject property. The application has received two objections from neighbours and this item is therefore presented to Council for determination. For the reasons outlined in the report, Officers consider that the application meets the objectives of LPP4.7 and that it would not adversely impact on the amenity of the neighbouring property by way of drainage or the environmental features on the site. It is therefore recommended that Council approve the application subject to conditions.

Attachments (available under separate cover)

- **10.1.7 - attachment 1** – Development Plans (E20/11949)
- **10.1.7 - attachment 2** – Summary of Submission (E20/11961)
- **10.1.7 - attachment 3** – Technical Assessment (E20/11939)

Alignment with our Strategic Community Plan

Outcome 2.3	A productive rural environment
Strategy 2.3.1	Identify and promote rural and agriculture industry opportunities
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>That Council approves the application and the fill results in an adverse impact on drainage within the locality.</i>	<i>The Shire can work with local residents to ensure that drainage within the area is managed suitably so as to not adversely impact the area.</i>	Environment / Heritage	Unlikely	Minor	LOW	N/A



Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
2	<i>That Council refuse the development and the application is appealed to the State Administrative Tribunal</i>	<i>Officers would defend Council's decision at the SAT should the decision be appealed.</i>	Reputation	Possible	Minor	MODERATE	Accept Officer Recommendation

Voting Requirements: Simple Majority

OCM359/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Byas

1. That Council **APPROVES** the development application for the placement of fill at Lot 805, 63 Northerly Lane, Oakford as contained within attachment 1 subject to the following conditions:

- a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plans P1 received at the Shire's Offices on 10 August 2020.
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- b. Prior to commencement of works, certification of the fill or evidence of its commercial source shall be submitted to the Shire of Serpentine Jarrahdale demonstrating consistency with the definition of 'uncontaminated fill' under the *Landfill Waste Classification and Waste Definitions 1996*.

- c. All fill placed on the paddocks shall be set back a minimum of 0.5m either side of the internal paddock fences in order to create a gentle swale that has the ability to maintain the conveyance of regional water flows, to the satisfaction of the Shire of Serpentine Jarrahdale. Such swale is to be appropriately design and constructed to ensure it can perform the intended conveyance function and will not become overgrown, to the satisfaction of the Shire.

- d. The placement of fill hereby approved shall be no higher than 60mm above existing ground level, to the satisfaction of the Shire of Serpentine Jarrahdale.

CARRIED 8/1

**10.1.8 - Proposed Outbuilding - Lot 27, 14 Dalley Street, Byford (PA20/717)**

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Service
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Michael Andrew van der Lecq
Owner:	As Proponent
Date of Receipt:	12 August 2020
Lot Area:	3220.28m ²
Town Planning Scheme No 2 Zoning:	'Urban Development'
Metropolitan Region Scheme Zoning:	'Urban'

Report Purpose

The purpose of the report is for Council to consider a development application for an oversized and overheight 'Outbuilding' at Lot 27, 14 Dalley Street, Byford. The outbuilding would replace an existing 'Outbuilding' in the same location. The existing outbuilding is smaller in size and scale than the new proposed 'Outbuilding'.

The application is presented to Council as an objection was received during the consultation period. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or conditions, in accordance with Delegated 12.1.1 - Determination of Development Applications.

Officers consider that the proposed outbuilding is consistent with the planning framework and would not adversely impact upon the amenity of the adjoining neighbours and the locality. The report recommends that Council approve the development application subject to conditions.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.



Background

Existing Development

The subject site is located within the old Byford Townsite. The site is 3220.28m² in area and accessed via Dalley Street. The site is currently developed with a single house, swimming pool, water tank and outbuilding as shown in Figure 1 below.

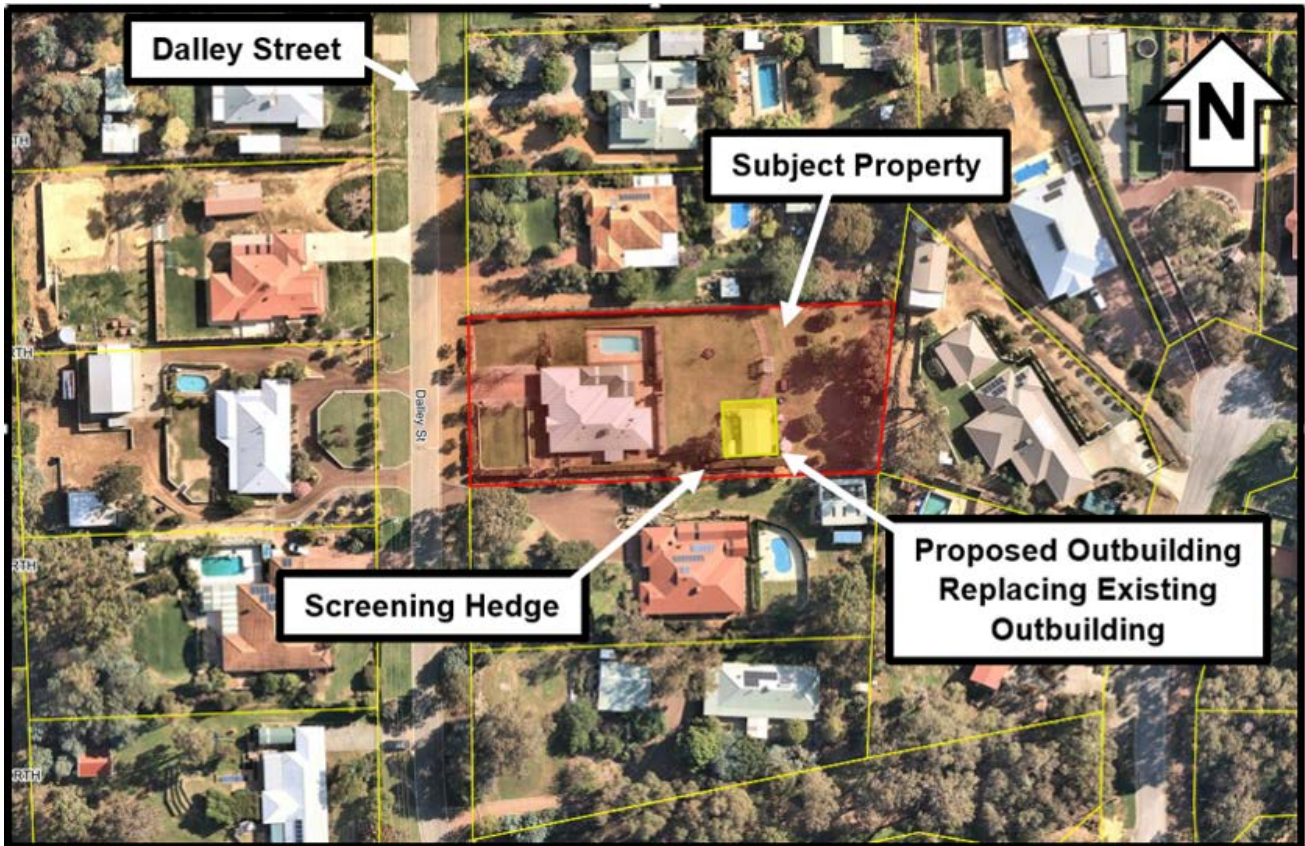


Figure 1: Location Plan



Proposed Development

The application seeks approval for construction of a replacement outbuilding, proposed to be located to the rear of the dwelling. The applicant has provided information that the outbuilding would be used for the general storage of household equipment and vehicles. The applicant also provided information that the outbuilding will be connected to the existing tank and underground stormwater pipes for disposal of stormwater.



The new outbuilding is both oversized and overheight, as detailed in the following plans:

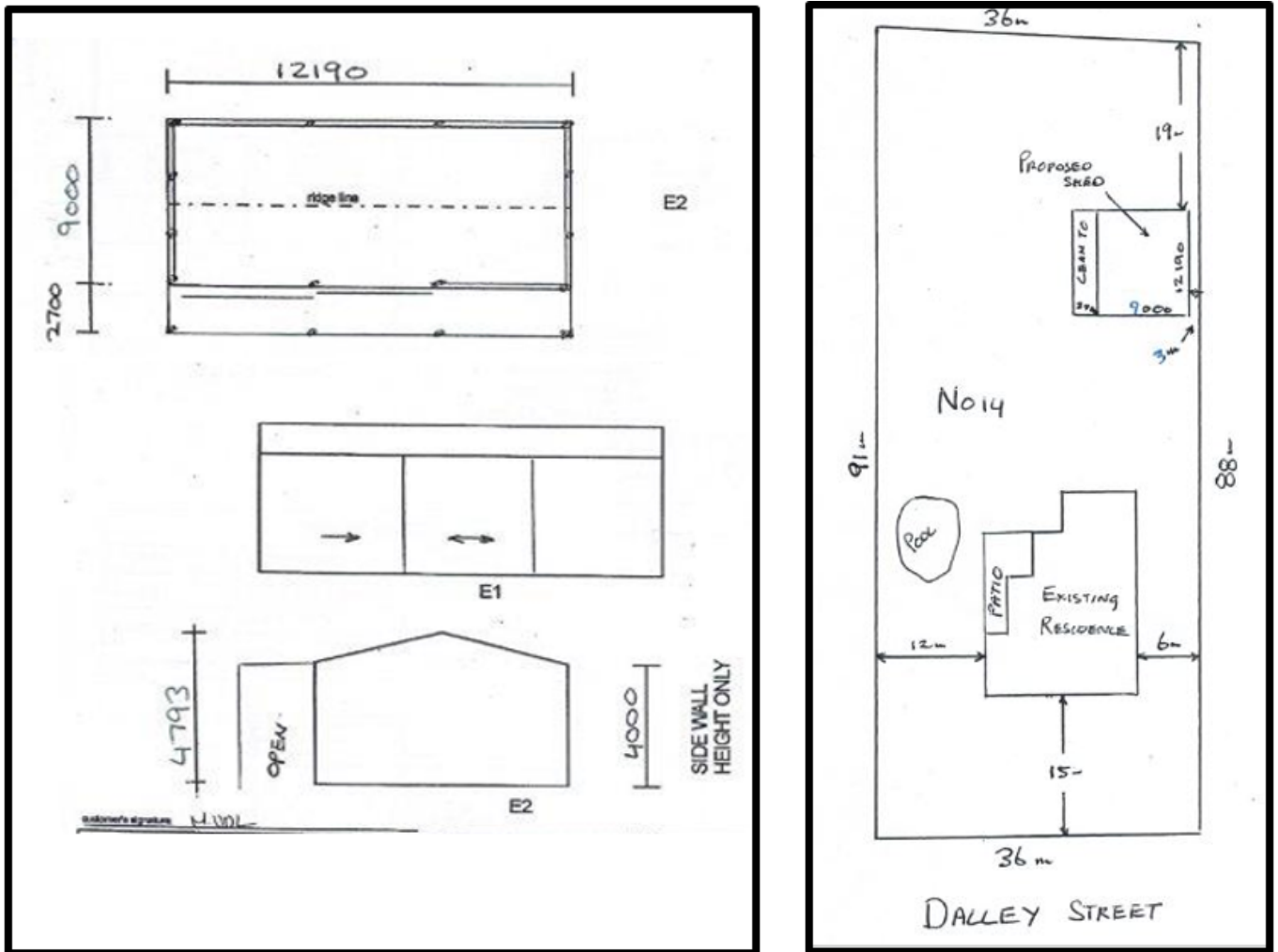


Figure 2: Proposed Plans



The following table compares the:

- Current outbuilding;
- Proposed outbuilding;
- Deemed to comply provisions of the R Codes.

	Wall height	Ridge height	Area	Side setback
Existing outbuilding	2.4m	3.2m	45m ² (plus 12m ² lean to)	3.1m
Proposed outbuilding	4.0m	4.79	109.71m ² (plus 32.9m ² lean to)	3.0m
R Codes DTC	2.4	4.2	60m ²	1.5

The proposed outbuilding would have a floor area of 109.71m² with an open lean-to (32.9m²) featuring a length of 12.19m and width of 9m. The proposal would have a wall height of 4m and a ridge height of 4.79m. The outbuilding was initially proposed to be set back 1m from the southern (side) lot boundary however following an objection, this setback was increased to 3m, to match existing. The outbuilding would be set back approximately 22m from the eastern (rear) boundary. The outbuilding is proposed to be constructed entirely out of colorbond, coloured dune which is a light beige colour, matching the existing dwelling.

Full details of the proposal are contained within **attachment 1**.

Community / Stakeholder Consultation

The application was advertised to adjoining landowners for a period of 21 days, from 18 August 2020 - 8 September 2020, in accordance with the Shire's Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP14). During this period, one submission objecting to the initially proposed 1m side setback was received. As previously stated, subsequent to the objection, the applicant amended the location of the outbuilding to be set back 3m from the boundary, to match existing and ensure retention of the existing vegetation hedge.

Notwithstanding the amendment, the submitter still raised concern in relation to the location of the outbuilding and has stated they would prefer it to be located to the rear corner of the property. The objection is contained within **attachment 2**.



Statutory Environment

Legislation

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Metropolitan Region Scheme.*

State Government Policies

- State Planning Policy 7.3 - Residential Design Codes.

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Local Planning Policy 1.5 - Exempt Development;
- Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers.

Planning Assessment

A full technical assessment was carried out against the planning framework in accordance with Clause 67 of the Deemed Provisions, which can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the assessment against the design principles of the R Codes, and the issues raised in the objection.

Land Use

The subject property is zoned 'Urban Development' under the Shire's Town Planning Scheme No. 2 (TPS2) whereby development is generally guided by Structure Plans. The site lies within the Byford District Structure Plan (BDSP) and the Byford Townsite Local Development Plan (LDP), which provide the relevant land use permissibility and indicative zoning applicable to the site as shown on Figures 3 and 4 below. The subject site is identified as 'Residential' and aligns to a low density R Coding of R5. The outbuilding is incidental to the existing residential use and is therefore considered an appropriate land use.

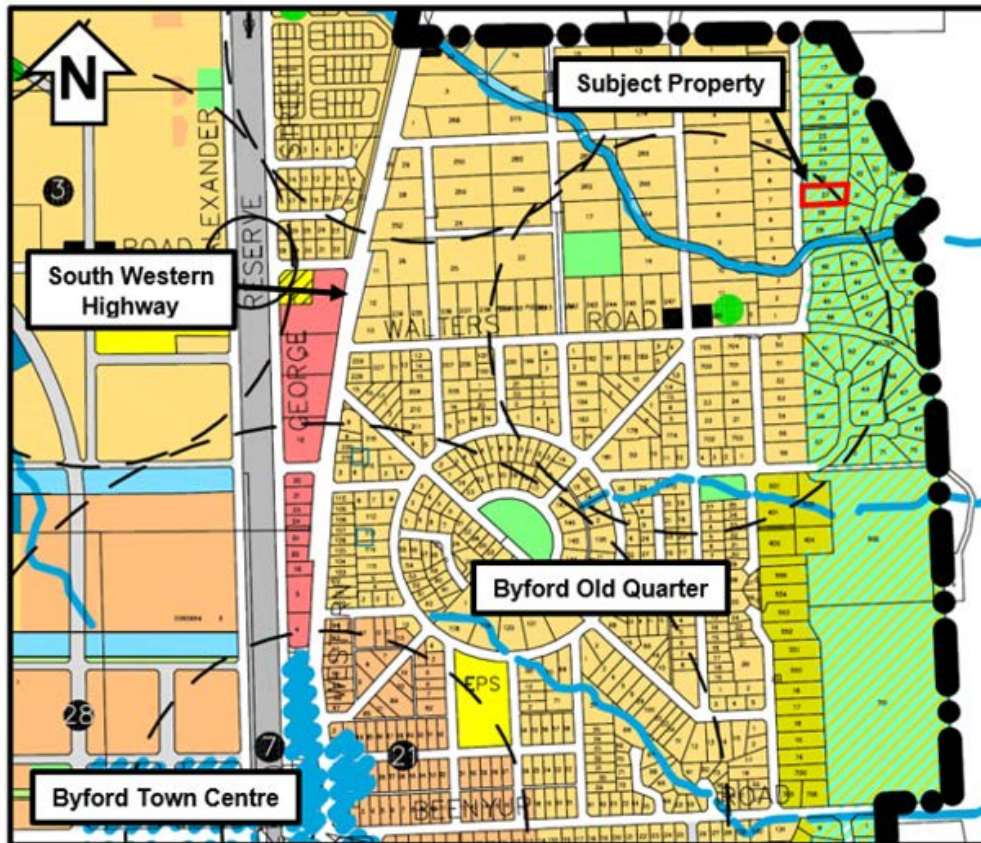


Figure 3: Byford Structure Plan

The intent of this area is to retain larger lots as a transition from the adjoining Darling Scarp and parks and recreation reservation, to the higher density residential areas to the west. The scale of the outbuilding is considered consistent with development found in a residential area, which is contemplated as a low density peri urban transition from the natural landscape to an urban landscape.



Byford Townsite Local Development Plan

Under the LDP, the site is identified within Character Area D as depicted following:

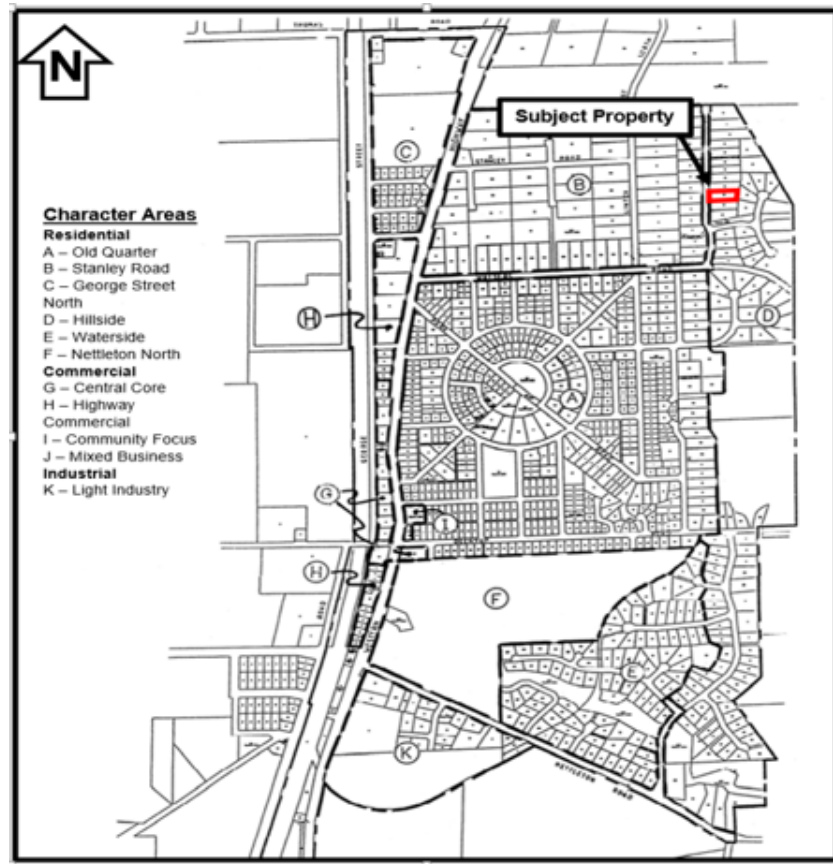


Figure 4: Byford Townsite Detailed Area Plan

This residential area contains a variety of housing styles and forms. The LDP identifies an R-Code of R5 for lot sizes with a minimum area of 2000m² which includes the subject site. The proposal is considered consistent with this designation.

Form of Development and Amenity

Development standards for outbuildings are set out under State Planning Policy 7.3 - Residential Design Codes (R-Codes) and Local Planning Policy 4.19 - Outbuildings, Sheds, Gardens Sheds and Sea Containers (LPP4.19). Given the planning framework for the subject site and the lot size, it is considered appropriate to be guided by the development standards for a lot with an R-Code of R5.



State Planning Policy 7.3 - Residential Design Codes (R Codes)

The proposed development seeks a variation to vary the deemed-to-comply requirements of the R-Codes by way of floor area, wall height and ridge height as detailed in the table following:

R-Codes Design Principle Assessment - Outbuilding		
Deemed-to-Comply Provision	Proposed Development	Design Principle
C3 Outbuildings that: iii. collectively do not exceed 60m ² in area or 10 per cent in aggregate of the site area, whichever is lesser; iv. do not exceed a wall height of 2.4m v. do not exceed ridge height of 4.2m	109.71m ² 4m 4.79m	buildings that do not detract from the streetscape or the visual amenity of residents or neighbouring properties

In order to determine whether the proposal meets the design principle it can be considered within two key components:

- Outbuildings should not detract from the visual amenity of the streetscape; and
- Outbuildings should not detract from the visual amenity of the residents and neighbouring properties.

The first provision requires an outbuilding to be set back behind the building line to the primary street. The outbuilding in this instance is set back approximately 55m from the primary street boundary and is proposed to be located towards the rear of the property behind the existing dwelling and therefore would not “*detract from the visual amenity of the streetscape*”, in accordance with the design principles of the R-Codes.

Secondly, an assessment has been undertaken to determine the impact of the proposed outbuilding on the neighbouring properties. The objection relates to the proximity the outbuilding would be located from the southern lot boundary. It is worth noting that the setback of the outbuilding to this lot boundary compiles with the required setback under the deemed-to-comply requirements of the R-Codes which is 1.5m.

There is existing vegetation along the southern common boundary within the neighbouring property, which provides screening to the development as shown in Figure 1 and the photographs below. The screening vegetation comprises of a hedge with a height of approximately 2m that runs along the boundary and additionally there are trees on the neighbouring property to the south. The vegetation and hedge assists to ameliorate the bulk and scale of the outbuilding in the opinion of officers.



The photographs below show the existing outbuilding viewed from the subject site overlooking the neighbouring property:



Figure 5: Existing outbuilding

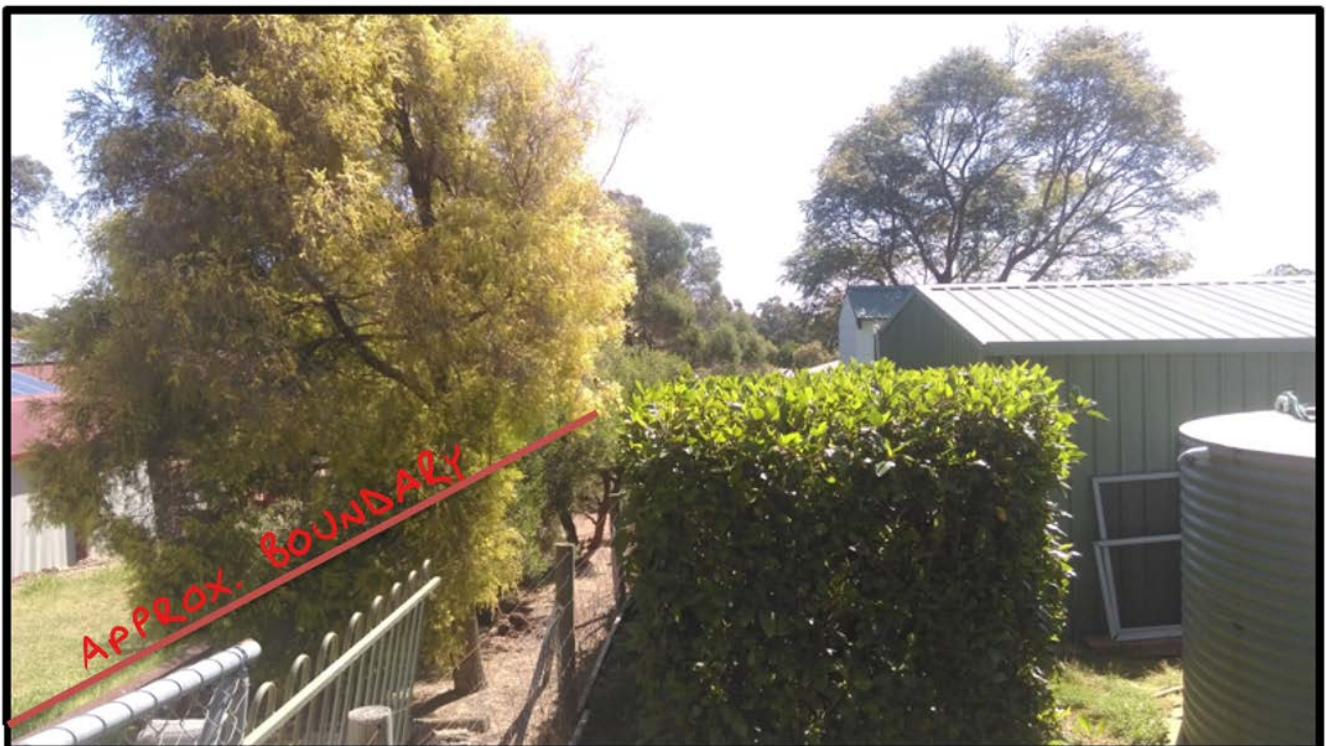


Figure 6: View from location of outbuilding overlooking the boundary



Despite the objection received, Officers are of the opinion that the proposal will not detrimentally affect the visual amenity of the amenity of the neighbouring property due to the following reasons:

- The outbuilding is located to the rear of the dwelling and will not detract from the streetscape;
- The side setback has been amended to exceed the setback requirements for a building of a wall height and wall length as required by the R-Codes;
- The existing hedge and vegetation along the common boundary will now be protected as a result of the increased setback, and is considered to provide a reasonable level of screening to the outbuilding and will ameliorate the bulk of the proposed outbuilding;
- The outbuilding will be located approximately 12m from the patio/alfresco of the adjoining dwelling.

In addition to the above, Officers have also included an overshadowing plan that demonstrates the proposal is compliant with the deemed-to-comply overshadowing provisions of the R-Codes. As shown in Figure 7 below, the extent of the shadow will not exceed beyond the existing trees along the lot boundary. As such Officers are satisfied that that the adjoining property would not be negatively impacted by overshadowing.



Figure 7: Overshadow Plan



The applicant provided the following justification in support of the location of the outbuilding:

- *“One other thing that makes me very reluctant to consider any other location for the new shed is the fact that for the proposed location no vegetation will need clearing. If it goes anywhere else on the property we would be needing to remove native trees/shrubs as well as established fruit trees. Removing the natives would have a negative impact on the amazing bird life (including black cockatoos) that frequent our property. It would also reduce the sheltered area where bandicoots live along the rear fence line.”*

Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP4.19)

In addition to consideration of the R-Code design principles when considering development applications for outbuildings, Officers are required to give consideration to the provisions under Clause 2 of LPP4.19. An assessment against the provisions is in the table below:

LPP 4.19 Clause 2 Assessment	
Provision	Officer Comment
Whether a size variation is required to satisfy specific needs of the owner/applicant;	The applicant has provided information that the additional space is required to garage general storage of household equipment and vehicles, It is considered that the applicant has demonstrated the need for the size of the outbuilding.
Whether a size variation is excessive, considering the character of the surrounding area;	The proposal is considered consistent with existing built form in the old Byford area. Historically the Shire has approved similar outbuildings of similar scale and height given the size of the lots. It is considered that the proposal would not adversely impact on the character of the surrounding area.
Whether a size variation would reduce the amount of open space or outdoor living area required in accordance with the R-Codes	The deemed-to-comply requirements of the R-Codes (R5) state that the subject property should have 70% of open space. The proposal would result in open space of 84.8%, in excess of the R-Code requirement.
Whether the development is sited behind the front setback line for the dwelling, visible from the street or neighbouring properties;	The outbuilding is sufficiently setback from the streetscape and therefore no additional screening would be required. The outbuilding would be visible from adjoining neighbouring properties, though screened by the existing fence, hedge and trees along the common boundary. However, is not considered to impact upon the amenity currently afforded to the neighbouring landowners.
Whether non-reflective materials are proposed on the building;	The applicant has proposed a colourbond material for the walls and roof, which is considered generally non-reflective.
Whether adequate screening exists, or has been proposed,	Screening from the streetscape is not considered required as the proposal is located at the rear of the dwelling.



LPP 4.19 Clause 2 Assessment	
Provision	Officer Comment
from the road and/or neighbouring properties; and	No further landscaping is considered to be required to further reduce the visibility from the neighbouring property.
Consideration of comments from the affected adjoining landowners.	Notwithstanding the concerns raised by the adjoining neighbour, Officers consider that the proposal meets the relevant design principle of the R-Codes and LPP4.19 and there is sufficient merit to support the application.

Options and Implications

With regard to the determination of the application for development approval under TPS2, Council has the following options:

Option 1:

That Council resolves to APPROVE the development application subject to appropriate conditions.

Option 2:

Council resolves to REFUSE the development application providing appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for the construction of an outbuilding to the rear of the dwelling. The application has received an objection from an adjoining neighbour and the item is therefore presented to Council for determination.

Notwithstanding the objection received, the proposal is considered to meet the 'Design Principles' of the R-Codes and LPP4.19. Officers are satisfied that the proposal would not adversely impact on the amenity of the area or that of neighbouring residents. As such, for the reasons outlined in the report it is recommended that Council approve the application subject to conditions.

Attachments (available under separate cover)

- **10.1.8 - attachment 1** -Development Plans (IN20/26223)
- **10.1.8 - attachment 2** - Submission (IN20/28640)
- **10.1.8 - attachment 3** - Technical Assessment (E20/10907)



Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local business within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>That Council approves the development subject to conditions.</i>	<i>Town Planning Scheme No.2.</i>	Reputation	Rare	Insignifi	LOW	Accept Officer Recommendation
2	<i>That Council refuses the development application and the decision is appealed at SAT.</i>	<i>Town Planning Scheme No.2.</i>	Financial	Unlikely	Minor	Moderate	Accept Officer Recommendation



Voting Requirements: Simple Majority

OCM360/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Byas

1. That Council APPROVES the development application for the oversized and overheight 'Outbuilding' as contained within attachment 1 at Lot 22, 14 Dalley Road, Byford subject to the following conditions:

a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications

P1-P2 received at the Shire's Offices on the 12 August 2020 and 17 October 2020.

b. All stormwater shall be disposed of within the property. Direct disposal of storm water onto the road, neighbouring properties, watercourses and drainage lines is not permitted.

c. The existing vegetation hedge between the southern property boundary and setback of the new outbuilding is to be protected and retained, to the satisfaction of the Shire of Serpentine Jarrahdale.

CARRIED UNANIMOUSLY 9/0

**10.1.9 - Proposed Outbuilding - Lot 22, 35 King Jarrah Circle, Jarrahdale (PA20/504)**

Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Eco Sheds and Homes
Owner:	David Adrian Livesey
Date of Receipt:	27 July 2020
Lot Area:	4484.21m ²
Town Planning Scheme No 2 Zoning:	Special Residential
Metropolitan Region Scheme Zoning:	Rural

Report Purpose

The purpose of the report is for Council to consider a development application for an outbuilding at Lot 22, 35 King Jarrah Circle, Jarrahdale. The proposal seeks to vary the deemed-to-comply provisions of State Planning Policy 7.3 - Residential Design Codes (Volume 1) (R-Codes) by way of floor area, wall height and ridge height. Such variations require an application for development approval to be submitted and assessed against the Design Principles of the R-Codes.

The application is presented to Council as an objection was received during the consultation period. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or conditions, in accordance with Delegated Authority 12.1.1 - Determination of Development Applications.

It is considered that the proposal is consistent with the Design Principles of the R-Codes and therefore the report recommends that Council approve the development application subject to conditions.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.



Background

Existing Development

The property is located within the Chestnuts estate in the Jarrahdale Townscape Precinct. The site is currently developed with a Single House and a swimming pool as shown in Figure 1 below:



Figure 1: Aerial Photograph

Proposed Development

The development application seeks approval for an outbuilding, to be located to the northern portion of the site. The applicant has provided information that the outbuilding would be used for parking of private vehicles, caravan, trailer, and the general storage of household equipment.

The proposed outbuilding would have a floor area of 126m² featuring a length of 14m and width of 9m. The proposal would have a wall height of 4m and a ridge height of 5.2m and be set back 5m from the northern boundary and 30m from the eastern (rear) boundary. The outbuilding is proposed to be constructed entirely out of colorbond, coloured dark blue, to help blend in to the natural setting of the landscape. The proposal is also located outside of the approved building envelope for the land. Full details of the proposal are contained within **attachment 1**.

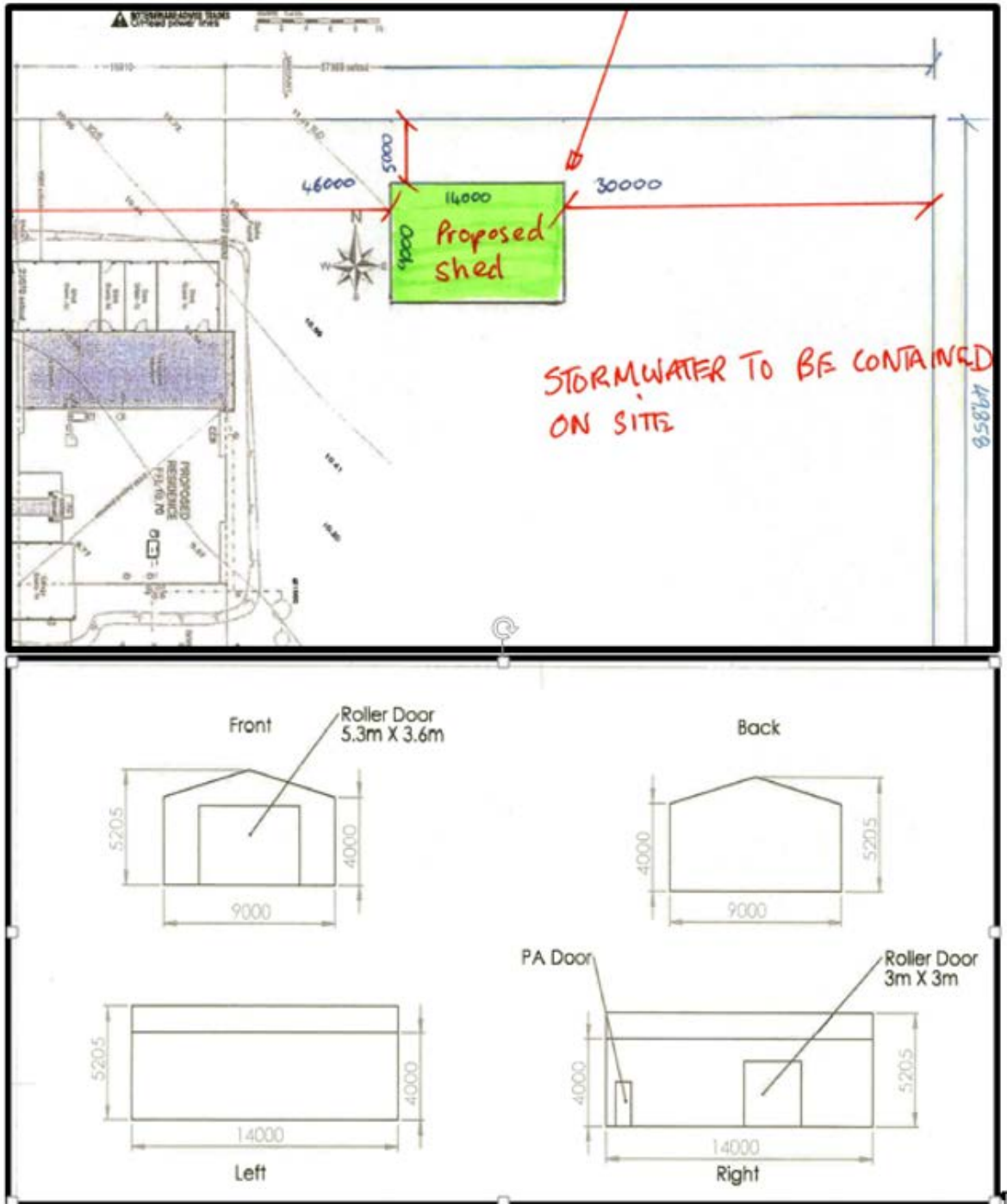


Figure 2: Proposed Plans



Community / Stakeholder Consultation

The application was advertised to adjoining landowners for a period of 21 days, from 29 June 2020 to 20 July 2020, in accordance with the Shire's Local Planning Policy 1.4 - Public Consultation for Planning Matters. One submission objecting to the proposal was received. A summary of the submissions and Officer response is contained within **attachment 2**. In summary, the objection states the following concerns relevant to the proposal:

- Scale of outbuilding inconsistent with the Chestnut Estate;
- Siting of the outbuilding and its proximity to common boundary;
- Use of the outbuilding not clearly defined which could potentially result in noise and light pollution.

These matters of concern will be discussed as part of the report below.

Statutory Environment

Legislation

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- Metropolitan Region Scheme.

State Government Policies

- State Planning Policy 7.3 - Residential Design Codes (Volume 1).

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3;
- Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers.

Planning Assessment

A full technical assessment was carried out against the planning framework in accordance with Clause 67 of the Deemed Provisions, which can be viewed in **attachment 3**. For the purpose of this report, discussion is confined to the assessment against the design principles of the R Codes, and the issues raised in the objection.

Land Use

The subject property is zoned 'Special Residential' under the Shire's Town Planning Scheme No. 2 (TPS2). The proposed outbuilding is incidental to the existing single house and therefore falls within the 'Residential - Single House' land use which is a permitted use in the 'Special Residential' zone, in accordance with TPS2.



Form of Development and Amenity

The proposal seeks variations to the ‘deemed-to-comply’ requirements of the R-Codes in relation to the floor area, wall height and ridge height. The table below highlights the variations to which Council must determine whether the relevant ‘Design Principle’ has been met:

R-Codes Design Principle Assessment - Outbuilding		
Deemed-to-Comply Provision	Proposed Development	Design Principle
Outbuildings that:		
iii. collectively do not exceed 60m ² in area or 10 per cent in aggregate of the site area (448m ²) whichever is lesser	A floor area of 126m ² is proposed.	P3 Outbuildings that do not detract from the streetscape or the visual amenity of residents or the neighbouring properties.
iv. do not exceed a wall height of 2.4m;	A wall height of 4.m is proposed.	
v. do not exceed a ridge height of 4.2m;	A ridge height of 5.2m is proposed.	
viii. are setback in accordance with Tables 2a and 2b. Where the wall height is 4m with a length of 10m the required setback is 1.5m	A side setback of 5m is proposed.	

In order to determine whether the proposal meets the design principle, it can be considered within two key components:

- Outbuildings should not detract from the visual amenity of the streetscape; and
- Outbuildings should not detract from the visual amenity of the residents and neighbouring properties.

The first provision requires an outbuilding to be set back behind the building line to the primary street. The outbuilding in this instance is set back 46m from the primary street boundary and is proposed to be located towards the rear of the property, behind the existing dwelling. It is therefore considered that the outbuilding would not “*detract from the visual amenity of the streetscape*”, in accordance with the design principle of the R-Codes.

To satisfy the second provision an assessment has been undertaken to determine the impact of the proposed outbuilding on the neighbouring properties. The objection, as previously stated, relates to scale, siting and use of the outbuilding. This objection was received from the neighbour to the north where the proposed setback of 5m is compliant with the R codes, acknowledging that the scale is greater.



Siting:

The submitter is concerned that the 5m setback has the potential to detrimentally impact their visual amenity and the submitter has stated they would prefer the outbuilding to be moved further to rear.

The setback of the outbuilding is consistent with the lot boundary setbacks stipulated under the 'deemed-to-comply' provisions of the R-Codes, which permits an outbuilding with a wall length of 14m and a wall height of 4m to be set back a minimum of 1.5m from the boundary. Given the outbuilding is set back 5m from the lot boundary it therefore complies with the deemed-to-comply provisions on the R-Codes.

Visual Impact:

The applicant has provided information that the location of the outbuilding has been influenced by a number of site contextual issues, specifically that the proposed location would not result in the requirement to remove trees. As shown in Figure 3 below, the site contains a fruit orchard to the rear, significant mature trees to the east and south and an irrigation area for the septic system to the south of the dwelling.



Figure 3 Siting Plan

The photographs below show the existing fencing and vegetation along the common boundary, which is considered to ameliorate the bulkiness of the outbuilding.



Figure 4: View from location of shed overlooking the neighbours site



Figure 5: View from location of shed overlooking the boundary

This panoramic image also portrays the overall layers of green that existing between the single dwelling on the northern adjoining property, and the location of the proposed outbuilding:

**Panoramic Image**

Officers consider that the proposal would not adversely impact on the visual amenity of the neighbouring property due to the existing mature vegetation along the boundary and between the outbuilding and the neighbouring dwelling. In addition, the applicant has provided information that more trees will be planted along the common boundary to address the concerns raised. Officers consider that the proposal would not adversely impact the visual amenity of the neighbouring property, consistent with the design principle of the R-Codes. A condition can be imposed to require suitable planting to provide further layers of vegetation to help moderate any potential amenity impact.

Scale:

The submitter is concerned that the size of the outbuilding is not consistent with the size of outbuildings in the Chestnut estate and is likely to adversely impact on their property. In addition to the R-Codes, Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP4.19) sets out exemptions for outbuildings. It states that an outbuilding in the 'Special Residential' zone is exempt where the floor area is no more than 100m², with a wall height of no more than 3.2m and a ridge height of no more than 4.5m where it is setback in accordance with the R-Codes (1.5m). Outbuildings of 100m² therefore are considered consistent with this locality. The proposed outbuilding, with a total floor area of 126m², exceeds the as of right acceptable floor area under this policy by 26m². Any outbuilding larger than this is not considered inconsistent with the locality but requires further consideration. As previously stated, it is considered that the proposal by way of its scale and siting would not adversely impact on the amenity of adjoining landowners, or amenity of the general locality. It is capable of being supported, notwithstanding the oversized and over height nature.

Use:

The submitter is concerned that due to the size of the outbuilding, there is potential for it to be used for other purposes other than storage such as industrial which would likely to result in noise and light impacting on their amenity.

The applicant has provided information that the outbuilding will be used primarily for parking of his private vehicles, caravan, trailer and household goods. Furthermore, any approval would be for the land use of 'Residential - Single House', which would prevent it being used for other (non-residential type) purposes. Officers are satisfied that the use of the outbuilding is consistent with that of a 'Single House'. Furthermore, a condition is recommended to ensure the outbuilding would not be used for commercial purposes or for human habitation.

Local Planning Policy 4.19 - Outbuildings, Sheds, Garden Sheds and Sea Containers (LPP4.19)

In addition to consideration of the R-Code design principles, LPP4.19 also sets out additional performance criteria for outbuildings. An assessment against this criteria is contained in the table below:

Provision	Officer Comments
Whether a size variation is required to satisfy specific needs of the owner/applicant;	<p>The applicant has provided information that the additional space is required to garage a caravan, trailer, personal vehicles, and various household goods associated with three adults residing on the property.</p> <p>It is considered that the applicant has demonstrated the need for the size of the outbuilding.</p>
Whether a size variation is excessive, considering the character of the surrounding area;	Officers do not consider the proposed variations to be excessive or inconsistent with the character of the area. There are similar outbuildings of that scale and height found within the Chestnut Estate. Notwithstanding other development, it is considered that the proposal would not adversely impact on the character or amenity of the locality or that of neighbouring properties.
Whether a size variation would reduce the amount of open space or outdoor living area required in accordance with the R-Codes.	The deemed-to-comply requirements of the R-Codes state that the subject property should have 55% of open space. The proposal would result in open space of 91.3%, in excess of the R-Code requirement.
Whether the development is sited behind the front setback line for the dwelling, visible from the street or neighbouring properties;	<p>The proposed outbuilding is located behind the existing dwelling and setback 46m from the primary street, and therefore would not be visually intrusive from the streetscape.</p> <p>It would be set back 5m from northern lot boundary and although would be visible from the neighbouring property, it is considered that it would not have an adverse impact on the amenity of the neighbouring property, as detailed previously.</p>



Provision	Officer Comments
Whether non-reflective materials are proposed on the building;	The applicant has proposed a colourbond material for the walls and roof, which is considered generally non-reflective.
Whether adequate screening exists, or has been proposed, from the road and/or neighbouring properties; and	Due to the primary street setback, no screening to the front is considered to be required. It is considered that there is sufficient existing vegetation to reduce the visual impact of the outbuilding from the neighbouring property. The applicant is supportive of planting additional trees along the northern boundary to further screen the outbuilding from view. A condition is recommended in this regard.
Consideration of comments from the affected adjoining landowners.	Notwithstanding the concerns raised by the adjoining neighbour, Officers consider that the proposal meets the relevant design principle of the R-Codes and LPP4.19.

Options and Implications

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

Option 1:

That Council APPROVES the development application subject to appropriate conditions.

Option 2:

That Council REFUSES the development application giving reasons for its decision.

Option 1 is recommended.

Conclusion

The application seeks approval for the construction of an outbuilding with a floor area, wall height, and ridge height varying the deemed-to-comply requirements of the R-Codes. The application has received an objection from an adjoining neighbour and the item is therefore presented to Council for determination.

Notwithstanding the objection received, the proposal is considered to meet the 'Design Principles' of the R-Codes and LPP4.19. Officers are satisfied that the proposal would not adversely impact on the amenity of the area or that of neighbouring residents. As such, for the reasons outlined in the report, it is recommended that Council approve the application subject to conditions.



Attachments (available under separate cover)

- **10.1.9 - attachment 1** - Development Plans (IN20/26058)
- **10.1.9 - attachment 2** -Summary of Submission (IN20/26049)
- **10.1.9 - attachment 3** - Technical Assessment (E20/12068)

Alignment with our Strategic Community Plan

Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

Nil.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	Council approving the development application subject to conditions.	<i>Town Planning Scheme No.2</i>	Reputation	Rare	Insignificant	LOW	Accept Officer Recommendation
2	Council not approving the development application and facing a review by the State Administrative Tribunal.	<i>Town Planning Scheme No.2</i>	Financial	Unlikely	Minor	MODERATE	Accept Officer Recommendation



Voting Requirements: Simple Majority

OCM361/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Rich, seconded Cr Byas

1. That Council **APPROVES** the development application for the outbuilding at Lot 22, 35 King Jarrah Circle, Jarrahdale, as contained within attachment 1 subject to the following conditions:

- a. The development is to be carried out in compliance with the plans and documentation listed below and endorsed with the Shire of Serpentine Jarrahdale stamp, except where amended by other conditions of this consent.

Plans and Specifications	Plans P1-P2 received at the Shire's Offices on 27 July 2020.
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- b. All stormwater shall be retained within the property to the satisfaction of the Shire of Serpentine Jarrahdale. Direct disposal of stormwater onto the road, neighbouring properties, watercourses and drainage lines is not permitted at any time.
- c. The 'Outbuilding' hereby approved shall only be used for domestic residential purposes and not for human habitation.
- d. Prior to issue of a Building Permit, a Landscape and Revegetation Plan being submitted to and approved by the Shire of Serpentine Jarrahdale. This Plan is to demonstrate additional planting comprising trees and intermixed medium and small shrubs along the northern boundary between the boundary edge and side of the outbuilding, in order to provide further screening of the outbuilding to the north. The Plan must set out the number of each species to be planted, density of planting, and the use of semi mature advanced plants to enable a short term establishment to occur. Once approved, the Landscaping and Revegetation Plan shall be implemented prior to completion of construction of the outbuilding, and maintained in its entirety, to the satisfaction of the Shire of Serpentine Jarrahdale.

CARRIED UNANIMOUSLY 9/0



10.1.10 – Issuing of Extractive Industry License - Lot 137 Hopeland Road, Hopeland (PA16/164)	
Responsible Officer:	Manager Statutory Planning and Compliance
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Quasi-Judicial	When Council determines an application/matter that directly affect a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Proponent:	Michelle and Craig McAllister
Owner:	Michelle and Craig McAllister
Date of Receipt:	14 October 2020
Lot Area:	30.39ha
Town Planning Scheme No 2 Zoning:	Rural
Metropolitan Region Scheme Zoning:	Rural

Report Purpose

The purpose of this report is for Council to consider an application for an Extractive Industry Licence (EIL) at Lot 137 Hopeland Road, Hopeland.

Council at its 27 March 2017 Ordinary Council Meeting (OCM) resolved to approve an application for planning approval for an extractive industry operation on the subject land. A number of conditions of the approval were appealed at the State Administrative Tribunal, where after mediation, reconsideration of five conditions was presented to Council at its 27 August 2017 and later 26 February 2018 meetings. The matter was determined and modified conditions relating to contribution towards intersection upgrades and vegetation clearing were resolved.

A condition of the approval would normally include the issuance of an EIL for the period of operations, however, this was not undertaken at the time due to the nature of the conditions imposed on the approval. Specifically, the \$33,750 contribution by the applicant towards the Karnup Road / Hopeland Road upgrade. This formed part of the Commodity Route Funding criteria which has been recently utilised to upgrade the intersection.

The applicants have now fulfilled all the conditions of the planning approval. As such, they now seek to progress with their operations in line with Council's approval and require an EIL be issued in accordance with the *Shire of Serpentine Jarrahdale Extractive Industry Local Law* prior to any extraction occurring.

The report is presented to Council as there is no delegation granted to Officers for the approval of new EILs.



The report recommends that Council approve the EIL application for a period of five years subject to conditions. The timeframe aligns with the period granted with the planning approval.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 26 February 2018 – OCM016/02/18 - COUNCIL DECISION

That Council:

1. *Agrees to consent orders relating to the three outstanding appealed conditions of the Planning Approval for an Extractive Industry at Lot 137 (394) Hopeland Road as follows:*
2. *The application for review is upheld with respect to conditions 2, 17 and 18 of the development approval granted by the respondent on 28 August 2017.*
3. *Condition 2 is deleted and the following condition substituted:*
“Subject to the following requirements, sand extraction is permitted within the stage 3 extraction area shown on the figure 2 staging plan:
 - (a) There must be no sand extraction or other disturbance within that part of the stage 3 extraction area shown on the Ecological retention plan dated 5/2/2018 as ‘proposed retention’ and ‘proposed 20m buffer’;*
 - (b) A batter must be constructed outside of the proposed 20m buffer to protect vegetation from extraction works; and*
 - (c) Prior to any sand extraction within the stage 3 extraction area, fencing must be installed around the proposed retention area within the proposed 20m buffer and thereafter maintained to the satisfaction of the Shire.”*
4. *Condition 17 is deleted and the following condition substituted:*
“Prior to the commencement of sand extraction, the applicants shall pay an amount of \$33,750 to the Shire as a contribution to works to be undertaken by the Shire to upgrade the intersection of Hopeland Road and Karnup Road.
5. *Condition 18 is deleted and the following condition substituted:*
“Prior to commencement of works, the developer shall construct a 3 metre wide road with 500mm shoulder on both sides and one passing lane for semi-trailers within the un-made road reserve up to Hopeland Road with 2 coat seal from the existing gate to Hopeland Road (being approximately 20 metres from its intersection with Hopeland Road”). The pavement shall be built to the specification shown in plan 17-4-42/100 (Rev. A) dated June 2017 and prepared by Porter Consulting Engineers.
6. *The hearing listed for 8 March 2018 is vacated.*
7. *There is no order as to costs.*
8. *Advises the State Administrative Tribunal accordingly.*



Background

The subject site is approximately 30.4ha in size and is zoned 'Rural' in accordance with the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2). The site is bound to the west by Punrak Road and the Punrak Drain to the south.



Location Plan

The site is accessible by a limestone gravel driveway from Hopeland Road. A small area in the north-east of the site is mapped as Resource Enhancement Wetland. The site also contains a portion of intact Banksia Woodland vegetation on the southern portion of the site.

Existing development on the site consists of a single dwelling and outbuilding. The site is partially cleared and historically used for agriculture and equine activities.

Development approval was granted by Council at its 27 March 2017 OCM, for the extraction of approximately 1 million m³ of Bassendean sand over three (3) stages as depicted following. Extraction is to occur over approximately 5 years. The extraction area covers a total area of 12.24ha of the site with excavation depths ranging from two to seven metres subject to groundwater levels. Minutes of Council meeting can be viewed within **attachment 1**.



Staging Plan

Five conditions of the approval were appealed to the State Administrative Tribunal (SAT). The most significant of these conditions related to restrictions imposed by Council on clearing of vegetation within the stage 3 extraction area and the contribution amount required for the upgrade of Yangedi/Hopeland Road as follows:

1. *Stage 3 and an associated 20 metre buffer identified on plan 'figure 2' 'staging plan' does not form part of this approval as the clearing of native vegetation results in the removal of Banksia Woodlands which is listed as endangered under the Environment Protection and Biodiversity Conservation Act 1999 and the Environment Protection Act 1986;*
2. *Prior to the commencement of works the developer shall make a substantial or complete contribution to the costs associated with the required upgrading of Hopeland Road and Karnup Road intersection. The contribution is to be negotiated with the Shire.*

Council considered the above matters as a result of a SAT reconsideration order at its 27 August 2017 OCM and later at the 26 February 2018 OCM. These matters have been successfully resolved and modified conditions agreed. Council minutes of the above OCMs can be viewed within **attachments 2 and 3**.

Community Consultation

No consultation has occurred as part of this EIL as consultation occurred previously as part of the planning approval process in 2017. Details of this can be viewed within **attachment 1**.

Statutory Environment

Shire of Serpentine Jarrahdale Extractive Industries Local law.



Planning Assessment

Extractive Industry License

An assessment of the EIL application was undertaken by Officers against the *Shire of Serpentine Jarrahdale Extractive Industries Local Law*. The application comprised of the following key documents previously approved as part of the planning process and can be viewed within **attachment 4**:

- Rehabilitation Management Plan;
- Flora and Vegetation Survey;
- Dust Management Plan;
- Acoustic Assessment;
- Water Management Plan;
- Transport impacts assessment;
- Fire and Emergency Plan;
- Retention Plan; and
- Pavement Plan.

Following conclusion of the technical assessment, Officers are satisfied with the information submitted. A comprehensive level of assessment has also been undertaken of the above plans during the initial planning approval process in 2017. As such, this provides the Shire with a good degree of certainty that the development will be undertaken in a manner which will address environmental and amenity impacts.

In terms of the conditions relating to vegetation clearing and the contribution amount towards the Yangedi/Karnup Road intersection upgrade, the following is relevant:

Vegetation Clearing

Council sought to protect the vegetation complex within the stage 3 extraction area as a large portion of the vegetation complex was identified as having a condition of 'Good to Very Good' with portions also identified as 'degraded'. Through the SAT process, the applicant proposed a 20 metre extraction buffer from the 'Good to Very Good' vegetation to ensure it is protected and retained. This position was supported by Council at its 26 February 2018 OCM. This ultimately meant that the area to be cleared is now slightly smaller than previously proposed.



The amended stage 3 extraction area is depicted following:



Retained Banksia Woodlands Incorporation TPZ and Batter

The condition was amended to reflect the above plan and also to ensure that fencing and the batter associated with the buffer is implemented prior to extraction works occurring onsite. This can be viewed within **attachment 5**.

Monetary Contribution

In relation to the condition imposed requiring the contribution towards the upgrade Yangedi/Karnup Road intersection, this was initially imposed as the vehicles associated with the operation move through the intersection to access major transport routes. The intersection was deemed to be unsafe as large vehicles could not leave the intersection without crossing oncoming traffic.

The Shire's position was that the applicant had to contribute a significant amount of the upgrade based on usage. Through the SAT process, it was negotiated that a contribution commensurate with the Commodity Route Fund Program criteria would be an appropriate amount. This would allow the Shire to obtain funding for the intersection upgrade, with the funding criteria requiring both industry and local government contributions. The matter was ultimately presented to Council at the February Ordinary Council Meeting where a contribution amount of \$33,750 was agreed and reflective of the increase demand for the intersection upgrade resulting from the development.



The intersection has recently been upgraded and the contribution has been received. Image following reveals the upgraded intersection and proximity of intersection to subject site:



Intersection Upgrade

As the conditions of approval have been met and the above matter successfully resolved and met, Officers recommend that the EIL be issued to the applicant.

Options and Implications

Option 1

That Council resolves to APPROVE the application for an 'Extractive Industry Licence' at Lot 137 (394) Hopeland Road, Hopeland under the Shire of Serpentine Jarrahdale Extractive Industries Local Law, and authorises the Chief Executive Officer to issue an Extractive Industry License.

Option 2

That Council resolves to REFUSE the application.

Option 1 is recommended.



Conclusion

The application is for an extractive industry licence, reflecting the approval granted in 2017 (and later modified through the SAT process). The original planning application was subject to an extensive consultation and assessment process. The report now recommended Council grant an EIL, to enable the operations on the land to commence.

Attachments (available under separate cover)

- **10.1.10 - attachment 1** – 27 March 2017 OCM Minutes (CR17/23)
- **10.1.10 - CONFIDENTIAL attachment 2** – 28 August 2017 OCM Minutes (CR17/134)
- **10.1.10 - CONFIDENTIAL attachment 3** – 26 February 2018 OCM Minutes (CR18/19)
- **10.1.10 - attachment 4** – EIL Application (IN20/27955)
- **10.1.10 - attachment 5** – Existing Notice of Determination (IN20/24492)

Alignment with our Strategic Community Plan

Strategy 1.1.2	Provide a healthy community environment
Strategy 1.3.1	Comply with relevant local and state laws, in the interests of the community
Strategy 1.3.2	Support local emergency services
Strategy 1.3.3	Enhance community safety
Outcome 2.1	A diverse, well planned built environment
Strategy 2.2.4	Support community groups (both new and existing), who are preserving and enhancing the natural environment.
Outcome 2.3	A productive rural environment

Financial Implications

There are no financial implications as part of this report.



Risk Implications

Risk has been assessed on the Officer Options and Implications

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council Refusing the application in its current location, which may result in an appeal to the Minister of local Government pursuant to Part 9 of the Local Government Act</i>	<i>Local Law- Extractive Industry</i>	Financial	Possible	Insignificant	LOW	Accept Officer Recommendation
2	<i>Council Approving the application in its current location, which may result in an appeal to the Minister of local Government pursuant to Part 9 of the Local Government Act</i>	<i>Local Law- Extractive Industry</i>	Reputation	Possible	Moderate	MODERATE	Impose conditions on the approval requiring compliance with relevant management plans.



Voting Requirements: Simple Majority

Officer Recommendation

That Council:

1. APPROVES the application contained within attachment 1 for an 'Extractive Industry Licence' at Lot 137 (394) Hopeland Road, Hopeland under the Shire of Serpentine Jarrahdale Extractive Industries Local Law subject to the following conditions:
 - a. The landowner/licensee shall operate the site in accordance with the Shire of Serpentine Jarrahdale's Extractive Industry Local Law and the Shire's development approval conditions for an extractive industry at Lot 137 (394) Hopeland Road, Hopeland.
 - b. The landowner shall pay the annual Extractive Industries Licence fee as set by the Shire of Serpentine Jarrahdale Fees and Charges.
 - c. The landowner/licensee shall comply with the Management Plans, Extractive Industry Approval and Licence conditions as approved by the Shire of Serpentine Jarrahdale and any subsequent amendments to them as agreed in writing between the Shire and the landowner/licensee, and to provide all reports and documents as required by the Extractive Industry Approval and License conditions.
 - d. The license expires on 13 August 2023, which matches the expiry of the planning approval.
2. AUTHORISES the Chief Executive Officer to issue the Extractive Industry Licence, in line with this decision.

The below Amended Officer Recommendation was distributed to Councillors on Monday, 16 November 2020, prior to the Ordinary Council Meeting. The Amended Officer Recommendation was issued to correct the date of the expiry of the extractive industry licence.

Amended Officer Recommendation

That Council:

1. APPROVES the application contained within attachment 1 for an 'Extractive Industry Licence' at Lot 137 (394) Hopeland Road, Hopeland under the Shire of Serpentine Jarrahdale Extractive Industries Local Law subject to the following conditions:
 - a. The landowner/licensee shall operate the site in accordance with the Shire of Serpentine Jarrahdale's Extractive Industry Local Law and the Shire's development approval conditions for an extractive industry at Lot 137 (394) Hopeland Road, Hopeland.
 - b. The landowner shall pay the annual Extractive Industries Licence fee as set by the Shire of Serpentine Jarrahdale Fees and Charges.
 - c. The landowner/licensee shall comply with the Management Plans, Extractive Industry Approval and Licence conditions as approved by the Shire of Serpentine Jarrahdale and any subsequent amendments to them as agreed in writing between the Shire and the landowner/licensee, and to provide all reports and documents as required by the Extractive Industry Approval and License conditions.



- d. The license expires on 26 February 2023, which matches the expiry of the planning approval.
2. **AUTHORISES** the Chief Executive Officer to issue the Extractive Industry Licence, in line with this decision.

OCM362/11/20

COUNCIL RESOLUTION / Amended Officer Recommendation

Moved Cr Byas, seconded Cr Denholm

That Council:

1. **APPROVES** the application contained within attachment 1 for an 'Extractive Industry Licence' at Lot 137 (394) Hopeland Road, Hopeland under the Shire of Serpentine Jarrahdale Extractive Industries Local Law subject to the following conditions:
 - a. The landowner/licensee shall operate the site in accordance with the Shire of Serpentine Jarrahdale's Extractive Industry Local Law and the Shire's development approval conditions for an extractive industry at Lot 137 (394) Hopeland Road, Hopeland.
 - b. The landowner shall pay the annual Extractive Industries Licence fee as set by the Shire of Serpentine Jarrahdale Fees and Charges.
 - c. The landowner/licensee shall comply with the Management Plans, Extractive Industry Approval and Licence conditions as approved by the Shire of Serpentine Jarrahdale and any subsequent amendments to them as agreed in writing between the Shire and the landowner/licensee, and to provide all reports and documents as required by the Extractive Industry Approval and License conditions.
 - d. The license expires on 26 February 2023, which matches the expiry of the planning approval.
2. **AUTHORISES** the Chief Executive Officer to issue the Extractive Industry Licence, in line with this decision.

CARRIED UNANIMOUSLY 9/0

**Director Development Services, Mr Trosic declared an Impartiality Interest in item 10.1.11.**

10.1.11 - Adoption of amendments to Byford District Structure Plan (SJ2362)	
Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is for Council to adopt amendments to the Byford District Structure Plan 2020. Following advertising, a number of submissions have been received, which has assisted officers in collaborating with stakeholders and the community to arrive at a set of recommended amendments to ensure that the Byford DSP is current and relevant. Adopting amendments to the Byford DSP will enable a modernised planning framework to effectively guide detailed Structure Plans, subdivision and development within Byford.

It is recommended that the amendments to the DSP be adopted by Council.

Relevant Previous Decisions of Council

<p><i>Ordinary Council Meeting - 17 December 2018 - OCM147/12/18</i></p> <p><i>That Council:</i></p> <ol style="list-style-type: none"><i>1. Pursuant to Schedule 2, Part 4, Clause 17 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems the Byford District Structure Plan 2018 to be compliant with clause 16(1) and deems it satisfactory for advertising in terms of clause 18 of the Regulations.</i><i>2. Pursuant to Part 5, Division 2, Clause 37 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems Scheme Amendment 208 to be a Complex scheme amendment in terms of clause 35(1) and deems it satisfactory for advertising.</i><i>3. Pursuant to Section 75 of the Planning and Development Act 2005 (as amended) and regulation 35(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to proceed to advertise Scheme Amendment 208 Byford Development Contribution Scheme to the Shire of Serpentine Jarrahdale Town Planning Scheme No.2.</i><i>4. Requests that the Western Australian Planning Commission allow the Byford District Structure Plan 2018 to be advertised for a period exceeding the maximum prescribed, to allow it to be advertised alongside Scheme Amendment 208.</i>
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Background

The Byford District Structure Plan area is located within the Shire of Serpentine Jarrahdale, and is generally bound by Thomas Road to the north, the existing Byford Town Site to the east, Cardup Siding Road to the south and Hopkinson Road to the west.

Provision 1 of Development Area 3 listed under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, provides that the Byford Development Area is subject to the provisions of the Byford District Structure Plan. This is a District Structure Plan, that was granted final approval by Council on 22 August 2005, and has been amended from time to time.

This updated Draft District Structure Plan, adopted by Council for advertising at the 17 December 2018 meeting, represents the latest set of amendments aimed at ensuring the planning framework remains modern and relevant, and particularly aims to ensure infrastructure is coordinated and scaled reflective of the patterns of density and development now taking place.

One of the key changes is a review of infrastructure to support an updated population and dwelling forecast, which by 2034 is expected to see Byford reach:

- 15,000 dwellings;
- A population of around 40,000 to 45,000 people.

This is from a current base of around 7,000 dwellings, and population of 20,100.

This report considers:

- Recommendation arising from submissions received and;
- The most appropriate head of power in which to adopt the District Structure Plan.

Community / Stakeholder Consultation

The amendments to the Byford District Structure Plan were formally advertised for a period of 94 days, ending on 30 August 2020.

Statutory Environment

Legislation

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.*

State Strategies

- Southern Metropolitan Perth and Peel Sub-Regional Frameworks;
- Perth and Peel 3.5 Million.

Local Strategies

- Draft Local Planning Strategy.



Planning Comment

Introduction

The adoption of amendments to the District Structure Plan seeks to ensure Council has a responsive and contemporary planning framework that has regard for, and effectively plans for, greater densities of subdivision and development taking place. It is noteworthy to compare that the original 2005 version of the DSP anticipated a total population of around 30,000 people, or 10,000 dwellings. This was based on a prevailing traditional residential density of R20 across the area, and on average 500sqm lot sizes.

Subsequent to this, State Government Strategic Planning for regional growth has focussed upon denser patterns of development in new urban areas, and consolidation of existing urban areas, as a planning response to curtail the outward shift of urban development. The rationale of a consolidated urban form, arranged around activity centres located along activity corridors, has created a significant change in patterns of development than were originally anticipated in all areas of the metropolitan region.

For the context of Byford, the market has responded in respect of creating new lot sizes that, on average, now range between 300 to 400sqm. This has meant that a DSP planning framework that anticipated a population of around 30,000 people, is needing to evolve to effectively plan and deliver the infrastructure for a population closer to 45,000 people. This has important implications, that (through amendments to the DSP), can be addressed and collaboratively planned for in terms of supporting the diverse and heightened range of community needs that come with this increased population and density patterns.

The reviewed Byford District Structure Plan 2020 encompasses a suite of amendments to the current DSP. It does not vary the intent or broad land uses included in the current DSP, but seeks to reflect the modern reality of increased densities and development that are taking place, and the resulting planning of structures needed to support such. The amendments are informed by a number of important strategic plans and documents, including:

- The Byford District Water Management Strategy Review 2018;
- The Traffic Impact Assessment Study completed by Cardno - November 2018;
- Current Local Structure Plans for the Byford District Structure Plan area with their supporting studies;
- The Shire of Serpentine Jarrahdale's Activity Centres Strategy;
- Byford Parking and Access Strategy with their supporting technical studies; and
- Development Contribution Plans for Byford.

The Byford District Structure Plan 2020, once adopted, will consolidate the abovementioned planning documents. It better reflects a number of State and local policy changes and incorporates a significant number of strategic documents that have been produced since the current Byford District Structure Plan was adopted, and some strategic decisions that impact on the district structure plan.

It is important to note that the Byford District Structure Plan 2020 and the Byford Development Contribution Plan (Amendment 207 to the scheme) were advertised together as they complement each other in terms of the infrastructure provision and justification. Development contributions are payments or in-kind works, facilities or services provided by developers towards the supply



of infrastructure required to meet the future needs of the community. Generally, the development contribution plans are linked to district structure plans as it provides the mechanism for the funding of infrastructure. The two plans therefore cover the same area and address the same district level infrastructure.

Changes from the original Byford District Structure Plan 2009

The modifications that have been made to the Byford District Structure Plan 2020 to address the above policy changes and comments received during the preliminary community engagement process are provided below:

1. Increased residential density in the Byford Town Centre and establishment of the Metronet precinct around the proposed Byford Railway Station.
2. Identification of development investigation areas DIA1 (description as per 1.5.11), DIA2 (description as per 1.5.11) and DIA3 (description as per 1.5.11).
3. Updated version of the Byford Town Centre Local Structure Plan.
4. Identification of neighbourhood centres to provide local services in close proximity to urban growth areas, in accordance with the relevant approved local structure plans.
5. Identification of the Cardup Business Park within the Byford District Structure Plan area.
6. Provision of a new district open space in the southern portion of the Byford District Structure Plan area.
7. Extension of internal north-south road linkages to the west of Soldiers Road to provide for through connection between San Simeon Road and Turner Road;
8. Extension of Orton Road through to South Western Highway to reduce traffic congestion on Soldiers Road;
9. Extension of internal east-west linkage at Clara Street to facilitate internal movements around the Town Centre providing ease of access to parking and drop-off zones;
10. Extension of the Tonkin Highway providing a major freight route to Mundijong.
11. Identification of character protection areas.
12. Identification of Local Structure Plan precincts and the main considerations within each Local Structure Plan area.

How best to adopt amendments to an existing District Structure Plan

As listed under previous decisions of Council, in December 2018 Council resolved to progress amendments to the DSP. Procedurally these were to be advertised in accordance with the Deemed Provisions, however it was unclear as to whether adoption was ultimately intended under the head of power provided by the Deemend Provisions, or under the head of power provided by TPS2.

Officers discussed this issue with the Department of Planning Lands and Heritage, and it was pointed out that the Deemed Provisions reference Structure Plans, which typically are the step just before subdivision and development takes place. In respect of this proposal, it is a District Structure Plan, and still requires a following process of a Structure Plan to be prepared, before subdivision and development occurs. Officers therefore recommend that Council continue with



the head of power used since the first 2005 Byford DSP, which is provided under Provision 1 of Development Area 3 under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2. This states:

The Byford Development Area is subject to the provisions of the Byford Structure Plan granted final approval by Council on 22 August 2005, as amended from time to time.

Modifications resulting from Submissions

The proposed modifications arising out of submissions are detailed following. These reflect a valuable degree of input that submitters have provided officers, and demonstrates that through modifications the amendments to the DSP can be aligned with intended development patterns that are planned for Byford going forward.

The full Schedule of Submissions is attachment 2 to the report, and details the specific officer response to the submissions received.

The Table of Modifications recommended as a result of consideration of submissions, is attachment 3 to the report.

Substantial modifications are discussed in more detail following.

1. That a boundary re-adjustment be made to align with Development Area 3. This will ensure that the DSP reflects the most accurate spatial extent and aligns with the 'Urban' zoned land.
2. That Lot 33 Hopkinson Road be represented as Low (Suburban) density, which graduates to Low (Transitional) density on the southern and eastern peripheries, to ensure a careful interface is provided to equine properties, prevailing rural uses and the conservation reserve. This should also identify that further investigation is to occur in respect of public primary and/or high school requirements.
3. That the structural changes reflected in the recent amendments to the Byford Town Centre Local Structure Plan be reflected. This ensures the evolving access, road network, environmental corridor and land use arrangements are consistent between the DSP and amended Local Structure Plan.
4. That the outcome regarding the negotiations about the Cardup/Orton oval be reflected. This is to require a revised oval design which is a single senior Australian rules football oval, which can also accommodate two rectangular pitches in the footprint of the oval.
5. That the updated road design configurations consistent with the Cardno study are reflected in the amendments to the DSP. This ensures the DSP accurately depicts the Cardno informing study.
6. That Soldiers Road not attempt to deviate through Gordin Way, and instead remain as a predominant north south link on the current alignment from Orton Road to Abernethy Road. This is particularly important to avoid private land acquisition and to avoid sending large amounts of traffic along the eastern edge of Briggs Park, that would fragment connection of residential areas to the District Open Space.
7. That the ultimate extension of Orton Road through to South West Highway be identified at grade, and the 30m reservation be equally position along the common boundaries requiring an equal 15m strip of land from both side.
8. That Clara Street be depicted as an at grade crossing which connects to George Street, reflective of the planning for the Metronet Station at Byford.



9. That the West Byford Neighbourhood Open Space be identified for potential rectangular sports subject to further investigation and consideration.
10. That the Cardup Brook Structure Plan precinct north and south of Orton Road be amended to reflect the adopted Local Structure Plan, which rationalises the future location of the local centre and service commercial land use.
11. That the Metronet station precinct and associated road planning be reflected.
12. That each precinct description be updated to reflect the associated amendments.
13. That the land situated at Lot 2 South Western Highway be designated as Special Use, consistent with Council's decision at the 20 April 2020 meeting (OCM091/04/20).
14. Lot 33 being designated for both a future public primary school and public high school.

Options and Implications

Option 1

That Council ENDORSES the Schedule of Submissions contained in attachment 2 and ADOPTS the amendments to Byford District Structure Plan, as contained within attachment 3 schedule of modifications, in accordance with Provision 1 of Development Area 3.

Option 2

That Council DOES NOT ADOPT the amendments to the Byford District Structure Plan.

Option 1 is recommended.

Conclusion

The item to Council presents amendments to the Byford District Structure Plan and requests that Council adopt the amendments, subject to modifications. The process to get to this point has been collaborative and officers consider the amendments provide an updated and mature framework in which to guide the remaining development of Byford.

Attachments (available under separate cover)

- **10.1.11 - attachment 1** - Advertised Byford District Structure Plan (IN18/27615)
- **10.1.11 - attachment 2** - Schedule of Submissions (E20/6131)
- **10.1.11 - attachment 3** - Schedule of Modifications (E20/11970)

Alignment with our Strategic Community Plan

Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework
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Financial Implications

There are no direct financial implications by adopting the amendments.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council does not adopt amendments and does not provide an update framework in which to guide subsequent Structure Plans, subdivision and development.</i>	<i>The Town Planning Scheme allows Council to approve amendments to a DSP for a development area.</i>	Social / Community Outcomes	Possible	Minor	LOW	Council to agree with the Officers recommendation
2.	<i>Council adopts amendments and provides an update framework in which to guide subsequent Structure Plans, subdivision and development.</i>	<i>The Town Planning Scheme allows Council to approve amendments to a DSP for a development area.</i>	Social / Community Outcomes	Likely	Insignificant	LOW	Council to agree with the Officers recommendation



Continued

Ordinary Council Meeting Minutes
Monday, 16 November 2020

Voting Requirements: Simple Majority

OCM363/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strautins

That Council:

- 1. ENDORSES the Schedule of Submissions contained in attachment 2;**
- 2. ADOPTS the amendments to the Byford District Structure Plan, as contained within attachment 3, in accordance with Provision 1 of Development Area 3 of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.**

CARRIED UNANIMOUSLY 9/0



Director Development Services, Mr Trosic declared an Impartiality Interest in item 10.1.12.
Councillor McConkey declared an Impartiality Interest in item 10.1.12.

10.1.12 – Adoption of amendments to Mundijong Whitby District Structure Plan (SJ2362)	
Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is for Council to adopt amendments to the Mundijong Whitby District Structure Plan. Following advertising, a number of submissions have been received, which has assisted officers in collaborating with stakeholders and the community to arrive at a set of recommended amendments to ensure that the Mundijong Whitby DSP is current and relevant.

Adopting amendments to the Mundijong Whitby DSP will enable a modernised planning framework to effectively guide detailed Structure Plans, subdivision and development within Mundijong and Whitby. Whereas Mundijong and Whitby are only at the early phase of development delivery, the current 2011 version of the District Structure Plan has been identified and recommended for a suite of amendments in order to provide an updated and responsive structure to guide future subdivision and land use response.

It is recommended that the amendments to the DSP be adopted by Council.

Council is also asked to consider a position in respect of dealing with a comprehensive submission received on behalf of landowners, located on the immediate western side of the West Mundijong Industrial Area which contemplates urbanisation. Council are asked to consider the merits of this submission, in light of recent announcements in terms of State Government infrastructure investment and project decisions.



Relevant Previous Decisions of Council

Ordinary Council Meeting – 17 December 2018 - OCM148/12/18

That Council:

- 1. Pursuant to Schedule 2, Part 4, Clause 17 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems the Mundijong District Structure Plan 2018 to be compliant with clause 16(1) and deems it satisfactory for advertising in terms of clause 18 of the Regulations.*
- 2. Pursuant to Part 5, Division 2, Clause 37 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems Scheme Amendment 209 to be a Complex scheme amendment in terms of clause 35(1) and deems it satisfactory for advertising.*
- 3. Pursuant to Section 75 of the Planning and Development Act 2005 (as amended) and regulation 35(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to proceed to advertise Scheme Amendment 209 Mundijong Development Contribution Scheme to the Shire of Serpentine Jarrahdale Town Planning Scheme No.2.*
- 4. Requests that the Western Australian Planning Commission allow the Mundijong District Structure Plan 2018 to be advertised for a period exceeding the maximum prescribed, to allow it to be advertised alongside Scheme Amendment 209.*

Background

The Mundijong Whitby District Structure Plan area is located within the Shire of Serpentine Jarrahdale, and is generally bound by Bishop Road and Norman Road to the north, South West Highway to the east, Mundijong Road and Watkins Road to the south and Kargotich Road to the west.

Provision 1 of Development Area's 1 and 2 listed under Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, provides that:

“A single District Structure Plan is to be adopted to guide subdivision and development and will cover the areas of Development Areas No. 1 and 2. Any Local Structure Plans subsequently adopted within the area of the District Structure Plan shall be subject to the provisions of the District Structure Plan.”

The original Mundijong Whitby District Structure Plan was approved by the Western Australian Planning Commission in 2011, and was prepared to guide the preparation of more detailed Structure Plans, facilitating subdivision and development within the Mundijong area.

This updated Draft District Structure Plan, adopted by Council for advertising at the 17 December 2018 meeting, represents the latest set of amendments aimed at ensuring the planning framework remains modern and relevant, and particularly aims to ensure infrastructure is coordinated and scaled reflective of the patterns of density and development expected to take place.



One of the key changes is a review of infrastructure to support an updated population and dwelling forecast, which is expected to see Mundijong and Whitby ultimately reach:

- Between 15,000 and 20,000 dwellings and;
- A population of around 40,000 to 50,000 people.

This is from a current base of around 1,200 dwellings, and population of 3,300 people. It is noteworthy that the 2011 District Structure Plan predicted a total population build out of between 30,000 to 40,000 people.

By 2034, it is expected that Mundijong and Whitby will be about:

- 7,500 dwellings
- 20,000 people.

This report considers:

- Recommendations arising from submissions received;
- The most appropriate head of power in which to adopt the amendments to the District Structure Plan;
- Council considering a position in respect of dealing with a comprehensive submission received on behalf of landowners, located on the immediate western side of the West Mundijong Industrial Area which contemplates urbanisation.

Community / Stakeholder Consultation

The amendments to the Mundijong Whitby District Structure Plan were formally advertised for a period of 94 days, ending on 30 August 2020.

Statutory Environment

Legislation

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- *Shire of Serpentine Jarrahdale Town Planning Scheme No. 2*.

State Strategies

- Southern Metropolitan Perth and Peel Sub-Regional Frameworks;
- Perth and Peel 3.5 Million.

Local Strategies

- Draft Local Planning Strategy.



Planning Comment

Introduction

The adoption of amendments to the District Structure Plan seeks to ensure Council has a responsive and contemporary planning framework that has regard for, and effectively plans for, greater densities of subdivision and development taking place. It is noteworthy to compare that the original 2011 version of the DSP anticipated a total population of around 30,000 to 40,000 people, or 10,000 to 15,000 dwellings. This was based on a prevailing traditional residential density of R20 across the area, and average 500sqm lot sizes.

Subsequent to this, State Government Strategic Planning for regional growth has focussed upon denser patterns of development in new urban areas, and consolidation of existing urban areas, as a planning response to curtail the outward shift of urban development. The rationale of a consolidated urban form, arranged around activity centres located along activity corridors, has created a significant change in patterns of development than were originally anticipated in all areas of the metropolitan region.

For the context of Mundijong and Whitby, the market is predicted to deliver lot sizes that, on average, now range between 300sqm to 400sqm. This has meant that a DSP planning framework that anticipated a population of around 30,000 to 40,000 people, is needing to evolve to effectively plan and deliver the infrastructure for a population closer to 45,000 people. This has important implications, that (through amendments to the DSP), can be addressed and collaboratively planned for in terms of supporting the diverse and heightened range of community needs that come with this increased population and density patterns.

The reviewed Mundijong Whitby District Structure Plan encompasses a suite of amendments to the current DSP. It does not vary the intent or broad land uses included in the current DSP, but seeks to reflect the modern reality of increased densities and development that will take place, and the resulting planning of structures needed to support such. The amendments are informed by a number of important strategic plans and documents, including:

- The current District Structure Plan for Mundijong and Whitby;
- The West Mundijong District Structure Plan;
- The Mundijong District Water Management Strategy Review 2018;
- The Traffic Impact Assessment Study completed by Cardno - November 2018;
- Current Local Structure Plans for the Mundijong District Structure Plan area with their supporting studies;
- The Shire of Serpentine Jarrahdale's Activity Centres Strategy;
- Mundijong Parking and Access Strategy with the supporting technical studies; and
- Development Contribution Plans for Mundijong and Whitby.

The associated amendments to the Mundijong Whitby District Structure Plan, once adopted, will consolidate the abovementioned planning documents. It better reflects a number of State and local policy changes and incorporates a significant number of strategic documents that have been produced since the 2011 District Structure Plan was adopted, and some strategic decisions that impact on the district structure plan.



Changes from the original Mundijong Whitby District Structure Plan 2011

The modifications that have been made to the Mundijong Whitby District Structure Plan 2020 to address the above policy changes and comments received during the preliminary community engagement process are provided below:

1. Consolidating previous plans for the area and improving the response to the State planning frameworks (most notably the Perth and Peel @ 3.5 Million and its South Metropolitan subregional framework), new State planning policies and local planning frameworks;
2. Providing more emphasis on the redevelopment around the Mundijong town centre and railway station for the civic function and expressly encouraging the establishment of two larger activity centres, one in Mundijong (civic/ governance) and one in Whitby (retail);
3. Improved local distributor road network including realignment of future roads to improve connectivity to and within the Mundijong District Structure Plan area;
4. A less schematic and realistic re-alignment of freight rail based on more detailed studies;
5. Residential density ranges included on the structure plan map;
6. Identification of three development investigation areas;
7. Co-location of education and recreation facilities to make more efficient use of land and improve social cohesion in line with the Shire's approved community infrastructure strategies and plans;
8. Identification of locations for district and neighbourhood level public open space;
9. Relocation of the existing wastewater pump station (further south) and establishment of a new one in the Mundijong Industrial area;
10. More accurate delineation of multiple use corridors;
11. Relocation of the proposed neighbourhood centre on the western side of the Mundijong District Structure Plan area to respond to practical realities;
12. Identification of locations for a University Campus and cemetery east of South Western highway; and
13. Relocation of the proposed TAFE to a site north of the District centre as per the approved Local Structure Plan.



How best to adopt amendments to an existing District Structure Plan

As listed under previous decisions of Council, in December 2018 Council resolved to progress amendments to the DSP. Procedurally these were to be advertised in accordance with the Deemed Provisions, however it was unclear as to whether adoption was ultimately intended under the head of power provided by the Deemed Provisions, or under the head of power provided by TPS2.

Officers discussed this issue with the Department of Planning Lands and Heritage, and it was pointed out that the Deemed Provisions reference Structure Plans, which typically are the step just before subdivision and development takes place. In respect of this proposal however, it is a District Structure Plan, and still requires a following process of a Structure Plan to be prepared, before subdivision and development occurs. Officers therefore recommend that Council continue with the head of power used in the 2011 Mundijong Whitby DSP, which is provided under Provision 1 of Development Area's 1 and 2 of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2. This states:

"A single District Structure Plan is to be adopted to guide subdivision and development and will cover the areas of Development Areas No. 1 and 2. Any Local Structure Plans subsequently adopted within the area of the District Structure Plan shall be subject to the provisions of the District Structure Plan."

Council of course has the option to consider adoption under the auspices of the Deemed Provisions, however officers consider that a clear head of power is listed for a District Structure Plan under the Scheme, and officers recommend this is the proper approach in which to consider amendments to that Plan also.

It is noted that the submission received from the landowner group on the western side of West Mundijong, identified adoption under the Deemed Provisions. Officers however do not agree that the Deemed Provisions are the most appropriate framework in which to progress a District Structure Plan amendment, in light of the head of power listed specifically for a District Structure Plan under Provision 1 of DA1 and 2 of the Scheme. Officers also note that the Deemed Provisions do not reference District Structure Plans.



Modifications resulting from Submissions

The proposed modifications arising out of submissions are detailed following. These reflect a valuable degree of input that submitters have provided officers, and demonstrates that through modifications the amendments to the DSP can be aligned with intended development patterns that are planned for Mundijong and Whitby going forward.

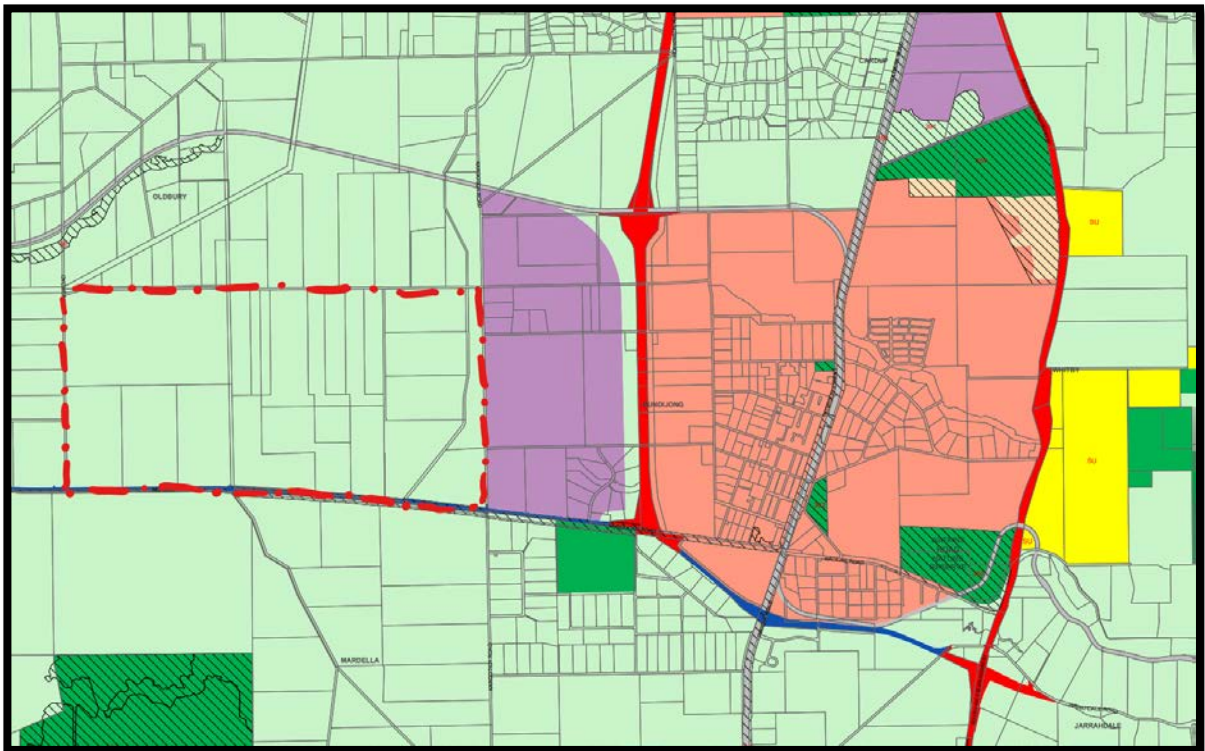
The full Schedule of Submissions is attachment 2 to the report, and details the specific officer response to the submissions received.

The Table of Modifications recommended as a result of consideration of submissions, is attachment 3 to the report.

The most substantial modifications are discussed in more detail below:

1. That the boundary of the Mundijong Whitby District Structure Plan be modified to reflect the designated 'Urban' and 'Industrial' zoned portions under the Metropolitan Region Scheme, and the 'Urban Expansion' areas as designated under the Southern Metropolitan Perth and Peel Subregional Frameworks document.

It is noted that a submitter representing landowners on the western side of Kargotich Road, made a very comprehensive submission raising a number of arguments as to why this landholding should be considered for an additional Investigation DSP Area to the District Structure Plan. This is shown in red following, and is outside the DSP area:



Officers have maintained a consistent position with the submitter, who similarly submitted for potential to be identified for the landholding as part of Council's recent consideration of the Draft Local Planning Strategy and Draft Local Planning Scheme No. 3. Council did not support this request of the submitter, noting the proposal was inconsistent with the prevailing local and regional strategic planning frameworks.



Officers note that, like all planning proposals, there are merit based assessments that need to look afresh at a proposal. In this regard, a merits based assessment of this proposal does indeed identify that a number of significant State Government infrastructure and project decisions have been made in recent months, which not only influence the amendments to the District Structure Plan, but the proposal submitted by these landowners on the western side of West Mundijong. These project and infrastructure decisions include:

- commitment to fund the extension of Tonkin Highway from Thomas Road to South West Highway;
- commitment to investigate the possibility of the freight rail deviation;
- commitment to the final decision of Westport (located in Cockburn Sound at the northern end of the Kwinana Industrial Area)
- the primary east west freight corridor linking Westport to Tonkin Highway identified as Anketell Road and Thomas Road;
- commitment to deliver the Byford Metronet project;
- commitment to an intermodal terminal at West Mundijong;
- commitment to review of the Perth and Peel Southern Metropolitan and Peel Subregional Frameworks document (which is the current basis that shows the land as staying Rural).

Officers have relayed through meetings with the applicant for this land, that the Shire's prevailing local planning framework, which is based upon the prevailing State planning framework, has consistently shown the land remaining Rural. It would appear prudent however, for Council to seek formal advice from the responsible Hon Minister and Chair of the WAPC, to either reaffirm or update the Council on what may be the prevailing State Government position on the future of this land.

Officers note and appreciate that an extensive array of research has underpinned the submission made by the applicant, which points (in their opinion) to a number of planning advantages that would come with considering an urban outcome on this land. These notably include representation that density targets may be more achievable with further urban land added to the mix for Mundijong.

Officers however equally point out that:

- Mundijong will strategically develop over an extended time period;
- development is based upon two designated district centres (Whitby and Mundijong), and there is every expectation that future development will include a variety and mix of dwelling types, in order to deliver planned density targets;
- the civic and governance district centre at Mundijong, will be underpinned by an ultimate Mundijong station precinct, with long term planning to deliver at some point extension of the passenger rail system to Mundijong. This will further drive density and dwelling diversification, to achieve projected growth;

Given the range of issues that are relevant to this submission, officers recommend seeking an updated position of the Minister and Chair of the WAPC be requested.

Until such clarity is obtained, it would not be appropriate for the Shire (at this stage) to contemplate the addition of this land as a further Development Investigation Area or similar.



2. That the West Mundijong area be identified as a single precinct within the Mundijong Whitby District Structure Plan, in order to reflect Council's decision of 19 August 2019 to progress with a Local Structure Plan for the precinct.
3. That additional primary and secondary school locations be specifically identified within the 'Urban Expansion' areas (which are identified as DIA1 and DIA2), based on the feedback provided by the Department of Education and the Department of Planning, Lands and Heritage.
4. That the updated road design configurations consistent with the Cardno study are reflected in the amendments to the DSP. This ensures the DSP accurately depicts the Cardno informing study.
5. That a neighbourhood centre be indicated as per the current Precinct G LSP at the intersection of Taylor Road and the southern LSP boundary.
6. That a 'service corridor', be indicated immediately to the east of the Tonkin Highway extension and identify it as "Public Purpose - Utilities" consistent with the intended use of the land for sewer and other key infrastructure provision.
7. That the District Structure Plan is modified to be consistent with regard to infrastructure requirements specific to the Skyline Boulevard and Tinspar Avenue connections.
8. That all maps be modified to consistently indicate two connections from the Whitby estate to South West Highway as negotiated between the Shire, WAPC and Main Roads.
9. That the freight rail realignment be accurately identified as a State Government project, and that a notation be added to the District Structure Plan map that refers to the project detail as provided by Main Roads WA.
10. That grade separated interchanges be accurately identified as only being driven by future decisions, should they occur, to extend the metropolitan passenger rail service south of Byford;
11. That the proposed district open space adjoining the Mundijong High School on Kiernan Street be removed, on the basis that the High School site is sufficiently large enough already. Instead, the DSP indicate the desire for the Shire to work with the Department of Education to pursue a community access agreement to their future oval, delivered as part of the future high school development. This will ensure that only land designated for the high school is identified on the DSP.



Options and Implications

Option 1

That Council ENDORSES the Schedule of Submissions contained in attachment 2 and ADOPTS the amendments to Mundijong Whitby District Structure Plan, as contained within attachment 3 schedule of modifications, in accordance with Provision 1 of Development Area's 1 and 2.

Option 2

That Council DOES NOT ADOPT the amendments to the Mundijong Whitby District Structure Plan.

Option 1 is recommended.

Conclusion

The item to Council presents amendments to the Mundijong Whitby District Structure Plan and requests that Council adopt the amendments, subject to modifications. The process to get to this point has been collaborative and officers consider the amendments provide an updated and mature framework in which to guide the development of Mundijong and Whitby.

Attachments (available under separate cover)

- **10.1.12 - attachment 1** – Advertised Mundijong District Structure Plan (IN18/27616)
- **10.1.12 - attachment 2** – Schedule of Submissions (E20/6132)
- **10.1.12 - attachment 3** – Schedule of Modifications (E20/11971)

Alignment with our Strategic Community Plan

Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework
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Financial Implications

There are no direct financial implications by adopting the Mundijong District Structure Plan 2020.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Council does not adopt amendments and does not provide an update framework in which to guide subsequent Structure Plans, subdivision and development.</i>	<i>The Town Planning Scheme allows Council to approve amendments to a DSP for a development area.</i>	Social / Community Outcomes	Possible	Minor	LOW	Council to agree with the Officers recommendation
2.	<i>Council adopts amendments and provides an update framework in which to guide subsequent Structure Plans, subdivision and development.</i>	<i>The Town Planning Scheme allows Council to approve amendments to a DSP for a development area.</i>	Social / Community Outcomes	Likely	Insignificant	LOW	Council to agree with the Officers recommendation



Voting Requirements: Simple Majority

OCM364/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr Byas

That Council:

- 1. ENDORSES the Schedule of Submissions contained in attachment 2;**
- 2. ADOPTS the amendments to the Mundijong Whitby District Structure Plan, as contained within attachment 3, in accordance with Provision 1 of Development Area's 1 and 2 of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2;**
- 3. REQUESTS the CEO to write to the Hon Minister for Planning, and Chair of the WAPC, seeking an updated government position on whether the current Rural precinct bound by Leipold Road, Kargotich Road, Mundijong Road and King Road is proposed for changing under the State Planning Framework, and the outcomes of this be reported back to Council.**

CARRIED UNANIMOUSLY 9/0



Director Development Services, Mr Trosic declared an Impartiality Interest in item 10.1.13.

10.1.13 - Adoption of amendments to Byford Traditional Infrastructure Development Contribution Plan - adoption of Scheme Amendment 208 (PA18/778)	
Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
Legislative	Includes adopting local laws, local planning schemes and policies.

Report Purpose

The purpose of this report is for Council to consider adoption of Amendment 208 to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2. This amendment seeks to adjust the current Development Contribution Area No. 1 through the addition and modification to identified shared infrastructure to support new development, which culminates in a new Development Contribution Plan Report No. 6 (DCP6).

Following advertising, a number of submissions have been received, which has assisted officers in collaborating with stakeholders and the community, to arrive at a set of recommended amendments to ensure that Amendment 208 and its resulting Byford Traditional Infrastructure DCP are current and relevant. Refinement of the amendment through engagement with submitters has assisted in identifying an optimal layout and extent of infrastructure, and which keeps contribution costs in line with the revision recently undertaken as part of DCP5.

Adopting Amendment 208 (subject to the recommended modifications), will ensure a shared and equitable approach to the funding of common infrastructure items, that is required as Byford continues its urbanization journey.

It is recommended that Council adopt, with modification, Amendment 208, and the associated DCP6, following which they will be sent to the Western Australia Planning Commission (WAPC) with a request for final approval by the Minister.



Relevant Previous Decisions of Council

Final approval of Byford Traditional Infrastructure Development Contribution Plan No. 1 (SJ612-03) adopted by Council 9 December 2013:

OCM094/12/13 COUNCIL DECISION / Officer Recommendation:

That Council:

- 1. Note the Schedule of Submissions and endorse the officer comments contained in attachment OCM094.2/12/13.*
- 2. Adopt the Byford Traditional Infrastructure Development Contribution Plan Report No 1 contained in OCM094.1/12/13.*
- 3. Note that, following gazettal of Amendment 168 to Town Planning Scheme No 2, the adoption of the Development Contribution Plan Report No 1 formally brings into operation the Byford Traditional Infrastructure Development Contribution Plan.*

Background

The amendment to include the Byford Traditional Infrastructure Development Contribution Area within the Shire was initiated in 2005. This initiation allowed the Western Australian Planning Commission (WAPC) to place the obligation to pay a DCP contribution on subdivision approvals. This obligation was secured through Interim Development Deeds that required the subdivider to provide security in the form of cash, bank guarantee or security over land.

Following the gazettal of the Development Contribution Area No. 1, Council was required to adopt a DCP Report (and cost apportionment schedule) within 90 days (as per State Planning Policy No. 3.6 s.6.3.10). Council adopted the DCP Report No.1 on 9 December 2013 (OCM09/12/13).

The DCP Report and the associated cost apportionment schedule sets out in detail the calculation base of the cost contribution for each owner, in accordance with the methodology shown in the DCP. The DCP Report is a dynamic document to maintain the currency of cost apportionment and contribution liability. This is due to such costs, like land and infrastructure construction costs, always being subject to change. The previous reviews took place as indicated below:

- DCP Report No.1 enabled the contribution liability for each development to be calculated as at 21 January 2014;
- DCP Report No.2 enabled the contribution liability for each development to be calculated as at 30 June 2014;
- DCP Report No.3 enabled the contribution liability for each development to be calculated as at 30 June 2015;
- DCP Report No. 4 enabled the contribution liability for each development to be calculated as at 6 July 2017;
- DCP Report No. 5 enabled the contribution liability for each development to be calculated as at 27 July 2020.

Appendix 10A of TPS2 under the heading of “Review Process” also requires that “The development contribution plan will be reviewed when considered appropriate, having regard to the rate of subsequent development in the area since the last review and the degree of



development potential still existing, but not exceeding a period of 5 years.” This Amendment 208 and Byford Development Contribution Plan Report No. 6, constitutes the five-year full review.

In December 2018, Council adopted Amendment 208 (**attachment 1**) and the associated draft DCP6 (**attachment 2**) which seeks to introduce new items of infrastructure and amend provisions of some existing infrastructure within the DCA. This was adopted as a complex amendment, requiring consent to advertise from the Western Australian Planning Commission. Approval for advertising was granted by the WAPC in April 2020.

Both the Amendment and the draft DCP were publicly advertised between 21 May 2020 and 31 August 2020 (the advertising and submissions period being extended by request, from an original closure date of 20 July 2020).

These documents reflect an extensive process of reconciliation and forward planning that aligns both the DCP area and the infrastructure inclusions with the concurrently advertised amendments to the Byford District Structure Plan (DSP), associated strategic plans, submissions received throughout the formal advertising process, and other informing studies undertaken by Shire.

It is a requirement of SPP 3.6 that a final DCP be issued within 90 days of an amendment being gazetted. Subject to adoption by Council and approval from the Hon Minister, it is the intention of officers to finalise cost contributions and infrastructure extents within this 90 day period, alongside reconciliation of development up to the date of publishing the final DCP6.

Community / Stakeholder Consultation

Industry Reference Group Presentations

A presentation on the content of Amendment 208 was provided to the Byford Industry Reference Group (BIRG) on 6 December 2019. A follow up presentation on the key submission points received as part of advertising, along with officer comments, was given to the BIRG on 16 October 2020. Both meetings were attended by developers and landholders within the area.

Advertising of the Amendment

The *Planning and Development (Local Planning Schemes) Regulations 2015* provides that development contribution schemes are ‘complex’ scheme amendments and require WAPC consent to be advertised. After working closely with officers of the Department of Planning, Lands and Heritage for the first nine months of 2019, consent to advertise was received from the WAPC. In advertising a complex amendment, the Regulations prescribe a minimum timeframe of 60 days and require advertising as follows:

- Publishing on the Shire’s website;
- A hard copy be available at the front counter of the administration building;
- Publishing as an advertisement in the local paper (the Examiner);
- A copy of the notice being provided to each public authority that the local government considers may be affected by the amendment.

The modification proposed to DCA1 as part of Amendment 208 and the proposed DCP6, were formally advertised for a period of 94 days, ending on 30 August 2020. Additionally an electronic communication was sent to all BIRG members with notification of the commencement of the advertising period and inviting submissions.



A total of 21 submissions were received, of which ten made recommendations. A Schedule of Submissions that include officer responses to the submissions is provided at **attachment 3** to this document.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No. 2*

State Government Policies

- *Southern Metropolitan Perth and Peel Sub-Regional Frameworks*
- *Perth and Peel 3.5 Million*
- *State Planning Policy 3.6 Development Contributions for Infrastructure 2009 (SPP 3.6)*

Local Planning Framework

- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2*
- *Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3*
- *Community & Public Open Space Strategy (CIPOSS)*
- *Community Infrastructure Implementation Plan (CIIP)*
- *Draft Byford District Structure Plan 2020*

Planning Assessment

The full detail of each submission and officer response to each point, is contained within **attachment 3** of this report. A table detailing all recommendations is included in **attachment 4** of this report. A summary of the key recommendations that seek to amend the documents, as advertised, are included below:

Item	Submissions/issues	Proposed Modifications
Community POS site	The Community POS site, as agreed with the landowner for the Byford Town Centre LSP, should be noted within the DCP.	<p>That wording be included in the Byford Traditional Infrastructure DCP and Amendment, noting that Community POS forms part of the POS provision allocated in the DCP.</p> <p>That Figure 5 in the Byford Traditional Infrastructure DCP be updated to reflect the changed position and size of the POS, and the community site, in line with the amended LSP for the Town Centre.</p>



Item	Submissions/issues	Proposed Modifications
Orton Road alignment	Requested that the route of Orton Road be reflected equally between the northern and southern landholdings to provide equitable share of the required land take for the road reserve.	That the extension of Orton Road be noted on the Roads Map in the Byford Traditional Infrastructure DCP (and within the amended Byford DSP) be aligned equitably between land parcels throughout the full length.
Orton Road rail crossing	The treatment and costs of the Orton road rail crossing, as included in the DCP are unclear.	That an <u>at-grade</u> rail crossing at Orton road be noted as an included item within the Byford Traditional Infrastructure DCP text and Amendment 208.
George Street	The upgrades to George Street have been mostly completed under the existing local planning policy framework.	Recommend removal of George Street from the Byford Traditional Infrastructure DCP and the Amendment.
Thomas Road	<p>The previously noted exclusions applicable to the Thomas Road project and costings has been omitted (in error) from the latest DCP revision.</p> <p>The State Government has tendered the grade separation bridge over the railway reserve on Thomas Road. This bridge will span 500m each side of the freight rail reserve. Thomas Road costings include land and road upgrades from the Tonkin Highway to the Rail Reserve. Costs now being covered by the State Government should be removed from the DCP.</p>	<p>That the previously noted exclusions for Thomas Road in the Byford Traditional Infrastructure DCP text be re-inserted in the DCP text.</p> <p>That 500m length of construction and associated land costs be removed from the Byford Traditional Infrastructure DCP and text reflecting the portion be added to the DCP and Amendment.</p>
Clara Street	<p>The extension between George St and the South Western Highway is no longer required. According to the planning for the Metronet precinct, Clara Street will intersect with George Street.</p> <p>Officers also recommend that Clara Street be noted as a separate project, as there is no obvious</p>	<p>That the section between George Street and South Western Highway be removed within the Amendment and Byford Traditional Infrastructure DCP text, and costs and maps updated accordingly.</p> <p>That Clara Street be reflected as a stand-alone project within the Amendment text, Byford Traditional Infrastructure DCP text and costings.</p>



Item	Submissions/issues	Proposed Modifications
	reason to include this within the Sansimeon Boulevard project.	
Doley Road	<p>The extension of Doley Road south of Orton Road will be required primarily to service Lot 33 Hopkinson Road which has recently been rezoned to “Urban”.</p> <p>The DPLH have identified the opportunity for Lot 33 Hopkinson Road be included within the Development Contribution Areas for both Amendment 207 (Community DCP – CIDCP) and this Amendment 208.</p> <p>This inclusion will require the construction of the Cardup Bridge crossing which was not previously included.</p>	<p>That Lot 33 Hopkinson be included in the DCA maps and referenced as Area E (replacing George Street), which will contribute an equal share with other contributing Areas towards the following:</p> <ul style="list-style-type: none"> - Administration - Water Monitoring - Land for Roads, POS and DOS - DOS infrastructure - Orton Road - San Simeon Boulevard - Warrington Road - Thomas Road - Soldiers Road - Doley Road north of Orton Road <p>It is further recommend that costs associated with the Doley Road extension south of Orton Road, and the Cardup Brook bridge crossing, be split 75% for Area E and 25% Area A.</p>
Soldiers Rd & Gordin Way	Officers conclude that a more cost effective, improved planning and logical north-south route is Soldiers Road up to Abernethy Road, instead of any attempt to deviate through Gordin Way. This will avoid traffic impacting on the eastern edge of Briggs Park, which would otherwise fragment the existing residential community from the district open space area.	Recommend removal of the Gordin Way upgrade and inclusion of Soldiers Road upgrade to Abernethy in the Amendment text, Byford Traditional Infrastructure DCP text, costings and maps.
The Glades District Open Space	The portion of DoE land over which part of this oval was to be situated (under an anticipated Shared Use	That this project be amended to reflect a full sized soccer (rectangular) field and that the



Item	Submissions/issues	Proposed Modifications
	<p>Agreement), has been developed on by the school. The remaining land ceded to the Shire under the DCP is not sufficient to accommodate a full size AFL oval.</p> <p>Officers therefore recommend that this project be amended to reflect a full sized soccer pitch, which can be accommodated on the adjacent land.</p> <p>A soccer pitch can be delivered for roughly the same amount as half an AFL oval (which is the amount currently costs within the DCP). This change therefore does not affect the costings in the DCP.</p> <p>It also addresses an under-provision of rectangular sporting facilities in Byford. It is further noted, that Council's resolution to deliver two AFL ovals at Keirnan Park and one oval at Orton Road, meets the demand for AFL facilities in Byford.</p>	<p>scope, justification and any potential cost savings, be reflected in the Amendment and the Byford Traditional Infrastructure DCP.</p>
Reimbursement of credits	<p>A developer has requested priority to payout an earned credit in advance of delivering otherwise listed priority infrastructure.</p>	<p>Officers support some greater clarity as to the management of credits, to reflect the new SPP3.6 which is proposed to be introduced. This sets out the following new SPP provisions:</p> <p><i>6.7.2.12 c) and d):</i></p> <p><i>c) Where a developer has no further holdings in the DCA, the amount is held by the local government as a credit to the developer until payments into the DCP are received from subsequent developers to cover the credited amount. The credit is then reimbursed to the developer as soon as circumstances permit.</i></p> <p><i>d) Where the DCP fund is in credit from developer contributions already received, the credit should be reimbursed as soon as the</i></p>



Item	Submissions/issues	Proposed Modifications
		<p><i>circumstances permit on completion of the works/ceding of land and having regard to the priority and timing of DCP works.</i></p> <p>The common question in respect of 6.7.2.12c) is what “as soon as circumstances permit” practically means.</p> <p>Compared to 6.7.2.12d), the Shire has current priority infrastructure identified under DCA1 as Abernethy Road and Thomas Road. Amendment 208 seeks to identify new priority infrastructure of San Simeon Boulevard and Indigo Parkway, and de-emphasise Thomas Road as priority infrastructure.</p> <p>It is considered reasonable that new priority infrastructure needs to be considered alongside pre-existing credits, and would not automatically overtake pre-existing credits - rather, the circumstances of the DCP would need to be considered and balanced in respect of credit timing vs infrastructure need. Officers would also seek to align decision making, reflective of the prevailing State Planning Policy 3.6 framework. Reflecting the SPP is what Departmental officers suggest also, given this underpins the overall governance framework for developer contributions.</p> <p>The following wording is recommended in this regard to provide clarity for developers:</p> <p><i>“If a developer has completed development of all their land within the DCP area, and they have a residual credit owed to them, the Developer may apply for this</i></p>



Item	Submissions/issues	Proposed Modifications
		<i>residual credit to be paid out by any available DCP funds. Such decision will be at the discretion of Council, based upon the State Planning Policy 3.6 and the current circumstances of the DCP. This includes the date at which the credit was realised, the status of current priority infrastructure and any new priority infrastructure.”</i>

Options and Implications

Option 1

That Council ENDORSES the Schedule of Submissions contained in attachment 3 and ADOPTS, Amendment No. 208 to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and DCP6, with such modifications listed within Attachment 4 Table of Modifications, and ENDORSES submission to the WAPC and Minister for final approval.

Option 2

That Council DOES NOT ADOPT Amendment No. 208 and DCP6.

Option 1 is recommended.

Conclusion

The item to Council presents amendments to the Byford Traditional Infrastructure DCP and Amendment 208, and requests that Council adopt the amendments, subject to modifications. The process to get to this point has been collaborative and officers consider the amendments provide an updated and mature framework in which to guide the development of Byford.

Attachments (available under separate cover)

- **10.1.13 - attachment 1** – Scheme Amendment No. 208 as advertised (E20/5279)
- **10.1.13- attachment 2** – Byford Traditional DCP Report number 6 as advertised (E20/5280)
- **10.1.13 - attachment 3** – Summary of Submissions (E20/6130)
- **10.1.13 - attachment 4** – Table of Modifications (E20/12359)

Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.1	Provide well planned and maintained public open space and community infrastructure
Outcome 2.1	A diverse, well planned built environment
Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework



Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 3.3	An innovative, connected transport network
Strategy 3.3.1	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Asset Management Plans
Outcome 4.2	A strategically focused Council
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions

Financial Implications

The modifications to Amendment 208 will influence the forward Capital Works Plan, Long Term Financial Plan, and annual budgets. The total cost of shared infrastructure and administration costs to be funded through the DCP, over the remaining duration of the Amendment, is circa \$91,433,784. The life of the plan is to 2034.

The contribution cost per lot for developers will therefore be:

- Area A: \$12,486;
- Area B: \$8,325;
- Area C: \$3,977;
- Area D: \$8,325;
- Area E: \$10,979.

Risk Implications

Risk has been assessed on the basis of the Officer's options.

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risks associated with Council ADOPTING the modifications proposed to Amendment No. 208.						



Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
2	If Council DOES NOT ADOPT the modifications proposed to Amendment No. 208, the WAPC may not endorse the Amendment to the Minister, causing delays, which may result in development occurring within newly added development areas, for which we cannot collect contributions, resulting in a funding deficit, or infrastructure lagging behind demand.	The currently gazetted Amendment considers much of the infrastructure included, however no controls are in place in respect of newly added development areas and new, or extended, infrastructure inclusions.	Financial	Unlikely	Catastrophic	Moderate	Accept officer recommendation



Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
2.	If Council DOES NOT ADOPT the modifications proposed to Amendment No. 208, the development community and/or the WAPC, may feel the submissions have not been adequately considered, resulting in reputational damage to the Shire and lack of support for the Amendment.	Nil	Reputation	Unlikely	Moderate	Moderate	Accept officer recommendation



Voting Requirements: Simple Majority

OCM365/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strautins

That Council:

- 1. Pursuant to Section 75 of the *Planning and Development Act 2005* and regulation 35(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **ADOPTS** Scheme Amendment No. 208 **SUBJECT** to the modifications as contained within attachment 5;**
- 2. As part of Amendment 208, resolves to APPROVES** the accompanying Development Contribution Plan Revision 6 (DCP6), **SUBJECT** to the modifications contained within attachment 5;
- 3. FORWARDS** two (2) copies of Amendment No. 208 to Town Planning Scheme No. 2 to the Western Australian Planning Commission in accordance with Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CARRIED UNANIMOUSLY 9/0



Councillor Atwell declared a Financial Interest in item 10.1.14 and left the Chambers at 9.08pm prior to this item being discussed.

Director Development Services, Mr Trosic declared an Impartiality Interest in item 10.1.14.

Councillor McConkey declared an Impartiality Interest in item 10.1.14.

10.1.14 - Consideration of adoption of Scheme Amendment No. 209 including West Mundijong Industrial Development Contribution Plan No. 3 and Mundijong Whitby Urban Traditional Infrastructure Development Contribution Plan No. 1 (PA17/780)	
Responsible Officer:	Manager Strategic Planning
Senior Officer:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
Legislative	Includes adopting local laws, local planning schemes and policies.

Report Purpose

The purpose of this report is for Council to consider adoption of Amendment 209 to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2. This amendment seeks to adjust the current infrastructure within Development Contribution Area No. 2 (as it pertains to the West Mundijong Industrial Area) and add a new Development Contribution Area No. 3 (Mundijong Whitby Urban Traditional Infrastructure). The report also deals with adopting Development Contribution Plan No. 3 for DCA2, and the new Development Contribution Plan No. 1 for new DCA3.

Following advertising, a number of submissions have been received, which has assisted Officers in collaborating with stakeholders and the community, to arrive at a set of recommended modifications to ensure that Amendment 209 and the associated DCPs, are current and relevant. Adopting the amendment will ensure that developers fund the appropriate infrastructure items, required as a result of the demand they create, through subdivision and development within the West Mundijong Industrial Development Contribution Area No. 2 and the new Mundijong Whitby Urban Traditional Infrastructure Development Contribution Area No. 3.

It is recommended that Amendment 209 be adopted subject to modifications, together with the modified DCP3 and DCP1 reports. Following this, it is recommended these be sent to the Western Australia Planning Commission (WAPC), with a request for final approval by the Minister.

**Relevant Previous Decisions of Council**

OCM148/12/18 COUNCIL RESOLUTION / Officer Recommendation:

That Council:

- 1. Pursuant to Schedule 2, Part 4, Clause 17 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems the Mundijong District Structure Plan 2018 to be compliant with clause 16(1) and deems it satisfactory for advertising in terms of clause 18 of the Regulations.*
- 2. Pursuant to Part 5, Division 2, Clause 37 of the Planning and Development (Local Planning Schemes) Regulations 2015 deems Scheme Amendment 209 to be a Complex scheme amendment in terms of clause 35(1) and deems it satisfactory for advertising.*
- 3. Pursuant to Section 75 of the Planning and Development Act 2005 (as amended) and regulation 35(1) of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to proceed to advertise Scheme Amendment 209 Mundijong Development Contribution Scheme to the Shire of Serpentine Jarrahdale Town Planning Scheme No.2.*
- 4. Requests that the Western Australian Planning Commission allow the Mundijong District Structure Plan 2018 to be advertised for a period exceeding the maximum prescribed, to allow it to be advertised alongside Scheme Amendment 209.*

Background

In December 2018, Council adopted Amendment 209 (**attachment 1**), along with the associated development contribution plans for West Mundijong Industrial (**attachment 2**) and Mundijong Whitby Urban Traditional Infrastructure (**attachment 3**). Amendment 209 was adopted as a complex amendment, requiring that consent to advertise be obtained from the Western Australian Planning Commission (WAPC).

The amendment and DCPs identify the shared infrastructure projects and associated cost-share arrangements between the Shire and developing landowners, for infrastructure required for growth within the West Mundijong Industrial and Mundijong Whitby Urban areas.

The West Mundijong Industrial development contribution area (DCA2), is currently operative within the Scheme, with version 2 of its DCP setting out the current contribution rate. The new revision under this amendment (to be revision DCP 3) seeks to update the infrastructure inclusions for DCA2.

The West Mundijong Industrial DCP Report and the associated cost apportionment schedule, sets out in detail the calculation base of the cost contribution for each owner, in accordance with the methodology shown in the DCP. The DCP Report needs to be a dynamic document to maintain the currency of the cost apportionment and contribution liability. This is due to such costs, like land and infrastructure construction costs, always being subject to change. The previous reviews took place as indicated below:

- DCP Report No.1 enabled the contribution liability for each development to be calculated as at 13 February 2018.
- DCP Report No.2 enabled the contribution liability for each development to be calculated as at 1 October 2020.



Appendix 10A of TPS2 under the heading of “Review Process” also requires that “The development contribution plan will be reviewed when considered appropriate, having regard to the rate of subsequent development in the area since the last review and the degree of development potential still existing, but not exceeding a period of 5 years.” This Amendment 209 and the West Mundijong Industrial Development Contribution Plan Report No. 3, constitutes this major review.

Amendment 209 also seeks to introduce a new development contribution area (DCA3) for the Mundijong Whitby Urban area and the associated Mundijong Whitby Urban Traditional Infrastructure DCP version 1.

Both the Amendment and DCPs were publicly advertised between 21 May 2020 and 31 August 2020 (the advertising and submissions period being extended by request, from an original closure date of 20 July 2020).

These documents and the recommended modifications detailed within this report, reflect an extensive process of reconciliation and forward planning that aligns the DCA areas and the infrastructure inclusions, with the concurrently advertised amendments to the Mundijong Whitby District Structure Plan (DSP), associated strategic plans, submissions received throughout the formal advertising process, and other informing studies undertaken by Shire.

It is a requirement of SPP 3.6 that a final DCP be issued within 90 days of an amendment being gazetted. Subject to adoption by Council and approval from the Hon Minister, it is the intention of officers to finalise cost contributions and infrastructure extents within this 90 day period, alongside further reconciliation of development up to the date of publishing the approved DCPs.

Community / Stakeholder Consultation

Industry Reference Group Presentations

A presentation on the content of Amendment 209 was delivered to the Mundijong Industry Reference Group (MIRG) on 9 December 2019. This meeting was attended by developers and landholders within the area. Officers also received a submission on behalf of the MIRG in response to the amendment, and have considered the issues raised in this and all other submissions received.

Advertising of the Amendment

The *Planning and Development (Local Planning Schemes) Regulations 2015* provides that development contribution schemes are ‘complex’ scheme amendments and require WAPC consent to be advertised. After working closely with officers of the Department of Planning, Lands and Heritage for the first nine months of 2019, consent to advertise was received from the WAPC.

In advertising a complex amendment, the Regulations prescribe a minimum timeframe of 60 days and require advertising as follows:

- Publishing on the Shire’s website;
- A hard copy be available at the front counter of the administration building;
- Publishing as an advertisement in the local paper (the Examiner);
- A copy of the notice being provided to each public authority that the local government considers may be affected by the amendment;



The amendments to the Mundijong Whitby Urban Traditional Infrastructure DCP, the West Mundijong Industrial DCP and Amendment 209, were formally advertised for a period of 94 days, ending on 30 August 2020. Additionally an electronic communication was sent to all MIRG members, with notification of the commencement of the advertising period and inviting submissions.

A total of nineteen submission responses were received, of which nine made recommendations. A Schedule of Submissions that include officer responses to the submissions is provided as **attachment 4** to this document.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No. 2*

State Strategies

- *Southern Metropolitan Perth and Peel Sub-Regional Frameworks*
- *Perth and Peel 3.5 Million*
- *State Planning Policy 3.6 Development Contributions for Infrastructure 2009 (SPP 3.6)*

Local Planning Framework

- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2*
- *Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3*
- *Community & Public Open Space Strategy (CIPOSS)*
- *Community Infrastructure Implementation Plan (CIIP)*
- *Draft Mundijong District Structure Plan 2020*

Planning Assessment

The full detail of each submission and officer response to each point, is contained within **attachment 4** of this report. A table detailing all recommendations is included as **attachment 5** of this report. A summary of the key recommendations that seek to amend the documents, as advertised, are included below:

Grade separated crossings	The inclusion of the grade separated crossings (which are road crossings over a freight and regional transport rail line) should not be included in the DCP. The funding for these works falls under the responsibility of the state, not the local government and/or the developers of land	Removal of grade separated crossings from the Amendment 209 and Mundijong Urban DCP costs, map and text.
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	contained within DCA3. These are also dependent on future decision making, in respect of the extension of the metropolitan passenger rail network south of Byford.	
Period of operation:	The DPLH have advised that they recommend the previously submitted CIDCP to be reduced to a 15 year lifespan. It is anticipated that a similar requirement will be placed upon Amendment 209 for the Mundijong Urban DCA/DCP.	That the Amendment 209 and Mundijong Urban DCP be amended to reflect a completion date of 2034, to align with the CIDCP (and Byford Traditional DCP).
Population forecasts	Population estimates and build out progress have been extensively reviewed through consultation with developers, the Department of Education and review of Forecast ID estimates. Subject to the previous recommendation regarding the reduced period of operation, the anticipated increase in lots during this period to 2034, is anticipated to be 7,200.	That the lots over which infrastructure costs are shared, within the Mundijong Urban DCP, be set at 7,200 reached by 2034.
Infrastructure included	The revised anticipated population and growth areas, have substantially reduced the need for provision of DOS and the extent of road upgrades required.	<p>That the following projects be <i>removed</i> from Amendment 209 and Mundijong Whitby Urban Traditional Infrastructure DCP given the revised timeframe of 2034:</p> <ul style="list-style-type: none"> • DSS Mundijong High School; • NOS Whitby North Primary School • NOS Adam St/Cockram St; • Mundijong Rd East/Watkins Rd; • Galvin Rd. <p>That the following projects be <i>amended</i> within Amendment 209 and the Mundijong Whitby Urban Traditional Infrastructure DCP given the revised timeframe to 2034:</p>



		<ul style="list-style-type: none"> • Paterson St/Soldiers Rd upgrade: removal of Paterson St section; • Bishop Rd East: removal of portion to east of Bett Rd; • Taylor Rd/Adams St: Adams St portion to be removed; • North South Road: removal of section north of Galvin Road; • Skyline Blvd: removal of section north of Town Centre Rd.
Reimbursement of credits	To provide clarity in respect of the payment of credits.	<p>Officers support some greater clarity as to the management of credits, to reflect the new SPP3.6 which is proposed to be introduced. This sets out the following new SPP provisions:</p> <p><i>6.7.2.12 c) and d):</i></p> <p><i>c) Where a developer has no further holdings in the DCA, the amount is held by the local government as a credit to the developer until payments into the DCP are received from subsequent developers to cover the credited amount. The credit is then reimbursed to the developer as soon as circumstances permit.</i></p> <p><i>d) Where the DCP fund is in credit from developer contributions already received, the credit should be reimbursed as soon as the circumstances permit on completion of the works/ceding of land and having regard to the priority and timing of DCP works.</i></p> <p>The common question in respect of 6.7.2.12c) is what “as soon as circumstances permit” practically means.</p> <p>Compared to 6.7.2.12d), the Shire may identify priority infrastructure throughout the timeframe of the DCP.</p>



		<p>It is considered reasonable that the timing of priority infrastructure needs to be considered alongside the timing of credits, to ensure the policy expectations of SPP3.6 are met. Reflecting the SPP is what Departmental officers suggest, given this underpins the overall governance framework for developer contributions.</p> <p>The following wording is recommended in this regard to provide clarity for developers:</p> <p><i>“If a developer has completed development of all their land within the DCP area, and they have a residual credit owed to them, the Developer may apply for this residual credit to be paid out by any available DCP funds. Such decision will be at the discretion of Council, based upon the State Planning Policy 3.6 and current circumstances of the DCP. This includes the date at which the credit was realised, the status of current priority infrastructure and any new priority infrastructure.”</i></p>
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Options and Implications

Option 1

That Council ENDORSES the Schedule of Submissions contained in attachment 4 and ADOPTS with modifications Amendment No. 209 to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and DCP3 and DCP1, with such modifications listed within Attachment 5 Table of Modifications, and ENDORSES submission to the WAPC and Minister for final approval.

Option 2

That Council DOES NOT ADOPT Amendment No. 209 to Shire of Serpentine Jarrahdale Town Planning Scheme No. 2 and DCP3 and DCP1.

Option 1 is recommended.



Conclusion

The purpose of this report is for Council to consider the West Mundijong Industrial DCP, the Mundijong Whitby Urban Traditional Infrastructure DCP and Amendment 209, in light of advertising that has occurred. As a result of advertising and consideration of submissions, modifications are recommended. It is recommended Council adopt the amendment and the DCPs subject to this, and submit to the WAPC and Minister for final approval.

The item to Council presents amendments to the West Mundijong Industrial DCP, Mundijong Whitby Urban Traditional Infrastructure DCP and Amendment 209, and requests that Council adopt the amendments, subject to modifications. The process to get to this point has been collaborative and officers consider the amendments provide an updated and mature framework in which to guide the development of Mundijong.

Attachments (available under separate cover)

- **10.1.14 - attachment 1** – Scheme Amendment No. 209 as advertised (E20/5303)
- **10.1.14 - attachment 2** – West Mundijong Industrial DCP Report as advertised (E20/5305)
- **10.1.14 - attachment 3** – Mundijong Urban DCP Report as advertised (E20/5304)
- **10.1.14 - attachment 4** – Summary of Submissions (E20/5999)
- **10.1.14 - attachment 5** – Table of Modifications (E20/12316)

Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.1	Provide well planned and maintained public open space and community infrastructure
Outcome 2.1	A diverse, well planned built environment
Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 3.3	An innovative, connected transport network
Strategy 3.3.1	Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Asset Management Plans
Outcome 4.2	A strategically focused Council
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions



Financial Implications

The modifications to Amendment 209 will influence the forward Capital Works Plan, Long Term Financial Plan, and annual budgets.

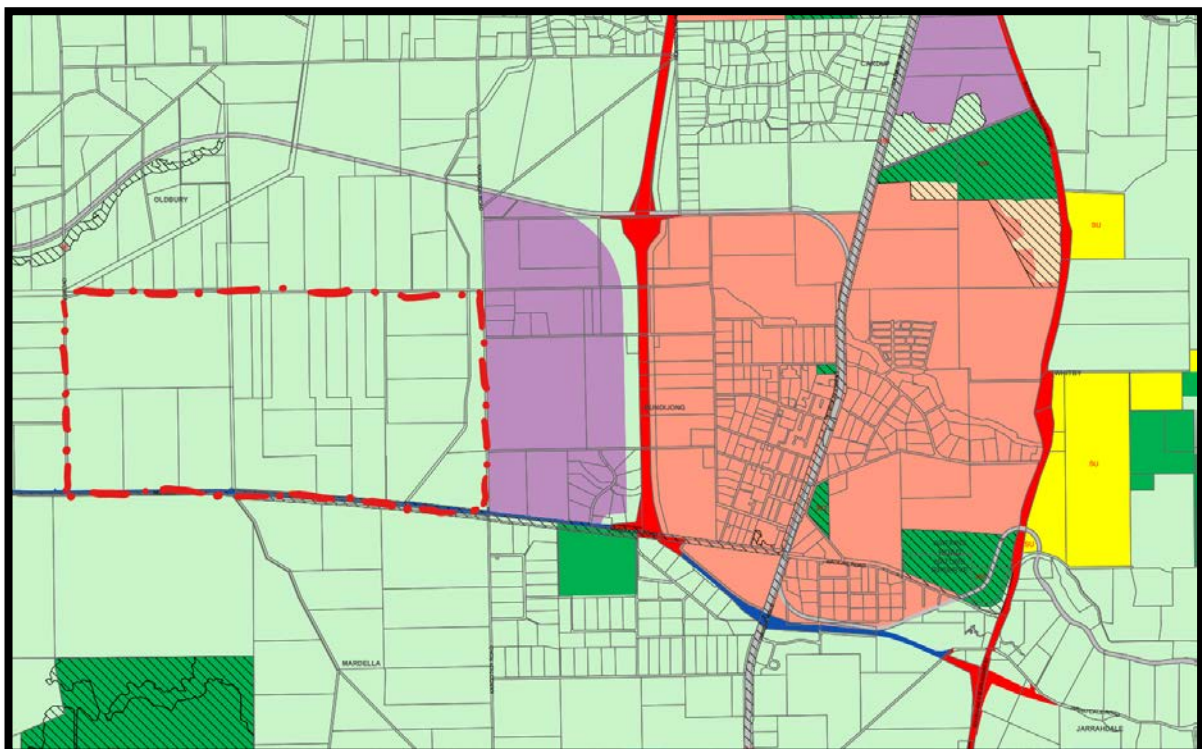
The total remaining cost of shared infrastructure and administration costs to be funded through the West Mundijong Industrial DCP, is circa \$51,745,092 (reduced from \$53,446,723 as advertised, primarily due to \$1.25m grant from MRWA for the Mundijong/Kargotich Roundabout). The life of the plan is to 10 years (to 2028).

The contribution cost per metre squared for developers will therefore be \$13.89 (decreased from \$14.14 as advertised).

The total remaining cost of shared infrastructure and administration costs to be funded through the Mundijong Whitby Urban Traditional Infrastructure DCP, is circa \$72,035,364 (reduced from \$218,649,340 as advertised). The life of the plan is recommended at 14 years (to 2034).

The contribution cost per lot for developers will therefore be \$9,576 (reduced from \$13,057 as advertised).

As mentioned in the associated report for the amendments to the Mundijong Whitby District Structure Plan, a submitter representing landowners on the western side of Kargotich Road, made a very comprehensive submission raising a number of arguments as to why this landholding should be considered for an additional supply of lots, which to help dilute and thus reduce costs for the Mundijong Whitby Urban DCA3. This land is shown following:



Subject land

Officers have maintained a consistent position with the submitter, who similarly submitted for development potential to be identified for the landholding, as part of Council's recent consideration of the Draft Local Planning Strategy and Draft Local Planning Scheme No. 3.



Council did not support this request of the submitter, noting the proposal was inconsistent with the prevailing local and regional strategic planning frameworks.

Given the separation of the precinct from the urban centre of Whitby and Mundijong, officers would further be concerned in being able to justify how the two precincts could share infrastructure, given the separation by a major industrial area. Officers are of the view that, at least on initial consideration, it would be difficult to justify to developers in both precincts why they should share infrastructure contributions.

The very detailed points made in the submission, while noted, are not considered to be able to sustain a positive view as to why the land on the western side of Kargotich Road, should be contemplated for inclusion in the DCP. Officers note:

- Such would not reflect the regional planning framework;
- Such would not reflect the local planning framework;
- Officers will find it difficult to justify to Council that both precincts ought to contribute to infrastructure in their respective precincts, due to the largely independent nature of these precincts.

Risk Implications

Risk has been assessed on the basis of the Officer's options.

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	There are no significant risks associated with Council ADOPTING the modifications proposed to Amendment No. 209.						



2	If Council DOES NOT ADOPT the modifications proposed to Amendment No. 209, the WAPC may not endorse the Amendment to the Minister, causing delays which may result in development occurring for which we cannot collect contributions, resulting in a funding deficit, or infrastructure lagging behind demand.	Nil	Financial	Unlikely	Catastrophic	Moderate	Accept officer recommendation
2.	If Council DOES NOT ADOPT the modifications proposed to Amendment No. 209, the development community and/or the WAPC, may feel the submissions have not been adequately considered, resulting in reputational damage to the Shire and lack of support for the Amendment.	Nil	Reputation	Unlikely	Moderate	Moderate	Accept officer recommendation



Voting Requirements: Simple Majority

OCM366/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strautins

That Council:

- 1. Pursuant to Section 75 of the *Planning and Development Act 2005* and regulation 35(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, **ADOPTS** Scheme Amendment No. 209 **SUBJECT** to the modifications outlined in accordance with attachment 5;**
- 2. As part of Amendment 209, resolves to APPROVES** the West Mundijong Industrial Development Contribution Plan revision 3 (DCP3) and Mundijong Urban Development Contribution Plan revision 1 (DCP1), **SUBJECT** to the modifications outlined in accordance with attachment 5;
- 3. FORWARDS** two (2) copies of Amendment No. 209 to Town Planning Scheme No. 2 to the Western Australian Planning Commission in accordance with Regulation 37(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CARRIED UNANIMOUSLY 8/0

Councillor Atwell returned to the Chambers at 9.09pm.

Presiding Member, Councillor Rich advised Councillor Atwell of the Council Resolution for item 10.1.14.



10.1.15 – Local Planning Policy 4.21: Rural Short Stay Accommodation (SJ2541)

Responsible Officer:	Manager Strategic Planning
Senior Officer/s:	Director Development Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies
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Proponent: Shire of Serpentine Jarrahdale
 Owner: Various
 Lot Area: Various
 Town Planning Scheme No 2 Zoning: Residential / Urban Development / Special Residential / Rural Residential / Rural Smallholdings / Rural / Environmental Conservation / Rural Enterprise
 Metropolitan Region Scheme Zoning: Urban

Report Purpose

The purpose of the report is for Council to consider adopting for community consultation purposes a Draft Local Planning Policy 4.21: Rural Short Stay Accommodation (LPP 4.21). LPP 4.21 is intended to be used by the Shire to facilitate the effective planning and development of appropriately scaled tourism accommodation within varying rural areas of the Shire. It seeks to assist applicants who are interested in pursuing rural tourism accommodation, in defining relevant criteria pertaining to location, design and ongoing management, and the exercise of planning discretion in this regard. Officers recommend that Council adopts the Draft LPP for formal advertising, to enable community consultation and input to the Draft Policy.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 20 July 2020 - OCM203/07/20

That Council REQUESTS the Chief Executive Officer to prepare a local planning policy to guide development of and provide opportunities for short stay, small scale, low impact tourist accommodation and related activities in the rural zones of the Shire.



Background

A Notice of Motion was received by Council at the Ordinary Council Meeting of 20 July 2020 as per above.

In accordance with Deemed Provision Clause 3(1) of the Scheme, "*The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.*"

With the recent adoption of the Shire's new Local Planning Strategy and Scheme, there is a strategic emphasis placed upon promoting and facilitating tourism, especially rural and nature based tourism, in order to grow and continue to diversify the Shire's economy. The future tourism opportunities within the Shire will be diverse and Local Planning Policy 4.21 will assist to guide the planning and development assessment of tourism proposals, which pertain to rural tourism experiences. This includes the likes of chalets, nature based camping experiences and farm stays.

New tourism development will reflect the Shire's Local Planning Strategy and Scheme, with additional guidance and assistance provided through this Draft LPP. The provisions of LPP 4.21 are specific to rural based tourism, and are aimed at guiding the exercise of discretion to ensure developments protect and enhance character and amenity.

Community / Stakeholder Consultation

Policy Concept Forum

The Draft Policy was workshopped with Council at the Policy Concept Forum held on 5 October 2020.

Meeting Date	5 October 2020
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Byas, Cr Coales, Cr Dagostino, Cr Denholm, Cr McConkey, Cr Strange, Cr Strautins

As per *Planning and Development (Local Planning Schemes) Regulations 2015*, the Local Planning Policy will need to be advertised if Council decide to proceed with the Local Planning Policy in terms of Schedule 2 Division 2 Clause 4 which reads:

4. Procedure for making local planning policy

(1) If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy as follows —

(a) publish a notice of the proposed policy in a newspaper circulating in the Scheme area, giving details of —

(i) the subject and nature of the proposed policy; and

(ii) the objectives of the proposed policy; and

(iii) where the proposed policy may be inspected; and

(iv) to whom, in what form and during what period submissions in relation to the proposed policy may be made;

(b) if, in the opinion of the local government, the policy is inconsistent with any State planning policy, give notice of the proposed policy to the Commission;



(c) give notice of the proposed policy in any other way and carry out any other consultation the local government considers appropriate.

(2) The period for making submissions in relation to a local planning policy must not be less than a period of 21 days commencing on the day on which the notice of the policy is published under subclause (1)(a).

Statutory Environment

Legislation

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

State Government Policies

- State Planning Policy 2.5 – Rural Planning (SPP 2.5).

Local Planning Framework

- Local Planning Policy 2.4: Water Sensitive Urban Design;
- Local Planning Policy 4.1: Ancillary Dwelling;
- Local Planning Policy 4.3: Landscape Protection;
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2;
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3.

Shire Policies and Strategies

- Shire of Serpentine Jarrahdale Local Planning Strategy;
- Shire of Serpentine Jarrahdale Local Planning Scheme;
- Shire of Serpentine Jarrahdale Tourism Strategy;
- Shire of Serpentine Jarrahdale Corporate Business Plan;
- Shire of Serpentine Jarrahdale Economic Development Plan;
- Shire of Serpentine Jarrahdale Strategic Community Plan;
- Local Planning Policy 2.4: Water Sensitive Urban Design;
- Local Planning Policy 4.1: Ancillary Dwelling;
- Local Planning Policy 4.3: Landscape Protection;
- Local Planning Policy 4.5: Temporary Accommodation.



Planning Assessment

In order to promote additional tourism activity within Shire, it is important that accommodation options are available for visitors. LPP 4.21 will assist to facilitate various types of tourist accommodation, with a focus on rural tourism and associated development opportunities. Short-term accommodation options, particularly located close to tourism attractions such as Serpentine Falls, Jarrahdale Town Centre and key trail networks, will provide visitors the options of staying overnight and experiencing the range of options that our Shire provides. Also, the Policy seeks to provide options for farm stay experiences, where visitors can learn and experience elements of primary production which are an important part of our economy.

Preferred Development

The Draft LPP provides that the Shire of Serpentine Jarrahdale prefers development that:

- Provides some on site activity or feature that is of interest to tourists.
- Is designed in harmony with existing environment, buildings and character.
- Provides a nature based tourism experience
- Is associated with an existing tourism operation such as trails or other facilities.
- If a caravan park or camping ground, is situated preferably within proximity of tourism nodes.
- Identify new activities to attract visitors which offer a point of difference to distinguish the Shire within the region.
- Protect and enhance the character and heritage within the Serpentine and Jarrahdale townsites to attract visitors.

Additionally, the Shire of Serpentine Jarrahdale will seek to avoid development that:

- Involves a major disturbance to the natural landscape and environment.
- Is not in a reasonable proximity to a township or tourist node.

Tourism Strategy

The Shire's Tourism Strategy notes the advantage that the Shire has in regards to tourism potential. The Shire enjoys a unique natural landscape that is accessible by the major population centre of the State, as well as by interstate and international tourists. One of the key findings listed within the Tourism Strategy recognised that the availability of appropriate tourist accommodation in the Shire is critical to the development of short stay tourism.

An audit of tourism product that was conducted for the Shire's Tourism Strategy identified the limited designated tourism accommodation. LPP 4.21 will work towards alleviating this current limitation by facilitating tourism accommodation where appropriate.

Draft Local Planning Scheme No. 3

The Shire's new Local Planning Scheme (LPS3) aims to "support the growth of the local economy to attract business, investment and tourism and generate local employment opportunities". Providing tourism accommodation will in turn result in economic and employment opportunities.



Local Planning Strategy

As per 5.3 in the Shire's Local Planning Strategy, one of the key objectives is to *“enable tourism growth and diversification through land use planning mechanisms.”*

The Shire's Local Planning Strategy also includes the following strategies and actions:

- Protect and enhance the character and heritage within the Serpentine and Jarrahdale townsites to attract visitors.
- Facilitate a range of accommodation services within the Shire to encourage tourism.
- Encourage the development of tourism precincts which co-locate tourism activities, accommodation and access to transport connections.
- Allow holiday accommodation land uses to be considered under LPS3 within both the Serpentine and Jarrahdale Heritage/Tourism Precincts.
- Include a special use zone within LPS3 to provide appropriate land use and development provisions for Jarrahdale to allow the development of tourism uses.

The Shire's Local Planning Strategy recognised the tourism potential in the following areas:

- Jarrahdale townsite and surrounding area;
- Serpentine historical precinct;
- Improved access to sites and day use facilities including picnic facilities and bushwalking tracks;
- Provision of information for tourists, accommodation, entertainment and food outlets; and
- Opportunities for the establishment of craft communities and holiday chalets.

Additionally, the Local Planning Strategy states that *“Peri-urban tourism as an important economic opportunity for the Shire. The Shire's abundant natural assets, together with equine-related tourism, is likely to boost demand.”*

The Shire's strategic documentation require tourism development and accommodation to be prioritised. LPP 4.21 will allow the Shire to develop as a tourism location and provide tourism accommodation in the key locations previously mentioned. Developments will also create links between tourist attractions, town centres and create a range of economic opportunities.

Policy sets out a framework for helping guide applicants to understand what represents an appropriate level of scale, intensity, landscape and development response. These include the following sample provisions:

Acceptable Development	Performance based
Location/Siting	
Short stay accommodation that provides on-site tourism activities or within 500m of a townsite.	Short stay accommodation that is in close proximity to tourism activities or provides access to such activities offsite



Acceptable Development	Performance based
Location/Siting	
Development located 50m from any highway, important regional road, or nominated tourist road	<p>Development located so as to not appear visually intrusive within the streetscape</p> <p>Development location so as to not be adversely impacted upon by traffic noise</p> <p>Located to avoid the clearing of trees</p>
Development located 100m from any lot boundary	<p>Development that would not impact on the visual amenity of surrounding landowners</p> <p>Development that would not adversely impact on the residential amenity of surrounding landowners</p> <p>Located to avoid the clearing of trees</p>
Development is associated with rural uses i.e. farm stay type development and will not result in land use conflict or adversely impact on rural uses or the ability for the site to be used for rural uses in the future	Development is separated from any rural uses occurring on the site so as to ensure there is no conflict between the two uses
Development on land that is not designated as high quality agricultural land	Development demonstrates that it does not impact on the existing or future use of any of the high quality agricultural land for agricultural activities
Scale	
Lot size is a minimum of 10ha	Development on the lot by way of its location would not impact on the rural character or amenity of the locality or that of surrounding landowners
Chalets/cabins should not be developed at a greater density than 1 chalet per 2 hectares of site, and should be made up of a minimum of 2 accommodation units	Clustered development of chalets/cabins that do not adversely impact on rural character or appear as residential development of a density beyond what could otherwise be considered in the area
Where there is an existing rural use occurring on the same site, short stay accommodation must be of a scale subservient to the rural use	Where there is an existing rural use occurring on the same site, short stay accommodation must be demonstrated as having a direct benefit to the existing rural use.
Caravan parks and camping grounds should not comprise of more than five sites per hectare of land.	Caravan parks and camping grounds designed with a layout that maintains a nature based character
Design	



Acceptable Development	Performance based
Location/Siting	
Development is constructed of natural materials (does not include caravans or camping grounds unless new buildings are proposed)	<p>Development is of contemporary design and includes elements of natural materials to elevate the rural landscape.</p> <p>Development that is in keeping with the surrounding landscape and character of the locality</p> <p>Development does not mimic residential urban form</p>
Development designed to have outdoor areas for each unit	Development with communal outdoor areas
Services	
The first 20m of an access road bitumised	The scale of the development is such that traffic generation would not result in an undue level of dust or impact upon the road surface.
Suitable toilets and handwashing facilities must be made readily available to the development	Approved wastewater disposal system and amenities to be installed subject to the requirements of the Shire of Serpentine Jarrahdale
Potable water supply	Clean water supply (dams will generally not be supported for this purpose)
Management	
24-hour on-site management	Adequate management plans should be put in place to ensure that onsite owners and managers of facilities are easily contactable, so that they can respond to issues that may arise at the premises immediately.

Options and Implications

Option 1

That Council ADOPTS the Proposed Local Planning Policy 4.2.1 (Rural Short Stay Accommodation) as contained within attachment 1 for the purposes of advertising, and proceeds to advertise the Proposed Policy in accordance with Deemed Provision 4(1) of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

Option 2

Council resolves not to ADOPT the Proposed Local Planning Policy 4.2.1 (Rural Short Stay Accommodation) as contained within attachment 1 for the purposes of advertising.

Option 1 is recommended.



Conclusion

LPP 4.21 Rural Short Stay Accommodation will assist the development of tourism accommodation that is in keeping with the Shire's existing character. It promotes the Shire as a tourism destination and provides accommodation for visitors to the Shire on rural lots. This tourism accommodation will generally be developed within close proximity to town centres, tourist attractions and historic locations within the Shire.

Attachments (available under separate cover)

- **10.1.15 - attachment 1** – Draft LPP 4.21: Rural Short Stay Accommodation (E20/8590)

Alignment with our Strategic Community Plan

Outcome 2.3	A productive rural environment
Strategy 2.3.1	Identify and promote rural and agricultural industry opportunities.
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.2.1	Actively support new existing local businesses within the district
Outcome 3.2	A vibrant tourist destination
Strategy 3.2.1	Actively support tourism growth within the district

Financial Implications

There are no financial implications associated with the preparation or implementation of the policy.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>If Council resolves to adopt the proposed Local Planning Policy, it may be more difficult for those providing rural short stay accommodation to meet the specified criteria.</i>	<i>Nil</i>	Financial	Possible	Moderate	MODERATE	Ensure a streamlined process for developing short stay rural accommodation.



Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
2	<i>There is a risk that economic benefits to the Shire may be limited if Council resolves not to adopt Local Planning Policy 4.21.</i>	<i>Nil</i>	Financial	Possible	Moderate	MODERATE	Adopting Local Planning Policy 4.21 will facilitate economic growth.
2	<i>If Council resolves not to adopt Local Planning Policy 4.21, ad hoc development may occur that do not align with the Shire's endeavours to align rural short stay accommodation with rural pursuits within the Shire.</i>	<i>There are planning regulations in place which determine densities and setbacks. This includes Local Planning Policy 2.3: Development Standards for Development Applications and the Residential Design Codes compiled by the Department of Planning Lands and Heritage.</i>	Environment / Heritage	Unlikely	Moderate	MODERATE	Adopting Local Planning Policy 4.21 will mitigate the risk of ad hoc development of rural short stay accommodation.

Voting Requirements: Simple Majority

OCM367/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Atwell

That Council ADOPTS the Proposed Local Planning Policy 4.2.1 (Rural Short Stay Accommodation) as contained within attachment 1 for the purposes of advertising, and proceeds to advertise the Proposed Policy in accordance with Deemed Provision 4(1) of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

CARRIED UNANIMOUSLY 9/0



10.2 Infrastructure Services reports

10.2.1 – Execution of Lease – Hugh Manning Tractor and Machinery Museum (L067)	
Responsible Officer:	Senior Property and Facilities Officer
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is for Council to provide authority to the Chief Executive Officer to execute the lease between the Shire of Serpentine Jarrahdale and Hugh Manning Tractor and Machinery Museum for the purpose of a museum and educational purposes, located at 27 Wellard Street, Serpentine.

Relevant Previous Decisions of Council

<p><i>Ordinary Council Meeting – 24 July 2017 - OCM094/07/17</i></p> <p><i>That Council</i></p> <p><i>1. Notes that Officers will work closely with the Hugh Manning Tractor and Machinery Museum Inc to finalise concept planning for the precinct and possible additional and / or alternative sites in the medium term, and assist in the identification of suitable funding to deliver on elements of the concept plan.</i></p> <p><i>2. Authorises the Chief Executive Officer to negotiate a new Lease term with the Hugh Manning Tractor and Machinery Museum Inc to support planning for future expansion plans on the following terms and conditions for continuous tenure at the Clem Kentish Precinct:</i></p> <p><i>a. Term 10 years;</i></p> <p><i>b. Option to extend by 10 years</i></p> <p><i>c. Inclusion of a mutual termination clause to provide the ability for the Museum to be relocated in the event that a suitable alternative site is identified within any master planning process.</i></p> <p><i>d. Any proposal for an extension to the lease area be deferred until such time as the master planning for the Clem Kentish precinct has been finalised to assess any potential conflict between an extended lease footprint and the surrounding amenity, including car parking and access to the tennis courts and youth facilities.</i></p> <p><i>3. Requests the Minister for Lands to consider an amendment to the management order for Reserve 9157 to include the permitted purpose of 'Museum'.</i></p>



Background

The Hugh Manning Tractor and Machinery Museum (Museum) has called Wellard Street 'home' since 1993. The facility was originally built by the community to store and appreciate the vast collection of tractors acquired by Hugh Manning, a local farming identity. The Museum has since grown to share their knowledge and educate the community on the history and the importance of farming.

The Museum is located on a portion of Reserve 9157, 27 Wellard Street, Serpentine and is situated between Clem Kentish Hall and Serpentine tennis courts. The Shire has a Management Order over the reserve for the purpose of 'Recreation', with the power to lease for a period of 21 years, subject to the consent of the Minister for Lands.

Figure 1 - Location of Museum as indicated in red



At the July 2017 Ordinary Council Meeting, a report was presented to Council to approve tenure arrangements between the Shire and the Museum. Council approved the following:

- Term – 10 years plus a further 10 years;
- Termination clause to be included allowing the Museum to be relocated during the master planning process;
- Defer any proposals for an extension to the lease area until the master planning for the Clem Kentish precinct has been finalized.

Shire Officers have been liaising with the Museum to draft a suitable lease agreement. The lease has been endorsed by the Museum and a copy has been attached as **CONFIDENTIAL attachment 1**.



Community / Stakeholder Consultation

External

- Hugh Manning Tractor and Machinery Museum;
- Department of Planning, Lands and Heritage.

Statutory Environment

Nil.

Comment

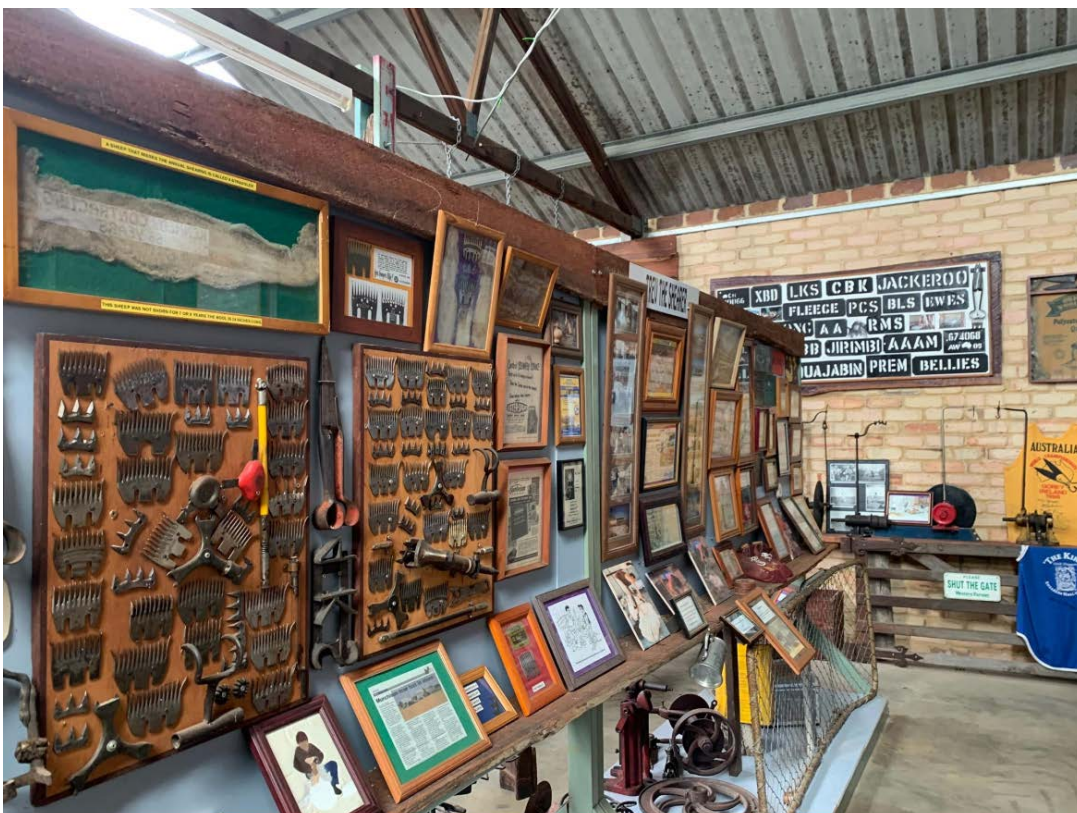
Discussions between Shire Officers and the Museum have occurred for a number of years. The vision for the Museum has included relocating the Museum as part of master planning the Clem Kentish Precinct, Serpentine Heritage Precinct and even concept planning their current site. The lease agreement with the Museum commenced in 1997, which has been expired for a number of years. For the past few years, the Museum have effectively been in limbo – they have not relocated, extended their current building or have had their current lease addressed.

The current building, site and structure, is suitable for the purpose of a museum.





The Museum has been educating the community about farming tractors, and for the first time, has seen the expansion into shearing tools. They currently hold one of the largest history of farm shearing on display.





Shire Officers acknowledge this matter has previously been taken to Council, however the resolution is no longer applicable to the Museum. Please see below:

July 2017 OCM Resolution	Officer Comments
<p>1. <i>Notes that Officers will work closely with the Hugh Manning Tractor and Machinery Museum Inc to finalise concept planning for the precinct and possible additional and / or alternative sites in the medium term, and assist in the identification of suitable funding to deliver on elements of the concept plan.</i></p>	<ul style="list-style-type: none"> • Suitable relocation and funding on concept plans has not be finalised and also the suitability of the current facility as opposed to a new facility needs to be considered.
<p>2. <i>Authorises the Chief Executive Officer to negotiate a new Lease term with the Hugh Manning Tractor and Machinery Museum Inc to support planning for future expansion plans on the following terms and conditions for continuous tenure at the Clem Kentish Precinct:</i></p> <p>a. <i>Term 10 years;</i></p> <p>b. <i>Option to extend by 10 years</i></p> <p>c. <i>Inclusion of a mutual termination clause to provide the ability for the Museum to be relocated in the event that a suitable alternative site is identified within any master planning process.</i></p> <p>e. <i>Any proposal for an extension to the lease area be deferred until such time as the master planning for the Clem Kentish precinct has been finalised to assess any potential conflict between an extended lease footprint and the surrounding amenity, including car parking and access to the tennis courts and youth facilities.</i></p>	<ul style="list-style-type: none"> • Agreed terms have been based on the future expansion plans at the Clem Kentish precinct. This is not suitable for the Museum it in its current form. • The Museum are looking to expand their current site to expand their community group and showcase the many other tractors not currently on display. They have outgrown their current building. • A termination clause is not applicable as further discussions should be raised with the museum prior to any concept plans being made available. In addition, a new lease will be created should they be required to relocate. • Previous discussions indicated that any costs associated with relocation of the museum would be borne by the Shire, in addition, relocating of tractors may take between 6 to 12 months given the age and quality
<p>3. <i>Requests the Minister for Lands to consider an amendment to the management order for Reserve 9157 to include the permitted purpose of 'Museum'.</i></p>	<p>Under the Shire's Management Order, the purpose of a 'museum' is ancillary to the current Management Order of "Recreation". No amendment to the Management Order is required.</p>



Given the changes in vision and direction by the Shire, the following recommendation is proposed in relation to Hugh Manning Tractor and Machinery Museum occupying a portion of Reserve 9157, 27 Wellard Street, Serpentine:

1. Term – 10 years;
2. Rent - \$1 (peppercorn) annually;
3. Museum is responsible for operational costs including power, water, telephone/communications fees and cleaning.

The above terms are consistent with the Shire's *Council Policy 5.1.3 - Lease and Licence Management*. However, no further term has been suggested to facilitate any discussions surrounding the Serpentine Heritage Precinct, should this proceed. In addition, as no suitable concept plans or funding has been provided, Shire officers suggest providing the Museum at least 10 years for security of tenure of the building, which will also allow external grant opportunities for expansion to the facility and the community group.

A lease agreement has been drafted and enclosed as **CONFIDENTIAL attachment 1**. Officers therefore request Council authorise the Chief Executive Officer to execute the lease for the Museum.

Options and Implications

Option 1

That Council

1. APPROVES tenure arrangements between the Shire of Serpentine Jarrahdale and Hugh Manning Tractor and Machinery Museum located at 27 Wellard Street, Serpentine based on the following terms:
 - a. Term – 10 years;
 - b. Rent - \$1 peppercorn;
 - c. Museum is responsible for operational costs including power, water, telephone/communications fees and cleaning.
2. AUTHORISES the Chief Executive Officer to execute the lease agreement deed as contained in **CONFIDENTIAL attachment 1**, subject to the consent of the Minister for Lands

This will see the continued operations and secured tenure for the Shire and the Museum at 27 Wellard Street, Serpentine.

Option 2

That Council does NOT AUTHORISE the Shire to execute the lease agreement, which is contrary to *Council Policy 5.1.3 Lease and Licence Management*.

Option 1 is recommended.



Conclusion

Shire Officers have been working with the Museum to facilitate a suitable lease agreement, which has not existed for a number of years. Consideration of the lease agreement between the Shire and the Hugh Manning Tractor and Machinery Museum will provide security of tenure, and expansion of the facility and community group. The Museum have been working with senior local members of the community to retain knowledge and expanded the history of farming, which has educated and provided a community benefit.

It is therefore recommended that Council approve the lease terms and authorise the execution the lease for the Museum.

Attachments (available under separate cover)

- **10.2.1 – CONFIDENTIAL attachment 1** – Lease for Hugh Manning Tractor and Machinery Museum (E20/11819)

Alignment with our Strategic Community Plan

Outcome 1.2	A recognised culture and heritage
Strategy 1.2.1	Recognise local heritage
Outcome 2.3	A productive rural environment
Strategy 2.3.1	Identify and promote rural and agriculture industry opportunities
Outcome 3.2	A vibrant tourist destination experience
Strategy 3.2.1	Actively support tourism growth within the district
Outcome 3.4	An innovation centre of excellence
Strategy 3.4.1	Identify and promote innovation and education opportunities
Outcome 4.1	A resilient, efficient and effective Shire
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest

Financial Implications

The Museum has been operating under a holding over clause since their 1997 lease agreement expired with the Shire. Until a formal agreement is in place, any expansion to the building or grants available cannot be provided. In addition, current responsibility borne by the Shire includes maintenance and outgoings.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	The Museum does not agree to the new lease	<i>The Shire undertaken extensive consultation with the Museum and have already in principle agreed to the terms</i>	Organisational Performance	Rare	Insignificant	LOW	No further mitigation required
2	The Museum continuing to operate without a lease could cause further reputation damage for the Shire	<i>The museum will continue to operate under a "holding over" clause under the expired lease</i>	Reputation	Possible	Moderate	MODERATE	Accept Officer recommendation by entering into a lease agreement



Voting Requirements: Simple Majority

OCM368/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Denholm

That Council

- 1. APPROVES** tenure arrangements between the Shire of Serpentine Jarrahdale and Hugh Manning Tractor and Machinery Museum located at 27 Wellard Street, Serpentine based on the following terms:
 - a. Term – 10 years;**
 - b. Rent - \$1 peppercorn;**
 - c. Museum is responsible for operational costs including power, water, telephone/ communications fees and cleaning.**
- 2. AUTHORISES** the Chief Executive Officer to execute the lease agreement deed as contained in CONFIDENTIAL attachment 1, subject to the consent of the Minister for Lands.

CARRIED UNANIMOUSLY 9/0



10.2.2 – Execution of sublease between Sports Aircraft Builders Club Inc and Commonwealth of Australia Bureau of Meteorology (L066 & L068)	
Responsible Officer:	Senior Property & Facilities Officer
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is for Council to consider and give authority to the Chief Executive Officer to cosign and execute the sublease between the Sport Aircraft Builders Club of WA Inc. and Commonwealth of Australia Bureau Of Meteorology located at Reserve 25911, 286 Yangedi Road, Hopeland. This is in accordance with the Head Lease agreement between the Shire and Sport Aircraft Builders Club of WA Inc.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 25 August 2008 - CGAM012/08/08

That:

- 1. Council endorse the lease agreement between Serpentine Jarrahdale Shire and the Bureau of Meteorology, portion of Reserve 25911 for a period of 10 years, with an option to extend the lease for a further period of 10 years.*
- 2. Council authorise the Chief Executive Officer to sign the lease agreement.*

Ordinary Council Meeting – 23 July 2018 - OCM071/07/18

That Council:

- 1. Requests the Minister for Lands amend the Management Order for Lot 164 Yangedi Road (Reserve 25911) to increase the Power to Lease to a term of 32 years and the permitted purpose amended to Recreation and Weather Radar Activities.*
- 2. Notes the key lease terms between the Shire of Serpentine Jarrahdale and the Sports Aircraft Builders Club as:*
 - a) Lease term of 32 years;*
 - b) Annual rental of \$1.00 in accordance with Council Policy 5.1.3 Lease and Licence Management;*



- c) *Permitted purpose of Recreational Airfield and associated activities including light aircraft maintenance, aerial firefighting aircraft, Shire Bushfire Services and air rescue and weather radar activities;*
- d) *Sports Aircraft Builders Club to be responsible for all outgoing and insurances associated with their occupation of the site, inclusive of local government rates and service charges.*
3. *Reduces the income account BOR110 by \$1,864.50 to reflect the loss of rental income from the reassignment of the BOM lease to Sports Aircraft Builders Club*

Background

The Shire has a Management Order over Reserve 25911, 286 Yangedi Road, Hopeland for the purpose of Recreation and Weather Radar Activities with the power to lease for a period of 32 years, subject to the consent of the Minister for Lands. The Reserve, known as 'Yangedi Airfield' consists of the Sports Aircraft Builders Club Inc (SABC) and infrastructure erected by the Commonwealth of Australia Bureau of Meteorology (BOM) and Department of Fire & Emergency Services (DFES).

Figure 1 - Location of 'Yangedi Airfield' (BOM lease area in red)



In 2008, the Shire entered into a lease agreement with the Commonwealth of Australia Bureau of Meteorology (BOM) for a portion of the north western corner of the reserve, for the purpose of weather radar activities. At that time, SABC agreed to have a portion of the land excised out of their lease over the reserve. This had not been undertaken.

Following this, at the June 2018 OCM, Council resolved to enter into a lease agreement with SABC for a period of 32 years. Additionally, the resolution included the reassignment of the BOM lease with the Shire, to a sublease directly with SABC.



Subsequent to the commencement of the lease between the Shire and SABC on 27 May 2019, SABC commenced discussions with BOM to draft a sublease agreement as per the resolution.

The sublease has been signed by SABC and BOM, and is enclosed as **CONFIDENTIAL attachment 1**.

Community / Stakeholder Consultation

Policy Concept Forum

Nil.

Statutory Environment

Nil.

Comment

The 64.7 hectare reserve contains the Yangedi Airfield, weather radar and the DFES helicopter for emergency services purposes. The radar itself takes up 0.5% of the reserve area.

Figure 2 - Location of BOM lease area



The Shire's current lease with the BOM are for the following:

- Term: 10 years with a further 10-year term. The initial term expired on 29 October 2018;
- Rent: \$1,600 (ex GST) plus CPI annually;
- Area: 135m².

The report taken to August 2008 OCM indicated the area for the BOM was to be excised from the SABC's lease area over the reserve. The excision was agreed to by the SABC, however this has not been undertaken.



A decade later, Council resolved to allow a sublease tenure arrangement due to the physical layout and access arrangements of the site, as it was evident BOM would still require use of the access road shared by SABC (and DFES). Comments provided by Department Planning, Lands & Heritage therefore suggested an additional shared use agreement would be required. For simplicity, Shire Officers negotiated and recommended the BOM lease be assigned to SABC for ongoing management through the use of a sublease agreement.

In addition, the Lease with the SABC (see **CONFIDENTIAL attachment 2**) states the Lessor (Shire) may not unreasonably withhold its consent to sublease subject to the following:

1. The proposed sub lessee is respectable and responsible of good financial standing and capable of adequately carrying on the business permitted;
2. There are no outstanding payments by SABC;
3. SABC procures the execution by a deed of sublease;
4. The amount of Rent payable is prior - approved by the Shire.

The sublease have proposed terms as follows:

- Term: 10 years plus further 10 year option;
- Rent: \$2,750 (plus GST) during first term, \$4,000 (plus GST) for the following term;
- Area: 194.5m²;
- Permitted use: installation, maintenance and operation of an Automatic Weather Station;
- SABC to be responsible for all outgoings and insurances associated with occupancies of the site.

On assignment of the sublease the annual rental amount by the BOM will become payable directly to SABC, with income received, assisting the Club with costs such as maintaining the access road that services SABC, BOM and DFES sites.

Council Policy *5.1.3 Lease and Licence Management*, is silent on any subleasing arrangements. Therefore, given the direction previously resolved by Council in July 2018, this matter has been presented to Council for consideration and approval.



Options and Implications

Option 1

That Council:

1. APPROVES the sublease between the Sports Aircraft Builders Club Inc (SABC) and Commonwealth of Australia Bureau Of Meteorology, located at Reserve 25911, 286 Yangedi Road, Hopeland based on the following terms:
 - a. Term: 10 years plus further 10 year option;
 - b. Rent: \$2,750 (plus GST) during first term, \$4,000 (plus GST) for the following term;
 - c. Area: 194.5m²; and
 - d. Permitted use: installation, maintenance and operation of an Automatic Weather Station.
2. AUTHORISES the Shire President and Chief Executive Officer to sign and apply the common seal to the sublease agreement deed as shown in **CONFIDENTIAL attachment 1**, subject to the consent of the Minister for Lands.

Option 2

That Council does NOT AUTHORISE the Shire to execute the sublease agreement deed and that the Reserve is excised to facilitate separate agreements.

Should Council decide to undertake an excision of the area, the Lease with SABC will need to be amended to reflect the new lease area.

Option 1 is recommended.

Conclusion

Due to resolutions made by Council previously and in line with *Council Policy 5.1.3*, it is therefore recommended Council considers and gives authority to the Chief Executive Officer to execute the sublease agreement deed between Sports Aircraft Builders Club Inc and Commonwealth of Australia Bureau of Meteorology.

Attachments (available under separate cover)

- 10.2.2– **CONFIDENTIAL attachment 1** – BOM Sublease (IN20/22433)
- 10.2.2 – **CONFIDENTIAL attachment 2** – SABC Executed Lease (E19/6403)

Alignment with our Strategic Community Plan

Outcome 1.1	A healthy, active, connected and inclusive community
Strategy 1.1.1	Provide well planned and maintained public open space and community infrastructure
Outcome 4.2	A strategically focused Council
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions



Financial Implications

The assignment of the BOM lease to the SABC will result in the loss of income to the Shire of \$1,600 plus CPI annually (2019/20 FY was \$2,092.66). In accordance with the Lease between the Shire and SABC, the SABC continues to pay Shire rates (\$15,898.01 for 2020/21)

Risk Implications

Risk has been assessed on the Officer Options and Implications: -

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	The Minister for Lands does not approve the sublease	<i>Discussions with Minister for Lands have previously occurred regarding a sublease arrangement</i>	Organisational Performance	Unlikely	Moderate	MODERATE	Seek Minister for Lands approval prior to execution of the lease by the Shire
2	Shire does not execute the sublease between SABC and BOM and an excision of the lease area is required	<i>The Shire currently has a lease directly with BOM however the lease area falls within SABC's lease area</i>	Financial	Possible	Moderate	MODERATE	Accept Officer recommendation of a sublease arrangement between BOM and SABC



Voting Requirements: Simple Majority

OCM369/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Denholm

That Council:

- 1. APPROVES the sublease between the Sports Aircraft Builders Club Inc (SABC) and Commonwealth of Australia Bureau Of Meteorology, located at Reserve 25911, 286 Yangedi Road, Hopeland based on the following terms:
 - a. Term: 10 years plus further 10 year option;**
 - b. Rent: \$2,750 (plus GST) during first term, \$4,000 (plus GST) for the following term;**
 - c. Area: 194.5m²; and**
 - d. Permitted use: installation, maintenance and operation of an Automatic Weather Station.****
- 2. AUTHORISES the Shire President and Chief Executive Officer to sign and affix the common seal to the sublease agreement deed as contained in CONFIDENTIAL attachment 1, subject to the consent of the Minister for Lands.**

CARRIED UNANIMOUSLY 9/0

**10.2.3 - Dedication of Road Reserve and Pedestrian Access Way (PAW) – Lot 1000 Kargotich Road, Cardup (SJ482)**

Responsible Officer:	Manager Subdivisions & Environment
Senior Officer:	Director Infrastructure Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Executive	The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets.
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Report Purpose

The purpose of this report is to facilitate the creation of four residential lots at Lots 51 & 52 McKenna Drive of one hectare each by allowing emergency access to Kargotich Road from 52 (L51) McKenna Drive.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application matter.

Background

McKenna Drive is a cul-de-sac road located in a bushfire prone region of the Shire. On 30 April 2020, the Shire received subdivision application 159201, **attachment 1** for Lot 51 McKenna Drive for comment from the Western Australian Planning Commission (WAPC) and on 26 May 2020 the WAPC referred subdivision application 159278, **attachment 2** for Lot 52 McKenna Drive to the Shire for comment. The Shire replied to the WAPC on 12 June 2020 and 3 July 2020 recommending approval subject to application of standard conditions for referrals 159201 and 159278 respectively. Since reply to the WAPC, the subdivision applications have stalled due to the inability to achieve an emergency access to Kargotich Road.

State planning policy 3.7 sets out the requirements for land planning in bushfire prone areas and requires that new residential developments in bushfire prone regions have two points of access and egress in the event of a fire. Since McKenna Drive is a cul-de-sac the subdivisions in question require a second point of access to Kargotich Road for emergencies. Currently access cannot be legally taken to Kargotich Road due to the presence of a Pedestrian Access Way (PAW), Lot 1000 on Deposited Plan (DP) 25819, **attachment 3**

The PAW in question is approximately 35m long and 0.1m wide. Lot 1000 on DP 25819 extends south from the intersection of McKenna Drive with Kargotich Road to the southern boundary of 52 (L51) McKenna Drive. Lot 1000 performs the function of preventing legal vehicular access being taken to Kargotich Road from 6, 44, and 52 McKenna Drive.



Under the *LAA*, a local government must request the Minister for Lands to modify the reserve status. As this function is not delegated to officers, it requires Council decision to request any changes to the reserve it deems necessary.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Crown and road reserves are administered through the *LAA*. Under the *LAA*, a local government can request changes to reserves within its jurisdiction. As no delegation exists from Council to the Shire executive officers, any request to modify a reserve must be made by the Council in the form of a Council decision.

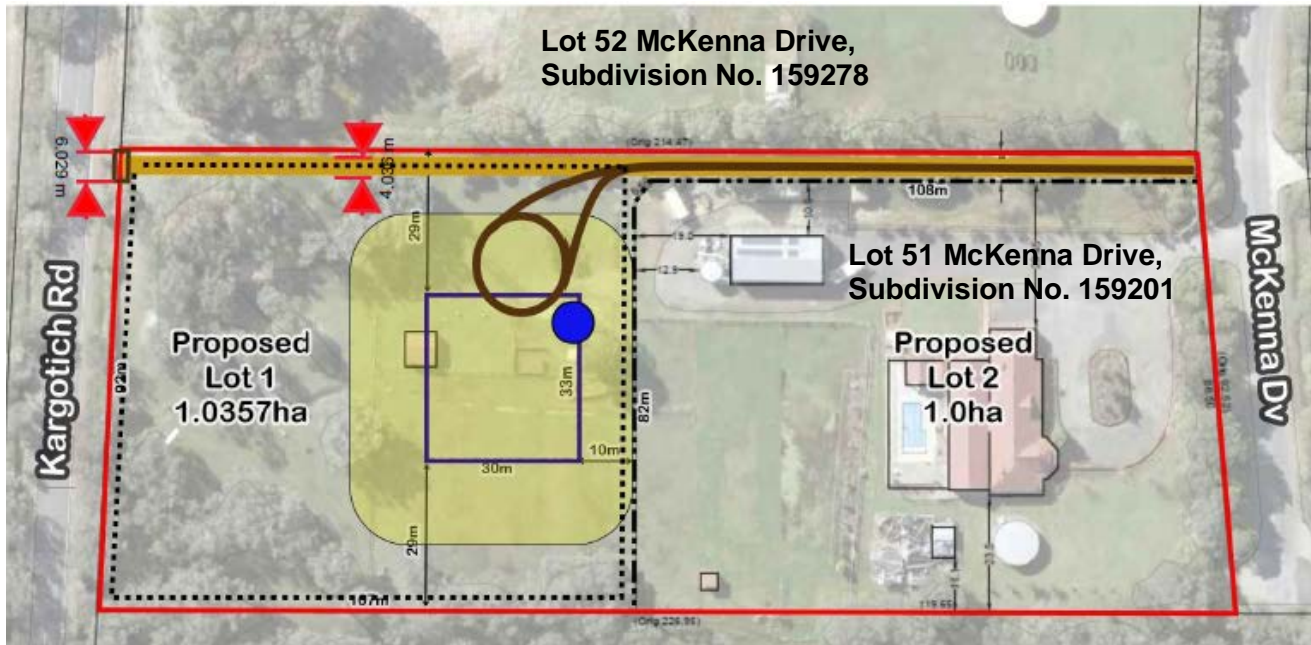
In this particular instance, Council is being asked to modify a portion of Lot 1000 on DP 25819 changing the gazettal from PAW to road reserve facilitating access between Lots 51 and 52 McKenna Drive and Kargotich Road for emergency access purposes. It should be observed by Council that the change in gazettal of this reserve does not affect the Council's liability in anyway currently being responsible for the PAW.

Comment

The Shire has supported the subdivision of Lots 51 and 52 McKenna Drive into two residential lots one hectare in size each and is consistent with the Shire's strategic planning. In order for the subdivisions to proceed, a portion of Lot 1000 on DP 25819 shown in **attachment 3** needs to be modified to allow emergency access, as shown in **attachment 4** and below to be taken from 52 (L51) McKenna Drive. The intersection of the emergency access way and Kargotich Road needs to be dedicated as road reserve under Section 28 of the *Land Administration Act (LAA)* and the remainder of Lot 1000 on DP 25819 gazetted as PAW. The road reserve portion of Lot 1000 on DP 25819 should be 6m wide and 0.1m deep. Regular use of the access can be prevented via imposition of a restrictive covenant on the new titles being created. The cost of developing this road will be with the developer/s through the creation of subdivision approvals 159201 and 159278.



Figure 1 – Emergency Access way plan.



Options and Implications

Option 1

That Council AUTHORISES the Chief Executive Officer to request the Minister for Lands to:

1. Dedicate the six metre wide crossover portion shown in **attachment 4** as road under Section 28 of the LAA; and
2. Create a Reserve for PAW purposes and grant a Management Order to the Shire over the remainder portion of Lot 1000 on Deposited Plan 25819, **attachment 3**, under Section 41 and 46 of the LAA.

By requesting the Minister for Lands to amend the gazettal of Lot 1000 on DP 25819 the subdivision of Lots 51 and 52 McKenna Drive will be able to achieve emergency access to Kargotich Road and satisfy bushfire requirements for two points of access in the event of an emergency, facilitating the subdivision proceeding.

Option 2

That Council resolves NOT TO REQUEST modification to the gazettal of Lot 1000 on DP 25819. By not requesting modification to the PAW Lots 51 and 52 McKenna Drive will not be able to achieve emergency access to Kargotich Road and the subdivisions will fail to achieve bushfire requirements for two points of access in the event of an emergency, effectively stalling the development.

Option 1 is recommended.



Conclusion

By amending Lot 1000 on DP 25819, Council will be supporting the development of the Shire and ensuring the safety of its residents in an emergency. Due to the Shire currently being responsible for the management of the existing reserve the change to Lot 1000 has no impact on the Shire's liabilities.

Attachments (available under separate cover)

- **10.2.3 – attachment 1** – Subdivision Plan 159201 (E20/12633)
- **10.2.3 – attachment 2** – Subdivision Plan 159278 (E20/12634)
- **10.2.3 - attachment 3** – Deposited Plan 25819 (E16/6963)
- **10.2.3 - attachment 4** – Emergency Access Plan (E20/12209)

Alignment with our Strategic Community Plan

Outcome 1.3	A safe place to live
Strategy 1.3.1	Comply with relevant local and state laws, in the interests of the community
Strategy 1.3.2	Support local emergency services
Strategy 1.3.3	Enhance community safety
Outcome 2.1	A diverse, well planned built environment
Strategy 2.1.1	Actively engage in the development and promotion of an effective planning framework

Financial Implications

Option 1 creates two additional rateable properties within the Shire. All cost of creating this road reserve will be borne by the developer/s, with the exception of staff time to lodge the paperwork with Department of Lands and Heritage.

Option 2 results in no change to the Shire's financial position.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>Unauthorised access could be taken to Kargotich Rd leading to a reduction in vehicle safety</i>	<i>The emergency accessway will have a emergency gate installed with shire keys to prevent regular use.</i>	Physical	Rare	insignificant	Low	Pursue restrictive covenant on new titles to prevent vehicular access to Kargotich Rd. If the access arrangement is insufficient.
2	<i>Describe the risk – The Lots cannot be created without this road access being formalised which is contrary to the approval of WAPC.</i>	None	Reputation	Possible	Insignificant	LOW	Council to give approval to proceed with officer's recommendation

Voting Requirements: Simple Majority

OCM370/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Coales, seconded Cr Byas

That Council AUTHORISES the Chief Executive Officer to request the Minister for Lands to :

- 1. Dedicate the six metre wide crossover portion shown in attachment 4 as road under Section 28 of the LAA; and**
- 2. Create a Reserve for PAW purposes and grant a Management Order to the Shire over the remainder portion of Lot 1000 on Deposited Plan 25819, attachment 3, under Section 41 and 46 of the LAA.**

CARRIED UNANIMOUSLY 9/0

**10.3 Corporate Services reports**

10.3.1 - Confirmation of Payment of Creditors – October 2020 (SJ801)	
Responsible Officer:	Manager Finance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is to prepare a list of accounts paid each month, as required by the *Local Government (Financial Management) Regulations 1996*.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this matter.

Background

Nil.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Section 5.42 of the *Local Government Act 1995* states that the local government may delegate some of its powers to the Chief Executive Officer. Council have granted the Chief Executive Officer Delegated Authority 1.1.17 - Payments from Municipal and Trust Fund.

Section 6.10 of the *Local Government Act 1995* states the Financial management regulations may provide for the general management of, and the authorisation of payments out of the municipal fund and the trust fund of a local government.

Regulation 13 of the *Local Government (Financial Management) Regulations 1996*.

**Comment**

In accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, schedules of all payments made through the Council's bank accounts are presented to Council for their inspection. The list includes details for each account paid incorporating:

- a) Payees name;
- b) The amount of the payment;
- c) The date of the payment; and
- d) Sufficient information to identify the transaction.

A detailed list of invoices for the period 1 October 2020 to 31 October 2020 is provided in **attachment 1**.

Options and ImplicationsOption1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 October 2020 to 31 October 2020, totalling \$4,832,001.32.

Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 October 2020 to 31 October 2020, totalling \$4,832,001.32.

Option 1 is recommended.

Conclusion

Nil.

Attachments (available under separate cover)

- **10.3.1 - attachment 1** – List of Creditors Accounts Paid and Submitted to Council for the period ending 31 October 2020 (E20/12415)
- **10.3.1 – attachment 2** – List of Accounts Paid and Submitted to Council (Bank Fees and Payroll) for the period ending 31 October 2020 (E20/12418)
- **10.3.1 - attachment 3** – Westpac Purchasing Card Report – 28 August 2020 to 27 September 2020 (E20/12420)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources



Financial Implications

Expenditures were provided for in the adopted Budget as amended, or by any subsequent budget reviews and amendments.

The accounts paid under delegated authority for 1 October 2020 to 31 October 2020 totalled \$4,832,001.32.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1.	<i>That Council accepts the payments</i>	<i>Provision of sufficient information and records to support the recommendation</i>	Financial	Likely	Insignificant	LOW	Accept Officer Recommendation
2.	<i>That Council does not accept the payments</i>	<i>Provision of sufficient information and records to support the recommendation</i>	Financial	Unlikely	Insignificant	LOW	Accept Officer Recommendation

Voting Requirements: Simple Majority

OCM371/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Byas

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 October 2020 to 31 October 2020, totalling \$4,832,001.32 as attached, covering:

1. Payment of creditors totalling \$3,644,927.77;
2. Payroll totalling \$1,166,622.69; and
3. Bank Fees totalling \$20,450.86.

CARRIED UNANIMOUSLY 9/0



10.3.2 – Monthly Financial Report – September 2020 (SJ801)

Responsible Officer:	Manager Finance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is to provide a monthly financial report, which includes rating, investment, reserve, debtor, and general financial information to Councillors in accordance with Section 6.4 of the *Local Government Act 1995*.

This report is about the financial position of the Shire as at 30 September 2020.

Relevant Previous Decisions of Council

Special Council Meeting – 27 July 2020 – SCM240/07/20 - COUNCIL RESOLUTION / Officer Recommendation - extract

PART 6 – Material Variances

That Council

1. *ADOPTS the definition of ‘significant (material) variances to be used in statements of financial activity for reporting’ to be \$10,000 or 10% (whichever the greater).*
2. *ADOPTS the definition of significant (material) variances to apply for reporting purposes in the Statement of Financial Activity to:*
 - a) *Total operating revenue and expenditure by Nature and Type; and*
 - b) *Capital income and expenditure.*

Background

The *Local Government Act 1995* and *Local Government (Financial Management) Regulations 1996* require that the Shire prepare a Statement of Financial Activity each month. The *Local Government Act 1995* further states that this statement can be reported by either by Nature and Type, Statutory Program or by Business Unit. The Council has resolved to report Nature and Type and to assess the performance of each category, by comparing the year-to-date budget and actual results. This gives an indication that the Shire is performing against expectations at this point in time.



Community / Stakeholder Consultation

Nil.

Statutory Environment

Section 6.4 of the *Local Government Act 1995* requires a local government to prepare an annual financial statement for the preceding year and other financial reports as are prescribed.

Regulation 34 (1) of the *Local Government (Financial Management) Regulations 1996* as amended requires the local government to prepare monthly financial statements and report on actual performance against what was set out in the annual budget.

Comment

Monthly Financial Report

The attached report shows the month end position as at the end of September 2020. Please note the opening position is a preliminary result for the year ended 30 June 2020 as the Financial Statements for 2020 are still being finalised and as a result may be subject to change.

The municipal surplus for the month ending September 2020 is \$27,037,843 which is favourable, compared to a budgeted surplus for the same period of \$20,401,950.

The primary cause of this is the opening surplus position, however as mentioned above the Financial Statements for the year ended 30 June 2020 are still being finalised and are subject to change.

Further reasons for the variances as per the below table are discussed below.

Description	YTD Budget	30 September 2020 Actual	Variance (unfavourable)
Opening Surplus at 1 July 2020	2,516,604	7,990,228	5,473,624
Proceeds from sale of assets	-	-	-
Changes to net transfers to and from Reserves	(572,687)	(572,687)	-
Loan principal drawdowns (new loans)	-	-	-
Loan/Lease principal repayments	-	(66,142)	(66,142)
Capital expenditure	(2,154,926)	(1,387,613)	767,313
Capital revenue (cash items)	1,480,683	900,904	(579,779)
Operating revenue (cash items)	27,123,230	26,356,486	(766,744)
Operating expenditure (cash items)	(7,990,954)	(6,183,332)	1,807,622
	20,401,950	27,037,843	6,635,893

**Attachments (available under separate cover)**

- **10.3.2 - attachment 1** – Monthly Financial Report September 2020 (E20/12487)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources.

Financial Implications

As at 30 September, the Shire's respective cash position was as follows:

Municipal Fund: \$5,289,775

Trust Fund: \$304,222

Material variances that may have an impact on the outcome of the budgeted closing surplus position are listed below:

Operating Revenue**Rates**

No variance analysis required, variance to budget is less than 10%.

Operating Grants, Subsidies and Contributions

Unfavourable variance of \$587,384 due to timing of grant payments, specifically Federal Assistance Grants and Main Roads Direct Grants - \$411,584.

Fees and Charges

No variance analysis required, variance to budget is less than 10%.

Interest Earnings

Unfavourable variance of \$81,716 due primarily to the timing of maturity of term deposits and underlying low interest rates.

Other Revenue

Favourable variance of \$40,962 primarily to due to LGIS surplus distribution credit of \$28,150.



Operating Expenses**Employee Costs**

Favourable variance of \$433,081 due to positions vacant and budgeted positions not yet recruited.

Materials and Contracts

Favourable variance of \$1,099,920 in relation to the timing and provision of services across all programs and business units, the most material of which is Waste Services - \$290,222. Other significant variances include contract services - \$133,166, materials - \$90,766, and consultancy and legal services across the organisation - \$204,755.

Utility Charges

Favourable variance of \$69,861 due primarily to street lighting - \$49,106.

Depreciation on Non-Current Assets

Favourable variance of \$2,140,387 as depreciation will not be processed until the Financial Report for the year end 30 June 2020 is finalised and asset balances confirmed.

Interest Expenses

Unfavourable variance of \$15,578 due to timing of loan and lease repayments.

Insurance Expenses

Favourable variance of \$131,773 due to timing of insurance premium payment dates.

Other Expenditure

Favourable variance of \$88,565 due to a lower than budgeted expenditure primarily relating to community funding via grants and sponsorships - \$113,700 offset partially by the repayment of unspent grant funds related to 2019-20 Bushfire Mitigation Funding – \$40,335.

Other**Capital Expenditure**

Favourable variance of \$767,313 due to timing of capital works program. Refer to Capital Works Expenditure within the Monthly Financial Report attachment for further details.

Profit/(Loss) on Asset Disposals

No variance analysis required, variance to budget is less than 10%.

Non-Operating Grants, Subsidies and Contributions

Unfavourable variance of \$579,779 due to timing of grant funded capital works programs, primarily Main Roads Road Improvement Grants - \$572,438.

Proceeds from Disposal of Assets

No variance analysis required, variance to budget is less than 10%.

Repayment of Loans/Lease

Unfavourable variance of \$66,142 due to timing of lease payments.

**Proceeds from New Debentures**

No variance analysis required, variance to budget is less than 10%.

Transfers (to)/from Cash Backed Reserves (Restricted Assets)

No variance analysis required, variance to budget is less than 10%.

Transfers (to)/from Restricted Cash (Municipal)

No variance analysis required, variance to budget is less than 10%.

Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	<i>That Council accepts the Officer's recommendation</i>	<i>Provision of sufficient information and records to support the recommendation</i>	Financial	Likely	Insignificant	LOW	Accept Officer Recommendation
2	<i>That Council not accept the Officer's recommendation</i>	<i>Provision of sufficient information and records to support the recommendation</i>	Financial	Unlikely	Insignificant	LOW	Accept Officer Recommendation

Voting Requirements: Simple Majority

OCM372/11/20**COUNCIL RESOLUTION / Officer Recommendation****Moved Cr Byas, seconded Cr Strautins**

That Council RECEIVES the Monthly Financial Report for September 2020, in accordance with Section 6.4 of the *Local Government Act 1995* and Regulation 34 of the *Local Government (Financial Management) Regulations 1996* as contained in attachment 1.

CARRIED UNANIMOUSLY 9/0

**10.3.3 - Council and Committee Meeting Dates 2021 (SJ513)**

Responsible Officer:	Manager Governance
Senior Officer:	Director Corporate Services
Disclosure of Officers Interest:	No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i>

Authority / Discretion

Legislative	Includes adopting local laws, local planning schemes and policies.
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Report Purpose

The purpose of this report is for Council to consider the Council and Committee Meeting dates, times and schedule for the 2021 calendar year.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 16 December 2019 - OCM293/12/19 adopted that Ordinary Council Meetings would be held at 7.00pm on the third Monday of each month, with no Ordinary Council Meeting being held in January. Committee Meetings would be held at 5.30pm, Q & A would be held at 6.00pm, and PCF would be held at 6.00pm, unless a Committee Meeting is held prior then PCF would start at 6.30pm.

Background

The *Local Government (Administration) Regulation's 1996* requires a local government, at least once a year, to give local public notice of the dates, times and places at which Ordinary meetings of Council are held within the next 12 months.

Currently all Committee and Council meetings are held in the Council Chambers at the Shire of Serpentine Jarrahdale Administration Building at 6 Paterson St Mundijong. Committee Meetings in 2020 commence at 5.30pm, and Council Meetings commence at 7.00pm. Committee and Council Meetings are open to the public.

Community / Stakeholder Consultation

Nil.

Subject to Council's approval, in accordance with Regulation 12 of the *Local Government (Administration) Regulation's 1996*, an advertisement regarding Council and Committee Meetings will be placed in the local paper. In addition, this advertisement will be placed on the Shire's website, Facebook page and on the Shire's notice boards.



Statutory Environment

Section 5.25(1)(g) of the *Local Government Act 1995* (the Act) provides for the giving of public notices of the date and agenda for Council or Committee meetings.

Regulation 12(1) of the *Local Government (Administration) Regulation's 1996* provides:-

“(1) At least once each year a local government is to give local public notice of the dates on which and time and place at which-

(a) The ordinary council meetings; and

(b) The committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to the members of the public,

are to be held in the next 12 months.”

Section 5.3 of the Act requires that a local government hold Ordinary Council Meetings no more than three months apart.

Comment

- Ordinary Council Meetings

Beyond the requirement to hold ordinary Council meetings at least quarterly, the Act is silent on when Council and Committee Meetings are to be held. Accordingly, Council has significant autonomy in determining the frequency, sequencing and commencement time of Ordinary Council Meetings and supporting meetings.

In setting the frequency, sequencing and commencement time of Ordinary Council Meetings, Council should consider:

- maximising the opportunity for public participation;
- the greater efficiencies achievable through a regular meeting schedule; and
- the impact on Councillors and administration in relation to work/life balance, cost and other obligations.

Councils across Western Australia manage these three factors in different ways. In metropolitan Perth, most Councils hold their meetings on a weekday evening. While no date or time will suit all community members and Councillors, the practice of holding meetings on a Monday evening has generally been accepted as the most appropriate approach in the Shire.

It is proposed to continue to hold meetings on the third Monday of the month as in 2020, except for:

- the month of January when no meeting is proposed;
- the month of October when, due to Elections the meeting would be held on the second Monday of the Month; and
- for the month of December, when due to Christmas, the meeting would be held on the second Monday of the month.

The practice of holding a meeting monthly, excluding January, is recommended to continue based on the volume of matters anticipated to be brought to Council.

It is proposed that Ordinary Council Meetings continue to commence at 7.00pm.



- **Q & A Agenda Briefings**

A Q & A Agenda Briefing is currently held on the week prior to each Ordinary Council Meeting. These sessions provide an important opportunity for Councillors to pose questions regarding agenda reports and contributes to the effective and efficient conduct of Council meetings. Q & A Agenda Briefings are not a decision-making body, are consistent with the provisions in the Act and are used by local governments across Western Australia.

It is recommended that Q & A Agenda Briefings continue to commence 6.00pm.

- **Policy Concept Forums (PCF)**

It is recommended that PCF continues to be held on the 1st, 4th and 5th (if applicable), Mondays of the month, commencing at 6.00pm. If a Committee Meeting is scheduled for the same night, then PCF commences at 6.30pm. PCF's are not scheduled to be held when the date coincides with a Public Holiday.

PCF provides the opportunity for Councillors and Officers to present items that are relevant to the current and future directions of the Council.

- **Committees of Council Meetings**

It is recommended that Committees of Council continue to be held at 5.30pm on the first, and if required fourth Monday nights. Committee Meetings are scheduled at times to comply with the individual frequency required in accordance with the Committee Terms of Reference. Committee Meetings are held prior to the PCF scheduled for that night. The PCF scheduled for that night would commence at 6.30pm.

- **Special Council Meeting and Swearing In Ceremony**

As Local Government Elections are to be held on Saturday 16 October, 2021, it is recommended that a Special Council Meeting and Swearing In Ceremony be held on Monday 18 October 2021, commencing at 6.00pm.



Options and Implications

Option 1

That Council:

1. REQUESTS the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for the Shire's 2021 Ordinary Council Meetings to be held at 7.00pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
 - a) 15 February 2021;
 - b) 15 March 2021;
 - c) 19 April 2021;
 - d) 17 May 2021;
 - e) 21 June 2021;
 - f) 19 July 2021;
 - g) 16 August 2021;
 - h) 20 September 2021;
 - i) 11 October 2021;
 - j) 15 November 2021;
 - k) 13 December 2021.

2. REQUESTS the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for the Shire's Committees of Council meetings in 2021 to commence at 5.30pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
 - a) Audit, Risk and Governance Committee - 22 February 2021;
 - b) Audit, Risk and Governance Committee – 24 May 2021;
 - c) Audit, Risk and Governance Committee – 23 August 2021;
 - d) Audit, Risk and Governance Committee – 1 November 2021;
 - e) CEO Employment Committee – 1 February 2021;
 - f) CEO Employment Committee – 2 August 2021.

3. RESOLVES to hold Q & A Agenda Briefing (Q & A) sessions, closed to the public and commencing at 6.00pm on the dates shown below and as contained within attachment 1:
 - a) 8 February 2021;
 - b) 8 March 2021;
 - c) 12 April 2021;
 - d) 10 May 2021;
 - e) 14 June 2021;



- f) 12 July 2021;
 - g) 9 August 2021;
 - h) 13 September 2021;
 - i) 4 October 2021;
 - j) 8 November 2021;
 - k) 6 December 2021.
4. RESOLVES to hold closed Policy Concept Forums (PCF) on the first, fourth and fifth Mondays of the month commencing on Monday 1 February 2021, except those that are public holidays, on the dates shown below, as contained within attachment 1:
- a) 1 February 2021;
 - b) 22 February 2021;
 - c) 22 March 2021;
 - d) 29 March 2021;
 - e) 3 May 2021;
 - f) 24 May 2021;
 - g) 31 May 2021;
 - h) 28 June 2021;
 - i) 5 July 2021;
 - j) 26 July 2021;
 - k) 2 August 2021;
 - l) 23 August 2021;
 - m) 30 August 2021;
 - n) 6 September 2021;
 - o) 25 October 2021;
 - p) 1 November 2021;
 - q) 22 November 2021;
 - r) 29 November 2021.
5. APPROVES that Policy Concept Forums (PCF) commence at 5.30pm, unless the PCF is on the same night as a scheduled Committee meeting, then PCF to commence at 6.30pm, as contained within attachment 1.
6. REQUESTS the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for a Special Council Meeting / Swearing In Ceremony to be held at 6.00pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
- a) 18 October 2021.



Option 2

Beyond the requirement to hold an Ordinary Council Meeting no more than every three months apart, Council has full discretion in setting the frequency and starting time of Council and Committee meetings.

Option 1 is recommended.

Conclusion

Regulation 12 of the *Local Government (Administration) Regulations 1996*, requires that at least once a year, every Local Government gives local public notice on the dates on which and the time and place at which Ordinary Council Meetings.

Beyond the requirement to hold an Ordinary Council Meeting no more than every three months apart, Council has full discretion in setting the frequency and starting time of Council and Committee meetings.

Attachments (available under separate cover)

- **10.3.3 - attachment 1** – Ordinary Council Meetings, Special Council Meeting, Q & A; PCF and Committee Meetings 2021 (E20/11403)

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.1.1	Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources

Financial Implications

Advertising costs required to comply with legislative requirements are approximately \$500.00.



Risk Implications

Risk has been assessed on the Officer Options and Implications:

Officer Option	Risk Description	Controls	Principal Consequence Category	Risk Assessment			Risk Mitigation Strategies (to further lower the risk rating if required)
				Likelihood	Consequence	Risk Rating	
1	That Council and Committee Meetings are held at times that do not suit Councillors and public attendance	<i>Meetings are publicly advertised; Ordinary Council Meetings and Committee Meetings have been held on Monday evenings previously</i>	Reputation	Possible	Minor	MODERATE	Promote Council and Committee Meeting times to enable public participation.
2	That Council and Committee Meetings are held at times that do not suit Councillors and public attendance	<i>Meetings are publicly advertised;</i>	Reputation	Possible	Minor	MODERATE	Promote Council and Committee Meeting times to enable public participation.

Voting Requirements: Simple Majority

OCM373/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Byas

That Council:

1. **REQUESTS** the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for the Shire's 2021 Ordinary Council Meetings to be held at 7.00pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
 - a) 15 February 2021;
 - b) 15 March 2021;
 - c) 19 April 2021;



- d) 17 May 2021;
 - e) 21 June 2021;
 - f) 19 July 2021;
 - g) 16 August 2021;
 - h) 20 September 2021;
 - i) 11 October 2021;
 - j) 15 November 2021;
 - k) 13 December 2021.
2. **REQUESTS** the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for the Shire's Committees of Council meetings in 2021 to commence at 5.30pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
- a) Audit, Risk and Governance Committee - 22 February 2021;
 - b) Audit, Risk and Governance Committee – 24 May 2021;
 - c) Audit, Risk and Governance Committee – 23 August 2021;
 - d) Audit, Risk and Governance Committee – 1 November 2021;
 - e) CEO Employment Committee – 1 February 2021;
 - f) CEO Employment Committee – 2 August 2021.
3. **RESOLVES** to hold Q & A Agenda Briefing (Q & A) sessions, closed to the public and commencing at 6.00pm on the dates shown below and as contained within attachment 1:
- a) 8 February 2021;
 - b) 8 March 2021;
 - c) 12 April 2021;
 - d) 10 May 2021;
 - e) 14 June 2021;
 - f) 12 July 2021;
 - g) 9 August 2021;
 - h) 13 September 2021;
 - i) 4 October 2021;
 - j) 8 November 2021;
 - k) 6 December 2021.



4. **RESOLVES** to hold closed Policy Concept Forums (PCF) on the first, fourth and fifth Mondays of the month commencing on Monday 1 February 2021, except those that are public holidays, on the dates shown below, as contained within attachment 1:
- a) 1 February 2021;
 - b) 22 February 2021;
 - c) 22 March 2021;
 - d) 29 March 2021;
 - e) 3 May 2021;
 - f) 24 May 2021;
 - g) 31 May 2021;
 - h) 28 June 2021;
 - i) 5 July 2021;
 - j) 26 July 2021;
 - k) 2 August 2021;
 - l) 23 August 2021;
 - m) 30 August 2021;
 - n) 6 September 2021;
 - o) 25 October 2021;
 - p) 1 November 2021;
 - q) 22 November 2021;
 - r) 29 November 2021.
5. **APPROVES** that Policy Concept Forums (PCF) commence at 5.30pm, unless the PCF is on the same night as a scheduled Committee meeting, then PCF to commence at 6.30pm, as contained within attachment 1.
6. **REQUESTS** the Chief Executive Officer give local public notice in accordance with Regulation 12 of the *Local Government (Administration) Regulations 1996* for a Special Council Meeting / Swearing In Ceremony to be held at 6.00pm in the Council Chambers, Shire of Serpentine Jarrahdale Civic Centre, 6 Paterson Street, Mundijong in the manner shown below as contained within attachment 1:
- a) 18 October 2021.

CARRIED UNANIMOUSLY 9/0

**10.4 Community and Organisational Development reports**

Nil.

10.5 Executive Services reports

Nil.

10.6 Confidential reports

OCM374/11/20

COUNCIL RESOLUTION**Moved Cr Byas, seconded Cr Strautins**

The meeting is to be closed to members of the public whilst item 10.6.1 is discussed pursuant to 5.23(2)(c), (d) and (e) of the *Local Government Act 1995*.

CARRIED UNANIMOUSLY 9/0

At 9.13pm, the meeting went behind closed doors.

Manager Community Activation, Ms Steinki declared an Impartiality Interest in item 10.6.1.

Councillor McConkey declared an Impartiality Interest in item 10.6.1.

10.6.1 - CONFIDENTIAL Serpentine Jarrahdale Community Recreation Centre – Revised 2020/2021 Operational Budget (November) (SJ994)	
Responsible Officer:	Manager Community Activation
Senior Officer:	Acting Director Community and Organisational Development
Disclosure of Officers Interest:	In accordance with Regulation 34C of the <i>Local Government (Administration) Regulations 1996</i> , the Manager Community Activation, Ms Rebecca Steinki has declared an Impartiality Interest in this matter as Ms Steinki is a member of the facility.

Confidentiality Provisions

This report is confidential in accordance with Section 5.23(2)(c), (d) and (e) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*



-
- (e) *a matter that if disclosed, would reveal —*
- (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government;*

A full report is provided to Councillors under separate cover. The report is not for publication.

Voting Requirements: **Absolute Majority** - 33A(3) *Local Government Financial Management Regulations 1996*

OCM375/11/20

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Denholm

That Council:

- 1. APPROVES the Serpentine Jarrahdale Community Recreation Centre 2020/2021 Operational Budget submitted by YMCA as per CONFIDENTIAL attachment 1, with a proposed operational surplus of \$13,600;**
- 2. APPROVES the revised KPI's (as required by the contract) for the 2020/2021 financial year as per CONFIDENTIAL attachment 2; and**
- 3. REQUESTS the Chief Executive Officer write to the YMCA indicating the submitted budget has been approved.**

CARRIED BY ABSOLUTE MAJORITY 9/0



Continued

Ordinary Council Meeting Minutes
Monday, 16 November 2020

OCM376/11/20

COUNCIL RESOLUTION

Moved Cr Strange, seconded Cr Atwell

That the meeting be reopened to member of the public.

CARRIED UNANIMOUSLY 9/0

At 9.15pm, the doors were reopened and the public returned to the Gallery.

Presiding Member, Councillor Rich advised the Gallery of the Council Resolution for item 10.6.1.

11. Urgent business:

Nil.

12. Councillor questions of which notice has been given:

Nil.

13. Closure

There being no further business, the Presiding Member declared the meeting closed at 9.16pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on the 14 December 2020.


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Presiding Member – Councillor Rich

25/02/2021
Date