

<b>Technical Report</b>			
<b>Application No:</b>	PA20/484		
<b>Lodgement Date:</b>	15 June 2020	<b>DAU Date:</b>	
<b>Address:</b>	Lot 208 (No. 410) Kargotich Road and Lot 401 Abernethy Road, Oakford		
<b>Proposal:</b>	Retrospective Fill		
<b>Land Use:</b>	'Rural Use'	<b>Permissibility:</b>	'P'
<b>Owner:</b>	Michael Dagostino		
<b>Applicant:</b>	Michael Dagostino		
<b>Zoning:</b>	'Rural'	<b>Density Code:</b>	R2
<b>Delegation Type:</b>	N/A	<b>Officer:</b>	Ryan Munyard, Altus Planning (Independent Planning Consultant)
<b>Site Inspection:</b>	Yes - 12 July 2020		
<b>Advertising:</b>	N/A		
<b>Outstanding Internal Referrals:</b>	No		
<b>External Referrals:</b>	No		
<b>Within a Bushfire Prone Area:</b>	Yes		

### Introduction:

A planning application has been received on 15 June 2020 for a retrospective development application for the placement of fill at Lot 208, 410 Kargotich Road and Lot 401 Abernethy Road, Oakford.

The subject lot is zoned 'Rural' in accordance with the Shire's *Town Planning Scheme No. 2 (TPS 2)*. The fill is to be used to 'top dress' the paddocks on the site to make them more suitable for the keeping of horses, which is incidental to the existing use of the property.

A report is being presented to Council 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.

This report recommends that the retrospective development application for the placement of fill be approved, subject to appropriate conditions.

### Background:

#### Site Context

The subject site is located on the north-west corner of Kargotich Road and Abernethy Road, approximately 3.3km east of Jandakot Regional Park and approximately 2km south-west of the termination of Tonkin Highway with Thomas Road. The immediate surrounding lots on the western side of Kargotich Road are similarly sized Rural-zoned

properties.

Existing Development:

The subject site is largely rectangular in shape and is located within the 'Rural' zoned area of Oakford. A swale drain directly abuts the northern boundary of the site. Abutting the north-east portion of the site is a lot reserved for Public and Community Purposes (Reserve No. 19895).

The land itself is relatively flat and currently contains a dwelling and associated outbuildings and storage structures, all of which are broadly located within the centre of the site. A series of paddocks and animal shelters are located surrounding the dwelling, within the perimeter of the site, as shown below.



**Figure 1: Aerial Photograph**

Development

The application seeks retrospective approval for the placement of fill, some works of which have been undertaken.

The following Figure highlights the area in which the fill would be placed, if the works are completed. The fill currently stockpiled on-site is to be spread out over the southern portion of the property, to a depth of 1cm, to cover a total area of approximately 65ha.

The purpose of the fill is to top dress some of the existing paddocks on the site. In this regard, the applicant advises that the paddocks are covered mainly by coch grass. By

top dressing the land, the grass will easily grow through the fill. This will establish more consistent and healthier grass coverage for the land, which will assist in minimising dust during summer as well as provide a degree of cushioning for the wellbeing of the horses.



**Community / Stakeholder Consultation:**

The application was not required to be advertised as the application meets the relevant 'Acceptable Development' Provisions of the Shire's *Local Planning Policy 4.7 - Placement of Fill*, an assessment of which is provided in the later relevant section.

**Consultation with other Agencies:**

The application was not referred to Department of Water and Environment Regulation

as the majority of the fill is to be located outside of any mapped floodplain. For the south-east portion of the fill that will be with a mapped floodplain, it is considered that the existing flat topography of the site and the proposed 1cm additional fill will not cause any detrimental impacts on the floodplain.

**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
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No. 3

State Planning Policies:

- State Planning Policy 2.5 - Rural Planning

Local Planning Framework

- Rural Strategy 2013 Review
- Local Planning Policy 4.7 - Placement of Fill

**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.

In this regard, a checklist of the development against Clause 67 of the Deemed Provisions is provided at the end of this Report. The relevant matters for consideration are discussed in the following sub-sections.

Land Use:

The fill is to be used to top dress the paddocks on the site and therefore improve pasture development which is not an uncommon practice on rural properties. This is considered consistent with the land use of 'Rural Use' which is permitted in the subject 'Rural' zone in accordance with TPS2.

Town Planning Scheme No. 2 (TPS 2):

Clause 5.10.1 of *TPS 2* states that the purpose and intent of the Rural Zone is to accommodate the full range of rural pursuits and associated activities. It is considered that the fill, which is to support the keeping of horses, is consistent with this Clause.

Draft Local Planning Scheme No. 3 (LPS 3):

The site is to remain zoned 'Rural' under draft *LPS 3*.

Rural Strategy 2013 Review ("the 'Strategy'):

The subject site is designated as 'Rural' under the Strategy. The purpose of this Policy Area is to maintain the integrity of the Shire's rural and agricultural character. The relevant objectives of the Rural Policy Area, as they relate to the development are as

follows:

- *“To retain and maintain traditional agricultural uses in this Policy Area.*
- *...*
- *To retain and enhance the rural lifestyle and character of the area.*
- *...”*

With respect to the above, the development is considered consistent with the Strategy as the fill will allow for improved pasture for the keeping of horses to continue on the subject site and will allow the character of the locality to be preserved by maintaining this land use.

*Local Planning Policy 4.7 - Placement of Fill (LPP 4.7):*

LPP4.7 sets out requirements for the placing of fill on lots to ensure that the filling of land does not adversely impact on the amenity or the environment and to ensure visual impact is minimised on neighbouring properties.

In this regard, the relevant Policy provisions and the associated assessment comments are tabled below.

Policy Provision	Assessment Comments
Nature of fill	The fill placed onsite is clean, free-draining sand as certified by the test results provided by Western Geotechnical & Laboratory Services as part of the development application.
Drainage	The fill is considered to maintain the existing drainage patterns of the locality as the 1cm depth is considered minor and no compaction, earthworks/bunding or retaining walls are required to keep the fill in place.
Traffic	The fill is retrospective and so has already been stockpiled on the site. The only traffic would be internal movements within the site by a bobcat to spread the fill out.
Environmental	The fill is not located within proximity of any watercourses or wetlands and it is considered will not adversely impact any floodplains. In addition, no clearing of vegetation is required to facilitate the spreading of the fill.
Amenity	<p>The 1cm depth of fill will not create any undue detrimental impacts on the amenity of the locality due to the following:</p> <ul style="list-style-type: none"> <li>• It will not alter the existing levels of the site.</li> <li>• The fill will be setback approximately 100m from the nearest neighbouring property.</li> <li>• The fill will have a depth of 1cm. It will improve pasture development, thereby covering the fill. This will ensure the fill is not visible from the streetscape or surrounding properties and will also assist in dust suppression during summer.</li> </ul>

	<p>In terms of dust control, the applicant advises that the spreading out of the fill will require the use of a bob cat and will take approximately five days. The works are considered low scale. Notwithstanding there is still a risk of dust impacts resulting from the works. In this regard, to manage the risk of amenity impacts to the area by way of dust, a Dust Management Plan is recommended to be submitted to the Shire. This will ensure that not only nearby properties will be protected from the possibility of nuisance airborne dust particles and/or dust plumes, nearby local roads will also be protected, ensuring the safe movement of vehicles. Especially along Kargotich Road, where the fill is currently located adjacent too.</p>
Purpose of fill	<p>The fill is to be used to top dress the existing paddocks on the property. This will result in improved pasture make them more suitable for all livestock including the keeping of horses.</p>

Based on the above, the development is considered consistent with the acceptable development provisions of LPP4.7 and is unlikely to have an adverse impact on the amenity of the locality.

Bushfire:

The subject site is located within a bushfire prone area. However, in accordance with Schedule 2, Part 10A, Clause 78B of the *Planning and Development (Local Planning Schemes) Regulations 2015*, a bushfire attack level (BAL) assessment is not required to be submitted with the application as no structures are proposed.

## **Conclusion**

The application seeks approval for fill to be spread out on the site to top dress existing paddocks. This will improve pasture development for the keeping of livestock, including horses, which are currently on the land.

When spread out over the southern portion of the site, the fill will be 1cm deep, which is considered minimal. There will be no change to the existing topography of the land and there will be no impacts to the floodplain or existing drain swale abutting the northern boundary of the site, thereby complying with *LPP 4.7*.

The fill will allow the existing 'cooch' grass to quickly grow through it and provide a more developed and consistent vegetative cover to the soil, which will assist from a visual amenity perspective as well as a dust suppressant during the summer period once grown.

Accordingly, Altus Planning recommend the application be approved subject to appropriate conditions.

**Planning and Development (Local Planning Schemes) Regulations 2015  
Deemed Provisions - Matters to be considered by Local Government**

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>The development is consistent with TPS 2 requirements and will not prejudice the implementation of draft LPS 3.</b>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Consistent with the objectives of the planning framework and the principles of orderly and proper planning.</b>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>The proposal does not require assessment against <i>State Planning Policy 3.7 - Planning In Bushfire Prone Areas</i> as no structures area proposed.</b>			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>The proposal does not result in the removal of any existing on-site vegetation.</b>			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>The proposal is considered consistent with LPP 4.7.</b>			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			

i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Consistent with draft LPS 3.</b>			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
k) the built heritage conservation of any place that is of cultural significance	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>The fill is considered to be minor and is unlikely to adversely impact on neighbouring properties.</b>			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

r) the suitability of the land for the development taking into account the possible risk to human health or safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>The fill is clean free-draining sand</b>			

s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manouvering and parking of vehicles	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

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

w) the history of the site where the development is to be located	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

y) any submissions received on the application	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			

Za) the comments or submissions received from any authority consulted under clause 66	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			

Zb) any other planning consideration the local government considers appropriate	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			