

**Attachments:**

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

**Land Use:**

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>																																
<p><b>Comment:</b></p> <p>Clause 5.18 of TPS2 states that, “<i>The purpose of the Urban Development zone is 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.</i>” The objective is facilitated through the preparation of Structure Plans which guide the land use permissibility and development.</p> <p>The subject site falls within the Cardup Business Park LSP and is zoned ‘Industry General’. The purpose and intent of the zone under TPS2 is as follows:</p> <p style="text-align: center;"><i>“The purpose and intent of the General Industry zone is to provide for industries which require large areas of land for their operation”.</i></p> <p>The site is a considerably large land parcel which will enable the proposed development to provide for an adequate distance of separation between the development and sensitive receptors. This, in addition to management plans, proposes what officers consider to be a safeguard to the control of potential emissions generated from the development. This is specific to ensuring that existing level of amenity within the nearby locality are not impacted upon.</p> <p>In terms of development standards under TPS2, Table IV sets out site requirements for particular uses within the ‘General Industry’ zone. Although the site is zoned ‘Urban Development’, given the designation under the LSP, these requirements are considered relevant and are addressed below:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="4" style="text-align: center;">TPS2 – Table IV – Site Requirements</th> </tr> <tr> <th style="width: 15%;">Criteria</th> <th style="width: 15%;">Requirement</th> <th style="width: 50%;">Proposed</th> <th style="width: 20%;">Compliant</th> </tr> </thead> <tbody> <tr> <td>Minimum Effective Frontage</td> <td>30m</td> <td>91m</td> <td style="text-align: center;">Y</td> </tr> <tr> <td>Minimum Setback: Front</td> <td>9m</td> <td>386m</td> <td style="text-align: center;">Y</td> </tr> <tr> <td>Side</td> <td>6m</td> <td>330m to north 257m to south</td> <td style="text-align: center;">Y</td> </tr> <tr> <td>Rear</td> <td>6m</td> <td>128m</td> <td style="text-align: center;">Y</td> </tr> <tr> <td>Maximum Plot Ratio</td> <td>0.6:1 (essentially 60% open space)</td> <td>The proposal does not result in additional site coverage.</td> <td style="text-align: center;">Y</td> </tr> <tr> <td>Landscaping</td> <td>As determined by Council</td> <td>No additional landscaping is proposed other than within the swale for the purposes of nutrient stripping as part of stormwater management. Officers do not consider that additional landscaping would be required as</td> <td style="text-align: center;">N/A</td> </tr> </tbody> </table>				TPS2 – Table IV – Site Requirements				Criteria	Requirement	Proposed	Compliant	Minimum Effective Frontage	30m	91m	Y	Minimum Setback: Front	9m	386m	Y	Side	6m	330m to north 257m to south	Y	Rear	6m	128m	Y	Maximum Plot Ratio	0.6:1 (essentially 60% open space)	The proposal does not result in additional site coverage.	Y	Landscaping	As determined by Council	No additional landscaping is proposed other than within the swale for the purposes of nutrient stripping as part of stormwater management. Officers do not consider that additional landscaping would be required as	N/A
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		the proposal does not result in an adverse visual amenity impact on the locality and due to the large amount of vegetation coverage already existing on site, as discussed within the built form section of this report.	
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Table V of TPS2 sets out parking requirements for particular land uses. For the 'Industry General' land use, one parking space is required per employee. The proposed concrete batching plant would have two additional employees on site for the purpose of running the batching plant. Officers are satisfied that due to the size of the lot, there is sufficient space available for the two additional parking spaces.

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"/>
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**Comment:**

The portion of the site where the development is proposed is zoned 'Industrial Development' under LPS3. The proposed concrete batching plant would fall within the 'Industry' land use under LPS3, which is defined as follows:

*Industry – means premises used for the manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes facilities on the premises for any of the following purposes –*

- (a) *the storage of goods;*
- (b) *the work of administration or accounting;*
- (c) *the selling of goods by wholesale or retail;*
- (d) *the provision of amenities for employees;*
- (e) *incidental purposes”*

The 'Industry' land use is a 'D' land use within the 'Industrial Development' zone, which means that the use is not permitted unless the local government has exercised its discretion by granting development approval. Therefore, the proposal is capable of approval in accordance with LPS3.

The objectives of the 'Industrial Development' zone under LPS3 are as follows:

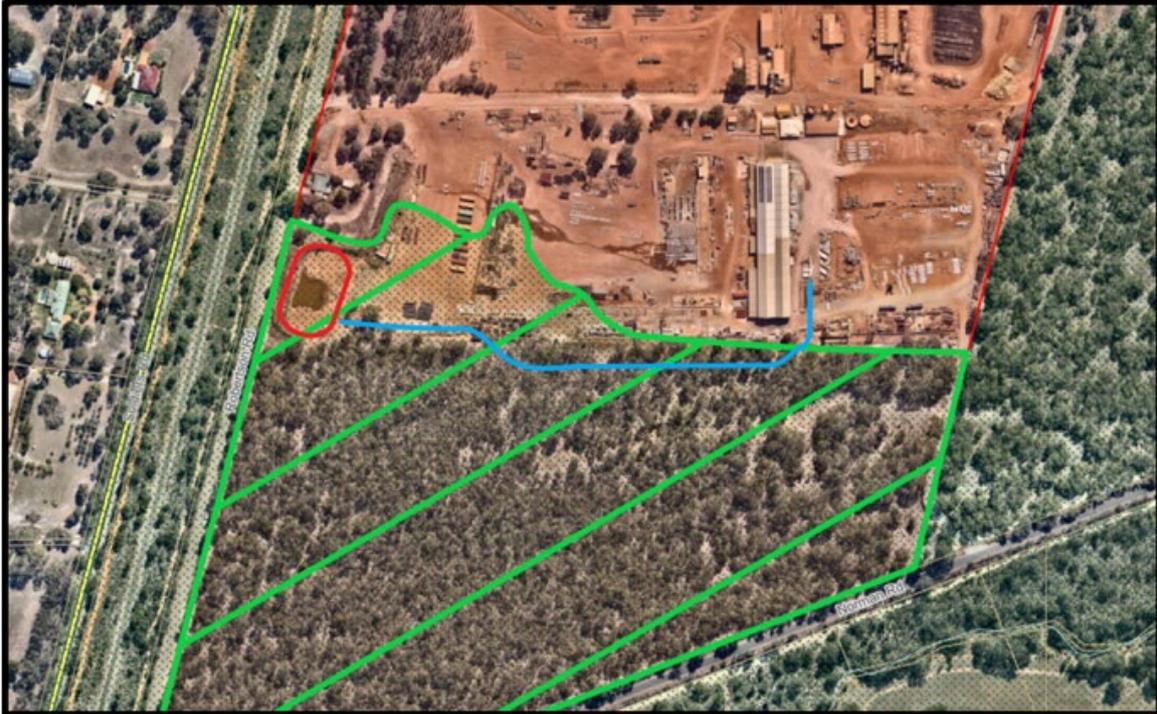
- *'To designate land for future industrial development.*
- *To provide a basis for future detailed planning in accordance with the structure planning provisions of this Scheme.”*

The detailed planning for the site has already been undertaken in the form of the LSP and as such the proposal is considered to align with these objectives.

Schedule 4 of LPS3 details additional site and development requirements for different zones. The requirements for the 'Industrial Development' zone are addressed below:

<b>LPS3 Schedule 4 – Industrial Development Zone</b>		
<b>Zone Requirements</b>	<b>Compliant</b>	<b>Officer Comment</b>
Development approval will not be granted and subdivision will not be supported unless a structure plan has been approved for all or part of the Industrial Development zone in accordance with Part 4 of the Deemed Provisions.	Y	A Local Structure Plan has been prepared for the Cardup Business Park to which the proposal is consistent.
The local government shall require wastewater connection to reticulated sewer. Subject to land capability and site constraint analysis to the satisfaction of the local government, alternate treatment units may be considered as a temporary solution until such time as reticulated sewer is available to the site, at which time the development is to be connected to reticulated sewer.	Y	Wastewater from processing is drained and captured within a wedge pit and reused in the batching process. No disposal of wastewater is proposed.
The local government shall require connection to reticulated water. Subject to the demonstration of suitability, connection to an alternate water supply may be considered by the local government.	Y	Water for the proposal is sourced from onsite water tanks as there is no connection currently available for reticulated water. This alternate supply of water is considered appropriate.
Developments shall retain the first 15mm of rainfall incident to the lot. Discharge from the land shall be managed to predevelopment rates for the 10 and 100 year critical storm events.	Y	Drainage, as discussed in the stormwater section of this report, is to be contained on site a drainage basin. A condition is recommended to require an updated Stormwater Management Plan to provide the detailed design for this.
Road access shall be designed to service RAV network 4 to the satisfaction of the local government.	Y	Vehicles associated with the proposal are 'as of right vehicles' that are not required to be contained on the RAV network. However due to the location of the proposal, trucks can utilise the RAV network.

c) any approved State planning policy	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			
<u>State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region (SPP2.8)</u>			
The aim of SPP2.8 is to provide a framework to ensure bushland protection and management issues within the Perth Metropolitan Region are appropriately addressed and integrated with broader land use planning.			
Bush Forever area 361 is located in the southern portion of the property, with the area of Bush Forever 361 being shown in the image below:			



**Figure 7: Bush Forever Area 361 (green), the initially proposed swale (blue) and drainage basin (red)**

As previously stated, following concerns raised from the DPLH, no part of the application would be located within the vegetated extents of the bush forever site, resulting in the protection of the significant bushland, consistent with SPP2.8. This site is also in the process of being amended to reflect vegetated extents.

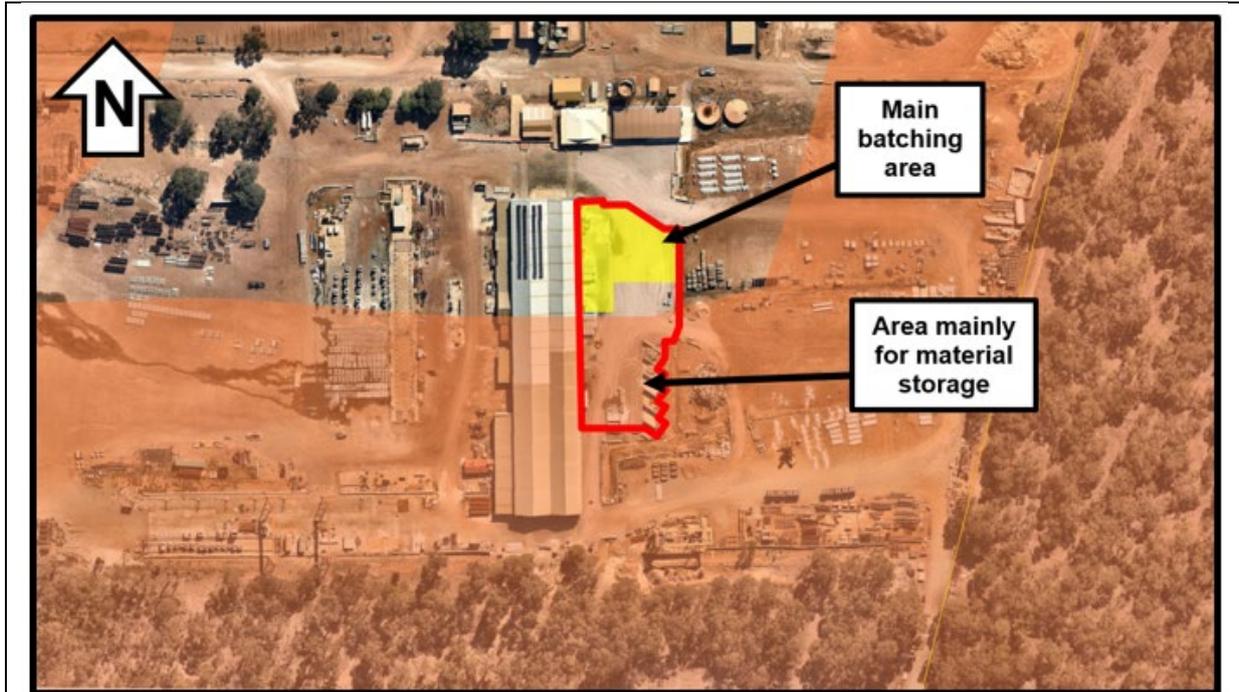
State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7)

The intent of SPP3.7 is, *“to implement effective, risk-based land use planning and development to preserve life and reduce the impact of bushfire on property and infrastructure”*. This is facilitated through objectives, which in summary are as follows:

- *“Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.*
- *Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.*
- *... Ensure that ... development applications take into account bushfire protection requirements and include specified bushfire protection measures.”*

Typically, for this type of development, SPP3.7 requires a Bushfire Management Plan (BMP) to be provided. The BMP would provide the bushfire attack level (BAL) rating for any buildings and an assessment against the elements of the *Guidelines for Planning in Bushfire Prone Areas* (location, siting, water and access).

In this instance, the applicant has not provided a BMP as the main concrete batching area would be located outside of the bushfire prone area, as shown on figure 8 below:



**Figure 8: The bushfire prone area (orange overlay) compared to the development area**

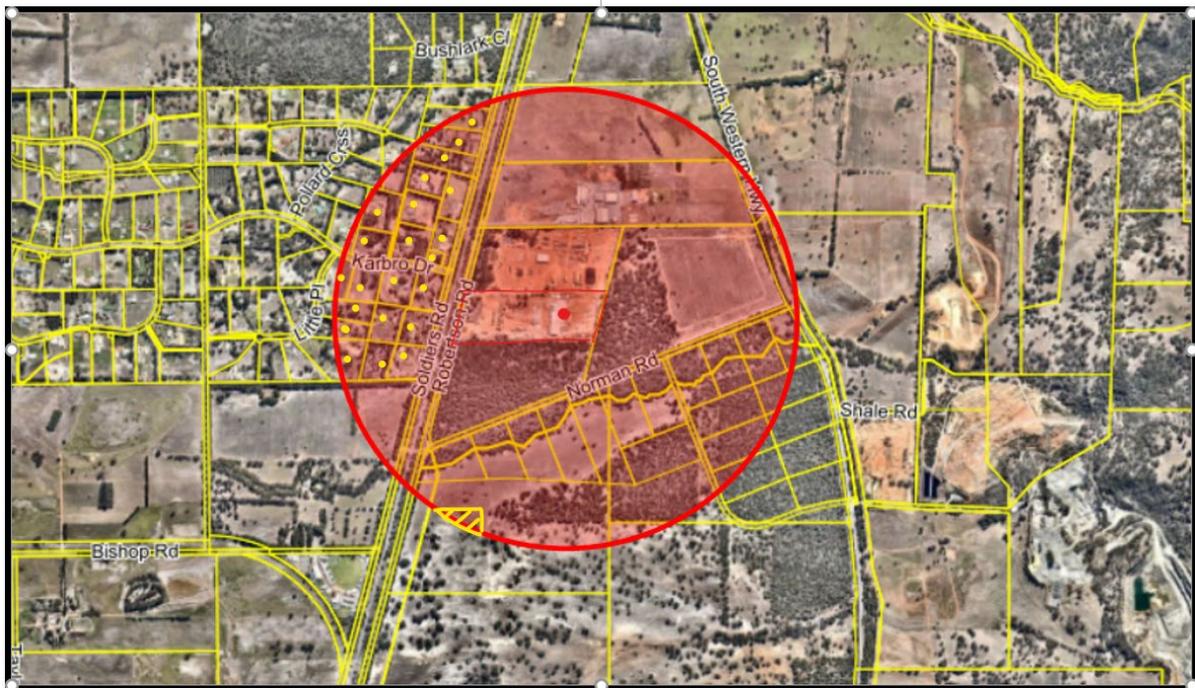
While this location is technically outside the BPA, the development area does extend within the BPA. Not having a BMP creates a degree of risk assessment that has not been assessed.

d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) –	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
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**Comment:**  
The *Environmental Protection Authority Guidance Statement 3 - Separation Distances between Industrial and Sensitive Land Uses (Guidance Statement)*  
 The current version of EPA Guidance Statement No. 3 (Separation Distances between Industrial and Sensitive Land Uses), recommends a 1000m buffer as a starting point.

Industry	Description of industry	DoE Licence or Registration category (*)	Key Government agencies for advice or approvals	Code of Practice (CoP) / environmental requirements	Impacts					Buffer distance in metres and qualifying notes
					Gaseous	Noise	Dust	Odour	Risk	
Cement product manufacturing works	concrete or cement is mixed, prepared or treated – up to 5000 tonnes per year	√ (77)	DoIR, WRC, local gov't	√		√	√			300-500, depending on size
	concrete or cement is mixed, prepared or treated – from 5000 to 150 000 tonnes per year	√ (77)	DoIR, WRC, local gov't	√		√	√			500-1000, depending on size
	concrete or cement is mixed, prepared or treated – greater than 150 000 tonnes per year	√ (77)	DoIR, WRC	√		√	√			1000-1500, depending on size

A 1000m buffer, taken from the proposed location of the physical works, shows that the land is not sufficiently large enough to accommodate the standard buffer for the proposal. Specifically, a number of sensitive premises are affected on the west side of Soldiers Road. Also, future residential development associated with the approved Whitby Structure Plan would be affected. This is shown following:



**1000m buffer**

The key impacts identified for this type of industry according to the Guidance Statement are noise and dust emissions. The applicable industry according to the Guidance Statement has a generic separation distance requirement of 500-1000m, and as previous discussed a 1000m distance is considered relevant. While officers note that a draft Guidance Statement (dated 2015) prescribes a lower distance (between 300 to 500m), this remains in draft form only and does not alter that the current operative guidance statement prescribes 1000m.

This is a concern to Officers and the impacts are fully addressed within the Council report.

e) any policy of the Commission	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

f) any policy of the State	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

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

h) any structure plan, activity centre plan or local development plan that relates to the development	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
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**Comment:**

Cardup Business Park Local Structure Plan (LSP)

The application site is designated as 'Industry General' under the LSP. According to the Table 1 – Zoning Table of TPS2, the land use of 'Industry General' is a permitted land use in the 'General Industry' zone. The proposal by way of land use is consistent with the LSP.

The LSP also requires:

*Any development contemplating dust generating activities shall be accompanied by a dust management plan to demonstrate dust is capable of being managed and monitored in accordance with EPA regulations.*

Full consideration has been given to the dust impacts of the proposal within the Amenity section of the Council Report.

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 type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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**Comment:**

## Development:

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>Comment:</b>			
<p>The development area is set back significantly from all property boundaries as follows:</p> <ul style="list-style-type: none"> <li>• 386m to the primary street boundary (west);</li> <li>• 330m to the side boundary (north);</li> <li>• 257m to the side boundary (south); and</li> <li>• 128m to the rear boundary (east).</li> </ul> <p>In addition to this, Officers note that there is significant vegetation providing a visual screen to the development to all boundaries. Furthermore, the development would be located wholly behind the existing Permacast shed and so would not be visible from the primary street of Robertson Road.</p>			

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>The amended proposal to relocate stormwater management systems outside of the bush forever will ensure there are no adverse environmental impacts. Further consideration granted in the SPP2.8 section of the report.</p>			

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 type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" 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> A condition is recommended requiring the submission of a Bushfire Management Plan.			

r) the suitability of the land for the development taking into account the possible risk to human health or safety	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input checked="" type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> Officers do not consider that the Dust Management Plan submitted with the proposal sufficiently details how offsite dust impacts of existing and future sensitive receptors within the locality will be managed. Full consideration has been given to offsite impacts in the Amenity section of the Council Report.			

s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b> Refer to the Traffic Management sections of the Council Report for full consideration to these matters. Officers note that a maximum of 36 vehicles would attend site per day for the proposal. 20 of these are already on site for the existing Permacast operation though and would be repurposed for this proposal. The onsite movement of vehicles would not adversely impact on the locality.			

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> Refer to the Traffic Management sections of the Council Report. The proposal has been amended to only propose 'as of right' vehicles and not the large heavy haulage RAV trucks. The numbers of trucks proposed would be within intersection capacities and the trucks would keep to the RAV network, meaning they would not impact on local roads near the Cardup rural residential area or the Court Grammar School.			

u) the availability and adequacy for the development of the following – I. Public transport services	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
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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>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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			

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

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

y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b> 2 submissions of support were received and 6 submissions in objection to the proposal. Full consideration and applicant response to these has been provided in the summary of submissions attached to the report.			

Za) the comments or submissions received from any authority consulted under clause 66	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b> Submission from State Departments can be viewed within the summary of submissions and responded to in the consultation section of the report.			

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