



Shire of
Serpentine
Jarrahdale

Ordinary Council Meeting Confirmed Minutes

7.00pm

Monday, 19 July 2021

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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



Ordinary Council Meeting Minutes

Monday, 19 July 2021

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
05/07/21	PCF	✓	✓	A	✓	✓	✓	✓	✓	✓
28/06/21	PCF	✓	✓	✓	✓	✓	✓	A	✓	✓
21/06/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
31/05/21	PCF	✓	✓	✓	A	✓	✓	✓	✓	✓
24/05/21	PCF	✓	✓	✓	✓	A	A	A	✓	✓
17/05/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
03/05/21	PCF	✓	✓	✓	✓	A	A	✓	✓	✓
19/04/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
29/03/21	SCM	✓	✓	A	A	✓	✓	✓	✓	✓
22/03/21	PCF	✓	✓	✓	✓	A	✓	A	✓	✓
15/03/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
22/02/21	SCM	✓	✓	✓	✓	A	✓	A	✓	✓
15/02/21	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
14/12/20	OCM	✓	✓	✓	✓	A	✓	✓	✓	✓
14/12/20	SCM	✓	✓	✓	✓	A	✓	A	✓	✓
30/11/20	PCF	✓	✓	✓	A	✓	✓	✓	✓	✓
23/11/20	SCM	✓	✓	✓	✓	A	✓	✓	✓	✓
23/11/20	PCF	✓	✓	✓	✓	A	✓	A	✓	✓
16/11/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
02/11/20	PCF	A	✓	✓	✓	A	✓	✓	✓	✓
05/10/20	PCF	✓	✓	✓	✓	✓	✓	✓	✓	✓
21/09/20	OCM	✓	✓	✓	✓	✓	✓	✓	✓	✓
07/09/20	PCF	✓	✓	✓	✓	✓	✓	A	✓	✓
24/08/20	PCF	✓	✓	✓	✓	A	A	✓	A	✓



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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	✓	✓	✓	✓	✓	✓	✓	✓	✓
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, 19 July 2021 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Councillor Rich declared the meeting open at 7:01pm and welcomed Councillors, 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.

Minutes

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

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

Officers: Mr P Martin.....Chief Executive Officer
Ms H Sarcich.....Deputy CEO / Director Community
and Organisational Development
Mr F SullivanDirector Corporate Services
Mr A TrosicDirector Development Services
Mr R NajafzadehDirector Infrastructure Services
Dr K ParkerManager Governance and Strategy
Ms M Gibson.....Governance Officer – Council and Committees
(Minute Taker)

Apologies: Councillor R Coales

Tonight, we have an apology from Councillor Rob Coales.

Councillor Coales had requested to participate in the meeting via telephone. Under Regulation 14A of the *Local Government (Administration) Regulations 1996*, Council may only approve this arrangement if the Councillor is in a 'townsite' for the purposes of section 3 of the *Land Administration Act 1997*. This section defines townsites narrowly as a particular declared places, areas and locations within the state of Western Australia. This interpretation of the meaning of townsite and the associated requirement to be in Western Australia to be eligible to participate in a meeting via telephone is supported by the Department of Local Government's 'A Guide to Meetings' publication. As Councillor Coales has identified that he is interstate, attendance by telephone at the meeting is not permitted by legislation. Therefore Councillor Coales will be recorded as an apology.

Observers: Members of the Public – 25

Staff members – 2



2. Public question time:

2.1 Response to previous public questions taken on notice:

Nil.

2.2 Public questions:

Public questions commenced at 7:02pm

Helen and Barry O'Neill, Cardup WA 6122

Question 1

What is the time frame for the fence to be put up?

Response (Director Development Services)

In accordance with the Deemed Provisions of Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, if the development is approved by Council, substantial commencement must take place within the period of 2 years commencing on the date on which the determination is made. Officers understand however that the applicant seeks to undertake the development in the short (immediate) term.

Fiona Lee Lowe, Canning Vale WA 6155

Question 1

When do you expect to have \$106,500 from the State Government in a Shire bank account earmarked to improve, maintain and repair the Serpentine Jarrahdale Community Recreation Centre ("Rec Centre"), as promised by the Premier on 16 February 2021?

Response (Chief Executive Officer)

Item 10.5.1 on tonight's agenda presents Council with the first batch of funding agreements for Election Commitments which the Shire will be responsible for delivering. Two of these funding agreements presented for Council's consideration are for projects at the Serpentine Jarrahdale Recreation Centre totally \$106,500. Should Council authorise the CEO to execute these funding agreements they would be then submitted to the Department for processing and Officers would envisage the Shire receiving payment shortly after that.

Question 2

Once you receive the funds, do you have a timeline for these works to be completed?

Response (Director Infrastructure Services)

The upgrade and repair works will be undertaken during the 3rd quarter of 2021/22 financial year.

Question 3

Have you conducted a health and safety review for the health implications for children exposed to the insulation on the basketball courts walls at the Rec Centre, actively degrading into the air?

Response (Director Development Services)



At the Shire's most recent public building inspection on 18 May 2021, there were no public health risks identified in relation to the condition of insulation on the internal walls of the SJ Rec Centre. The Shire has not received any respiratory complaints raised by users of the facility to warrant an investigation into the indoor air quality.

Mrs Lee Bond, Box 44, Armadale, WA 6112

Question 1

What is the exact amount paid to Dienst Consulting over the past 12 months, and what do they consult on, and what did we get for our money?

Response (Director Corporate Services)

The amount of expenditure for the 20/21 financial year paid to Dienst consulting is \$183,127.22. Dienst consulting provides both an IT consultancy and software licensing service.

The breakdown of costs of \$72,656.85 for software licensing renewals is:

- Manage Engine which is an ICT Service Desk , ICT Asset and Performance Management Tool - \$55,621.06*
- Adobe Creative Cloud which is document management software - \$17,035.79*

and \$110,470.37 for consulting services on ICT specific projects, being:

- Migration from email services on premise to email services in the cloud - \$77,329.25*
- Rolling out of new computers to staff – \$19,332.31*
- Assistance in preparing an ICT Operational Management Plan - \$13,808.81*

Question 2

The amount of \$156,396.09 was paid to Dept of Fire and Emergency Services, breakdown the expenditure for the Shire requirements and what those requirements were or are?

Response (Director Development Services)

This was the quarter 4 emergency services levy payment to the Shire. Being outside the gazetted fire district of Perth, the Shire manages its risk of bushfire through establishing and maintaining six volunteer bushfire brigades, and one volunteer emergency support brigade, as well as a volunteer SES unit. The ESL payment maintains the brigades/units plant, equipment, maintenance and operational costs.

Question 3

We paid \$12,540.00 for Creative Adm Trails Branding & Wayfinding Style Guide, what does this mean and what did we get for that amount of money? It should be explained in simple terms to me.

Response (Deputy CEO/Director Community and Organisational Development)

The Shire's Tourism Strategy lists Tourism Branding and Wayfinding and Serpentine Jarrahdale Trails Hub as two of the eight priorities to be achieved.



Included within the actions to be undertaken for both priorities is the necessity to ensure appropriate signage and branding.

Shire Officers conducted a procurement process in line with Council policy, to develop a Jarrahdale Trails Branding & Wayfinding Style Guide, resulting in Creative ADM being engaged to deliver the project for a total cost of \$36,000 (ex GST). Council endorsed the Jarrahdale Trails Branding Guide at the April 2021 Ordinary Council Meeting and the Jarrahdale Signage and Wayfinding Guide is currently being developed incorporating the adopted brand.

Combined, the Jarrahdale Trails Branding and Wayfinding Style Guide will inform the branding and design development of trails messaging and signage within Jarrahdale, which is aimed at enhancing the visitor experience when researching, visiting and promoting Jarrahdale trails locally, Statewide and nationally.

Presiding Member, Councillor Rich asked if there were any further public questions from the floor at 7:12pm. No further questions were asked.

Public questions concluded at 7:12pm.

3. Public statement time:

Public statement time commenced at 7:12pm

Mrs Lee Bond, Box 44, Armadale, WA 6112

I am for recognising volunteers, but the amount of money spent for this awards night is obscene. \$12,925.50 for catering and furniture and a further \$3,750.00 for auditorium facility & equipment hire. A lot of ratepayers would be incensed that social club payments of \$168.00 here and \$174.00 there when this Shire is bleeding ratepayers with unnecessary and excessive rate increases. I hope the \$770.00 fines enforcement is not another employee speeding fine and the ratepayer has been hit again.

It is time that details in the creditors payments are written up with a clear definition of what we are paying for, it is vague and obscure and unfair. E.g. "Community Building & Engagement Program Byford Town Team, Town Team Movement Limited", the community right now is informing this Council that they are being ignored and to add insult to injury \$2,937.00 was paid for this nonsense. When did you communicate about the library, sensible suggestions were made, and you dismissed them? If this is a team building training session the ratepayer is part of that team and you failed the course, ask for a refund. "Jaz Creative Consultancy Svs Design of Request & Report It Collateral" \$3,608.00 paid for this and I would not be alone in suggesting that many in the community could sort out the Shire finances and there would be no reason to keep increasing the rates.

The purchase of Turner Cottage at Serpentine is not required. It has been heritage listed for years and it is not the responsibility of the ratepayer to purchase this property when the amounts after purchase will run into the hundreds of thousands of dollars. Whoever purchases it will have to adhere to its heritage listing and that appears to be the reason no-one else has purchased this property. Why has the Shire ignored a heritage dairy in the Shire, but you are vocal about this one property? This Shire has no proper planning and has become an infestation of houses without building communities and now there is a law and order issue out of control and the coming of the train will finish off this Shire. More



buses would have made sense because you have to pay to get on the bus and those that just want to create trouble will not pay.

Public statement time concluded at 7:15pm.

4. Petitions and deputations:

4.1 Deputation – Henry Dykstra of Harley Dykstra representing Polevine Pty Ltd ATF Permacast regarding item 10.1.2 – Lot 60, 394 Robertson Road, Cardup – Proposed Mobile Concrete Batching Plant

Mr Henry Dykstra and Mr Rodger Stevens made a deputation in support of the proposal.

4.2 Deputation – Helen and Barry O'Neill, Cardup WA 6122, regarding item 10.1.7 – Proposed Privacy Screen - Lot 3, 1098 Orton Road, Cardup

Would like to inform you that this neighbour has started putting the proposed new fencing up already.

Sunday 11th July 2021, 2 panels have been put up, consisting of Metal Construction Panels, same as what is used on Building Construction Sites, with shade cloth on it.

Shade Cloth is contrary to what has been asked for in the above application.

Also, this fencing is not at natural ground level. They are on blocks as well as existing fence that was put up before, is also on blocks.

All this fencing looks like Building Construction Site Fencing that is put around building sites.

We also consider this as a Fire Hazard.

We had ashes hitting neighbours trees and starting spot fires in our paddocks from the fire from Hopkinson Road to Bulloch Drive also when the big fire was in King Rd which is approx. 10 kms from us, we had ash falling on our back lawn.

Some history of what has been happening here since we applied to Council last year to have Hessian, Shade Cloth and Bamboo Sheeting removed from 2 metre high Cyclone Fence 6" from Boundary Fence.

This is on the eastern side of our property.

We put in a 2nd driveway to accommodate the newer fire brigades use now as they will not fit through our original opening. This has provided much quicker, easier access to the back of our property and is a benefit to both property's in case of fire.

This meant tidying up behind our shed and further along our block, shifting horse shelters and tidying the whole area up.

Shifting one horse shelter we had Council turn up to ask what we were building but was only shifting what was already there so no problem at all.

So put Sea Container, Woodshed, Chook house and 1 horse shelter in a row. At the side of shed are products we use, stacked neatly alongside side of shed.

After 23 years of a blue sea container sitting there, we were told to paint the sea container, which we have.



Then neighbour put up orange safety mesh (which is used on road works) on the cyclone fence which we had Council remove for us.

Then on top of cyclone fence mesh and wire was put up to keep cats out, but is now in disrepair badly.

Then came Metal Security Construction Fence Panels, hessian and bamboo sheeting placed on blocks above ground level approx. 35-40 metres long.

Then hessian on cyclone fence 6" from the boundary fence. This is 6 metres long. Then another 6 metres of shade cloth put up and then bamboo sheeting over the top of that.

Along the cyclone fence on neighbours property 6" from boundary fence there has been creepers planted every 1 metre starting adjacent from the front of our shelter/shed to the horse stable this area covers approx. 65-70 metres in length.

Some of these creepers are about 1 metre from the top of cyclone fencing which is 2 metres high so now with creepers grown makes it 3 metres high, which there has been extra wires and poles put up for it to grow on.

How high can this cyclone fence be built up legally alongside the boundary fence?

Neighbour didn't approve of us cutting the creepers off which had entwined around the boundary fence wire. It is everybody's obligation to look after their boundary fences.

Another portable piece of shade cloth on framework was then put up.

Next thing neighbour cuts their big trees and shrubs back so now there is a very open view to our place, so what happened to the privacy they are requesting?

An extra pole has been put in along boundary fence, where creepers are 3 metres high, we assume to hold the cyclone fence from falling into our place. Rather top heavy now.

Two weeks ago, more trees and bushes were cut back further.

So now it's even more of an open view into our place.

So really what's the Privacy issue when you do something like that?

In conclusion, we would appreciate it if Council would dismiss this application for this type of fencing but give permission to have a proper fence put up to Council specifications and rules, because at the moment it looks like a building construction site.

Would also appreciate if fence was constructed at least 4 metres from the boundary fence.

Also a time limit to remove existing fence, proposed new fence, which has been put up before Council ruling, Hessian, shade cloth, bamboo sheeting from cyclone fence near boundary fence and the 1 metre high material at bottom of cyclone fence which runs about 40 metres in length along the cyclone fence.

4.3 Deputation – John Wieske of Masada Property representing the owner regarding item 10.1.1 – Proposed Health Studio, Office, Consulting Rooms, Shop and Café – Lot 201 (895) and Lot 8 (899) South Western Highway, Byford



Good evening to all in attendance. The development at 895 SWH Byford, which is first on the agenda tonight, has been in the planning for quite some time and I am grateful to the SJ planning staff who have worked hard on this to the point where it is being presented to the OCM tonight for consideration and determination. As with most developments, this proposal has not been without its challenges and hurdles and I am indebted to the staff in presenting the report with a recommendation for approval with said conditions.

I do, however, wish to speak to the effect of raising some concern, and appealing to you Councillors in regard to several of the conditions and to present our justification to this effect. I do not wish to be tedious, however I need to put this forward for your consideration.

I stand here as the proponent representing the applicant and I wish to present this on their behalf being a local family who have had a significant input into our local community to date and it is their plan, via this proposal, to continue this legacy in presenting a service to the community and being a contributing business to the local economy. They are no large business syndicate but a local family doing their bit for our local area.

In general, we are accepting of the conditions as presented yet wish to speak to the following conditions:

Condition h.

This condition speaks to a Waste Management Plan and culminates with a point of no waste collection from the verge. I wish appeal to you Councillors to have to point (v) of this condition struck out.

While we accept that it is appropriate for a WMP to be prepared we would argue that is not reasonable to prohibit the collection of the bins from the kerbside. It appears the argument is that the new development will produce more waste and that picking up bins from the kerb is a safety issue for traffic. The reality is that the waste from the proposed development will not produce a significant amount of added waste. Currently the 2 lots have 4 bins collected, 2 waste and 2 recycling. With the development this is likely to double to 8 bins. Currently the rubbish truck picks up bins the whole length of SWH (which carries a safety risk to traffic as it stands) and will continue to do so even when this lot is developed. The extra bins may add all of 30 seconds to the time they pick up bins that they are already there for. As such we do not believe it is justifiable to prohibit the collection of bins, just like all the other bins and if it was about traffic safety and risk mitigation there should be a call to have no bin collection whatsoever on the highway for anyone which is simply not feasible.

I appeal to you councillors to reconsider condition h and have point (v) removed.

Condition m.

This condition seeks for the applicant to design, build and fully fund a left turn auxiliary lane from the South Western Highway into the site. I appeal to you Councillors to have this condition struck out as it is simply irrational, unfair and unjust as a burden for the applicant.

While we support road safety, we do not believe this condition to be fair in any measure. At the numerous pre-lodgement meetings we had with Main Roads, this



idea was never canvased or seen as an issue. It was only added to the final report by MR at the 11th hour. Main Roads justification is that this turn is necessary to facilitate the development and a matter of safety and impact mitigation. The reality is that none of the businesses along the highway who have highway access have a left pocket turn lane (bar Vibe, and that is because the left pocket was already there as a bus stop/bay from a bygone era) and in fact very few sites all the way from Byford to Perth have them. It is a fact that most of the roads coming off the highway don't have left pocket lanes, and to be noted is Abernethy Road just 100m up the road, which has a far greater volume of vehicles turning movements. The SWH is a dual carriage way at 60kpm speed limit which can well accommodate the movement of traffic while vehicles turn into this or any other site or street along the highway.

While MR's may include this as a recommendation via a condition they are wanting, Council may either accept or reject this. We do not consider this condition as just or fair and as such I appeal to you Councillors to reconsider condition (m) and have it removed.

Condition s.

This condition requires the 2 sites (895 & 899) to be amalgamated. Again, I appeal to you Councillors to have this condition struck out.

It appears this was put forward by Shire planning staff. The justification I have received when this condition was questioned was that "this is a multimillion-dollar development, which from the perspective of orderly and proper planning should certainly not straddle across 2 lots", and the development "presents as a single integrated development". My response is 3-fold.

Firstly, the cost of a development bears no relevance to the number of titles and title ownership.

Secondly, it is incorrect to say that this development 'straddles' two sites. For the sake of time, convenience, money and a single common road access point, this development application does include both sites, however, should one carefully consider the plans provided, the development has been designed in a way so as to keep the two lots very separate with nothing straddling the common boundary. They are 2 separate buildings with the parking and service requirements for each individual lot solely contained in their own lot. I repeat, nothing straddles the boundary.

Thirdly, the idea that it presents as a single integrated development is purely an aesthetic issue, not a legal one and bears no relevance to lot ownership.

The fact of the matter is that there are currently 2 lots with 2 separate unrelated ownerships and it is likely to stay that way and upon the legal advice I have obtained, it appears that as a point of law, it would not be possible to 'force' 2 owners to amalgamate which will make this condition impossible to enforce.

Should Councillors not remove this condition it will most likely be the case this will end up in SAT as it is a 'not negotiable' item for the applicants. The reality is we do not want to go to SAT, and it is my understanding the SJ Shire is not favourable of going there either.

Once again, I appeal to you councillors to reconsider condition (s) and have it removed.



Conclusion

In conclusion, I want to emphasise that we are thankful and grateful to the Shire and specifically to the planning staff for progressing this application and for it to be brought to Council tonight. However, we appeal to you Councillors to remove conditions h point (v), m and s as we believe they are not fair, just or relevant to this application.

Thank you.

Mr John Wieske read out a statement from the owner of the subject property, in favour of the application.



5. President's Report:

Good evening, and welcome to the Ordinary Council Meeting for July 2021.

It is great to be holding our meeting in person tonight following the Perth and Peel four-day lockdown earlier this month. Our thoughts are with residents in New South Wales and Victoria who are currently in COVID-19 lockdowns.

It was wonderful to attend the Shire's Emergency Services Awards Evening late last month, which was unable to be held in 2020 due to COVID-19 restrictions.

The evening provides us the chance to celebrate our local Emergency Services volunteers and recognise the enormous contribution they make to our community.

Their selflessness, hard work and commitment to the Serpentine Jarrahdale area sets a magnificent example for the rest of us to follow.

I would like to make special mention of Serpentine Volunteer Bush Fire Brigade's Ray Elliott, who was awarded his 50 years of service certificate on the night.

This is an outstanding achievement and I would like to take this chance to thank Ray for his commitment to keeping our community safe over such a prolonged period.

Congratulations to all those who were presented with certificates on the night and thank you for all that you do for our community.

Emergency preparedness was also in the spotlight in June with the Shire's first Be Bushfire Ready Community Day held on 19 June at Serpentine Oval. I would like to congratulate our Director Development Services, Andrew Trosic, and all staff involved for the delivery of such a successful event.

It was fantastic to see our community engage with Shire staff and our volunteer bushfire brigades to learn how they can prepare their family and their properties ahead of this year's bushfire season.

The following day I attended the Serpentine Horse Pony Club 2021 Jill Stanton Memorial Dressage Day and VIP Morning Tea. Congratulations to the club on a fantastic day.

It was also a pleasure to attend our most recent Citizenship Ceremony held here in the Civic Centre on Tuesday, 6 July.

We welcomed 15 new Australian citizens on the night with conferees from Vietnam, India, United Kingdom, Ireland, Philippines, New Zealand, South Africa, and Columbia surrounded by their friends and families. It's always a joy to be present at these events and see the smiles on the faces of conferees as they are presented with their citizenship.

On Thursday, 8 July I chaired the Perth Trails Committee meeting where we had a very informative discussion around off road vehicle trail users. I also attended the Equine Advisory Group where we had a presentation from Main Roads and a great discussion over connectivity for our equine trails throughout the Shire.

Over the past month, the Chief Executive Officer, Mr Paul Martin, and I have also attended the following meetings together:

- Our scheduled monthly meeting with Darling Range MLA Hugh Jones
- Meeting with Local Government Minister John Carey to discuss the Shire's advertised approach for differential rating for 2021/22 and rating equity project.



- Meeting with Emergency Services Minister Reece Whitby to discuss emergency services within the Shire
- Meeting with Sport and Recreation Minister Tony Buti to discuss the Keirnan Park project and Jarrahdale Trail Town business case
- Meeting with Principal Policy Advisor Ruth O'Toole from Heath Minister Roger Cook's office to discuss the Byford Health Hub.

On Friday I was pleased to join our Director of Infrastructure Services Reza Najafzadeh and Manager of Subdivisions and Environment Alan Rajah for a photo to celebrate the Shire's 10-year milestone as part of Water Corporation's Waterwise Council Program.

The program supports Local Governments to improve their water efficiency and management practices, and I'm proud of what the Shire has been able to achieve in water conservation over the past decade.

I would like to remind everyone that applications are open for the latest round of the Shire's Major Event Grants.

Grants of between \$5,000 and \$20,000 are available to help local community groups deliver events of significance for the region.

Nominations also remain open for the SJ Garden Competition, with entries open across six categories.

For more information, please visit the Shire website.

As always, my full calendar can be viewed on the following pages:

21st June 2021	Special Q&A	Civic Chambers
	Ordinary Council Meeting	Civic Chambers
22nd June 2021	Meeting with RSLWA	Perth
	Meeting with Minister Carey	Perth
23rd June 2021	CEO Annual Performance Review 2020/21 - Presentation and Workshop	Shire Offices
24th June 2021	Peel Regional Leaders Forum Meeting	Boddington
	Peel Zone Meeting	Boddington
25th June 2021	Emergency Services Awards Night	Whitby
28th June 2021	Policy Concept Forum	Shire Offices
5th July 2021	Meeting with Hugh Jones	Byford
	Meeting with Minister Whitby	Perth
	Policy Concept Forum	Civic Chambers
6th July 2021	Meeting regarding Byford Health Hub	Perth
	Australian Citizenship Ceremony	Civic Chambers
7th July 2021	WALGA Strategic Forum and State Council Meeting	Perth
8th July 2021	Perth Trails Committee Meeting	Teleconference
	Equine Advisory Group Meeting	Shire Offices



9th July 2021	CEO KPI Supporting Documents Discussion	Teleconference
12th July 2021	Q&A Agenda Briefing	Civic Chambers
14th July 2021	Weekly Meeting with CEO	Shire Offices
	CEO Annual Performance Review 2020/21	Shire Offices
15th July 2021	Meeting with Minister Buti - Minister for Finance; Lands; Sport and Recreation; Citizenship and Multicultural Interests	Dumas House

6. Declaration of Councillors and Officer's interest:

Councillor Atwell has declared a Financial Interest in item 10.1.1 - Proposed Health Studio, Office, Consulting Rooms, Shop and Café – Lot 201 (895) and Lot 8 (899) South Western Highway, Byford, as Councillor Atwell has done firebreaks for a Director of the Proponents company. Councillor Atwell will leave the Chambers while this item is discussed.

Deputy CEO/Director Community and Organisational Development, Helen Sarcich has declared a Financial Interest in item 10.1.2 - Lot 60, 394 Robertson Road, Cardup – Proposed Mobile Concrete Batching Plant, as Ms Sarcich's son is employed by 2XM Recruit Labour Hire to work at the Permacast concrete business. Ms Sarcich will leave the Chambers while this item is discussed.

Councillor Strautins has declared an Impartiality Interest in item 10.1.6 - Proposed Vehicle Repair, Warehouse, Light Industry and Showroom – Lot 128 South Western Highway, Byford, as Councillor Strautins interacts with the owners to provide ideas for business health.

Shire President, Councillor Rich has declared a Financial interest in item 10.2.3 – Award Request for Tender RFT 03/2021 – Construction of Carpark – Briggs Park, Byford, as the tendering companies are clients of her family business. Shire President, Councillor Rich will leave the Chambers while this item is discussed.

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

7.1 Ordinary Council Meeting – 21 June 2021

OCM172/07/21

COUNCIL RESOLUTION

Moved Cr Byas, seconded Cr Strange

That the minutes of the Ordinary Council Meeting held on 21 June 2021 be CONFIRMED (E21/7164).

CARRIED UNANIMOUSLY 8/0

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

Nil.

**9. Motions of which notice has been given:**

9.1 - Notice of Motion – State Government survey on native forests (SJ3414)	
Councillor	Councillor Rich
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> .

Notice of Motion

A Notice of Motion was received from Councillor Rich via email on Monday, 12 July 2021.

The Notice of Motion is “That Council:

1. REQUEST that the Shire President write to the Minister for Environment thanking for the opportunity to be involved in the preparation of the new Forest Management Plan and advocating the positive natural environmental value and greater long-term protection needed of the State's South-West native forests.
2. REQUEST that the Chief Executive Officer highlight the opportunity via the Shire's Social Media channels for the public to provide a response to the survey.”

Officer Comment

On 28 June 2021, the Minister for Forestry wrote to the Shire President advising of the opportunity to participate in a survey regarding native forests (**attachment 1**). As an initial exercise in the preparation of a new Forest Management Plan, the Minister for Environment; Climate Action has commissioned the Western Australian Biodiversity Science Institute to seek the views of Western Australians on the value and use of our south-west native forests now and into the future. This consultation is an early opportunity for Western Australians to provide their views before the development of the next Forest Management Plan (FMP). A new FMP for the state's south-west native forests is required every 10 years.

This survey is preliminary step in consultation. Over the next 12 months, the State Government will coordinate a separate consultation to support the development for the next 2024-2033 FMP. The consultation for the next FMP will examine aspects of forest management through targeted consultation and engagement undertaken with traditional owners, industries, and the conservation sector.

This survey consists of five sections:

1. About you;
2. Value of Western Australian Forests;
3. Management of Western Australian Forests;
4. The future of Western Australian Forests; and
5. Additional details.

The online survey is available at <https://wabsi.mysocialpinpoint.com.au/wa-forests> and contained in **attachment 2**.

The survey provides an opportunity for residents and forest users to have their say on what they value most about WA's native forests, what aspects of the forest are most important to them, and which issues are most important to manage. The survey further asks about practices that the



respondent believes may need to change in respect to forest management and perspectives on natural resource management.

The Shire's State of the Environment Report 2019 identifies the unique values and risks of the Shire's extensive forest areas.

The Shire is located in the Swan Coastal Plain and Jarrah Forest bioregions, and the Perth and Northern Jarrah Forest subregions. More than 42% of the Jarrahdale area features Tree canopy cover with dense remnant vegetation in State forest and parks. The State of the Environment Report 2019 notes the opportunities to leverage the Shire's natural heritage to develop potential low impact recreational uses which are expanded upon in the Economic Development Strategy 2018-2023 and Equine Strategy, Tourism Strategy 2018 – 2023.

The State Forest in the Shire is the location of numerous trails servicing walking, running, mountain biking, equine and off-road trails users. The Peel Regional Trails Strategy 2019 recognises the need to enhance the existing trails opportunities within the forest and that the most significant opportunities for trail development exist in the Jarrahdale State Forest, Serpentine National Park and Wungong Regional Park.

Achieving the Shire's aspirations for Jarrahdale to become a Trail Town will rely on a range of trail offerings being available. The majority of trails accessible from Jarrahdale are currently situated or proposed to be situated within State Forest. Many of these trails have a historical value additional to recreational value. Protecting the Shire's forests is a key part in the Shire's journey to Jarrahdale becoming a Trail Town.

Attachments (available under separate cover)

- **9.1 – attachment 1** – Opportunity to Participate in Survey regarding Native Forests (IN21/17002)
- **9.1 – attachment 2** – WA Native Forest Survey (E21/7844)

Voting Requirements: Simple Majority

OCM173/07/21

COUNCIL RESOLUTION / Councillor Recommendation

Moved Cr Rich, seconded Cr Strautins

That Council:

1. **REQUEST** that the Shire President write to the Minister for Environment thanking for the opportunity to be involved in the preparation of the new Forest Management Plan and advocating the positive natural environmental value and greater long term protection needed of the State's South-West native forests.
2. **REQUEST** that the Chief Executive Officer highlight the opportunity via the Shire's Social Media channels for the public to provide a response to the survey.

CARRIED UNANIMOUSLY 8/0

**10. Chief Executive Officer reports:****10.1 Development Services reports**

Councillor Atwell declared a Financial Interest in item 10.1.1 and left the Chambers at 7:50pm prior to this item being discussed.

10.1.1 – Proposed Health Studio, Office, Consulting Rooms, Shop and Café – Lot 201 (895) and Lot 8 (899) South Western Highway, Byford (PA20/1266)	
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 (e.g. 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:	Masada Property
Owner:	Martin and Denise Luckens & Dorothy Bosveld
Date of Receipt:	21 December 2020
Lot Area:	3,678m 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 the construction of a two storey commercial building at Lots 201 & 8 (895 & 899) South Western Highway, Byford. The commercial building would comprise of a Health Studio (Gym), Office, Consulting Rooms, Shop and Café, with associated car parking and landscaping. The subject site comprises of two land parcels, which form strategic parcels of the Byford town centre emanating south of Abernethy Road, between South Western Highway and the rail corridor.

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 satisfied by way of amendments or conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.



Background

Existing Development

The subject site comprises of two land parcels and has a total area of 3,678m². The site is bound by South Western Highway to the east and the railway corridor to the west, as shown in Figure 1 below. The general locality comprises of existing residential dwellings to the immediate north, south and east, but which are designated for mixed use development into the future.



Figure 1: Aerial Photograph

Proposed Development

The development application seeks approval to demolish the existing dwellings and other structures on the subject sites and construct a two storey commercial building comprising of a Gym, Office, Consulting Rooms, Shop and a Café, including associated access, parking and landscaping. The ground floor comprises of the following, as shown in Figure 2 below:

- Two Consulting Rooms measuring 50m² and 59.31m²;
- A Shop measuring 121m²;
- A shared foyer and amenities for the Consulting Rooms, Shop and Office measuring 63.27m²;
- A Gym, split across two areas, measuring 240m² and 330m² and an outdoor area;
- A reception, amenities, store, spa and sauna for the Gym measuring 176m²;
- A creche for the Gym measuring 66m²;
- A Café measuring 56.97m²;
- 54 car parking bays;



- Two bicycle racks providing eight short term bicycle parking spaces and a 14m² long term bike store area with access from the Gym reception area;
- One 9.7m² bin store area located by the Café and one 4m² bin store area located by the Consulting Rooms;
- 450.94m² of landscaping, including 14 shade trees within the car parking area.

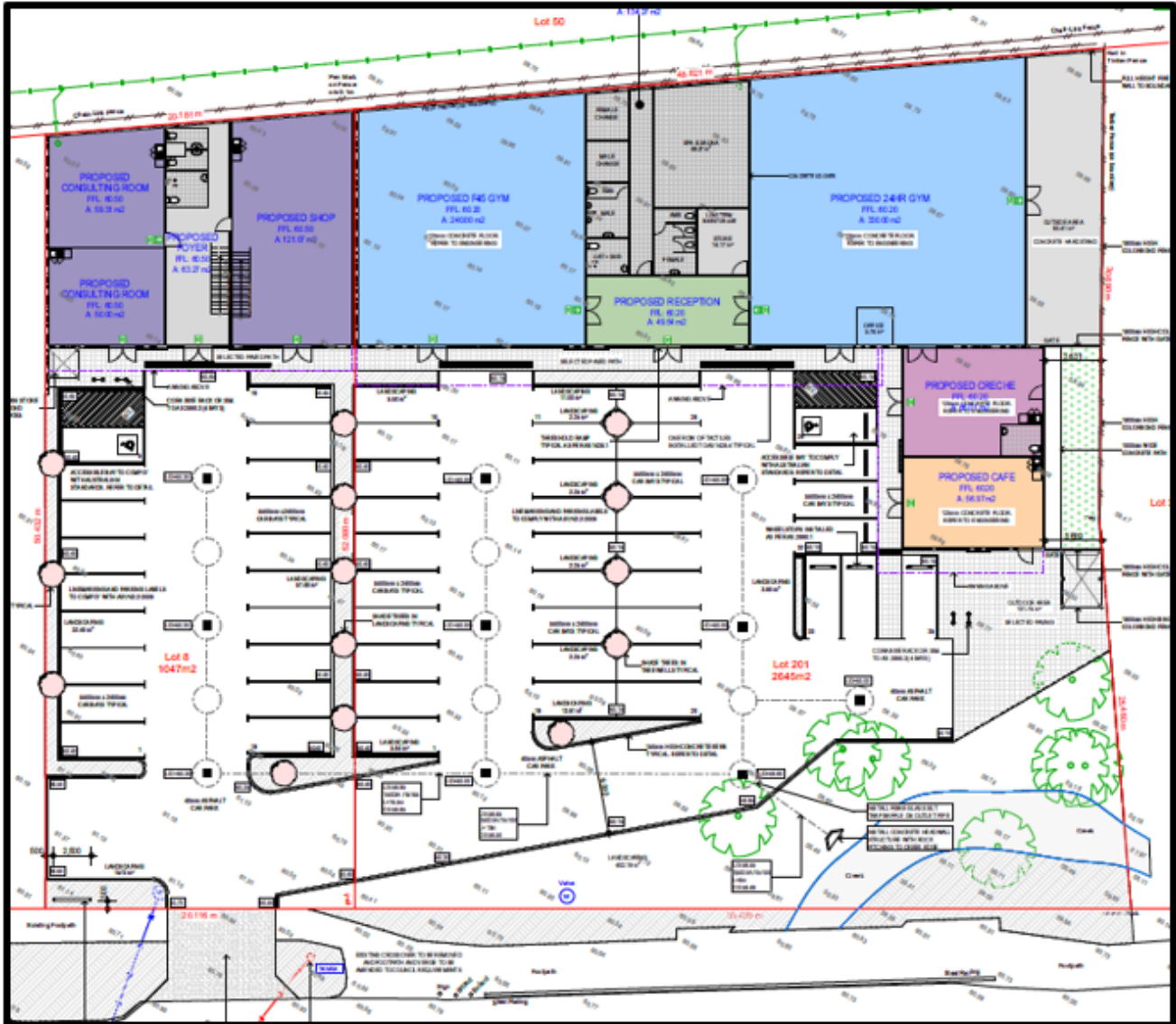


Figure 2: Site Plan/Ground Floor Plan

The upper floor is located above the Consulting Rooms and Shop and comprises the following as shown in Figure 3 below:

- An Office measuring 156m²; and
- A mezzanine level to the Shop.

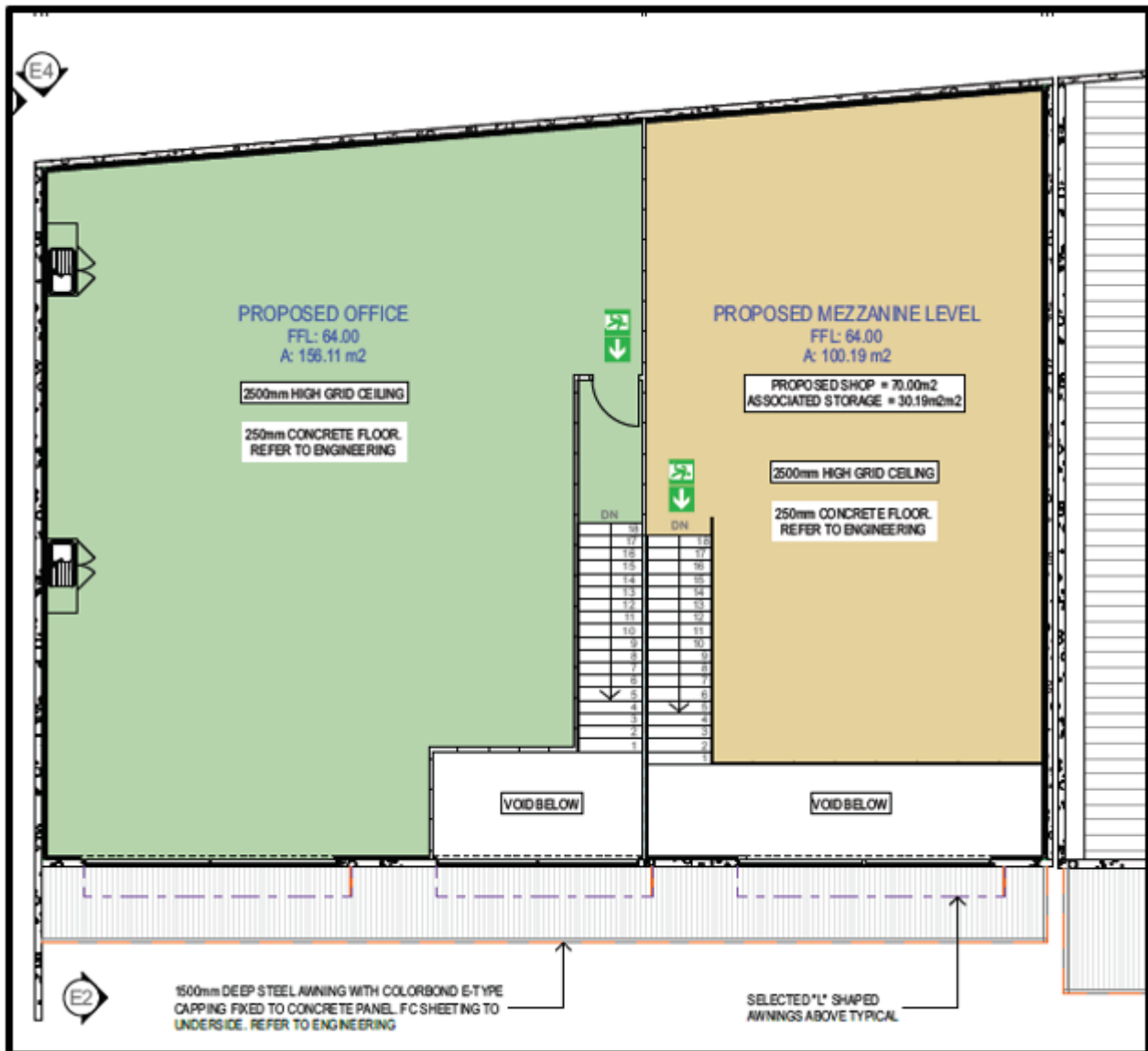


Figure 3: First Floor Plan

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

Community / Stakeholder Consultation

The application was advertised to surrounding landowners for a period of 21 days, from 8 January 2021 – 29 January 2021 in accordance with Local Planning Policy 1.4 - Public Consultation for Planning Matters. The advertising period was subsequently extended to 11 February 2021 to provide sufficient time for community submissions, and to enable further access to the advertised plans on the Shire's Website.

At the conclusion of the community consultation, six submissions were received consisting of four objections, one support and one enquiry. The objections relate to the following issues, which have been discussed in further detail within the planning assessment component of this report:

- Removal of vegetation and impact on black cockatoo habitat;
- Potential security and service impact to direct neighbours during construction, particularly where fencing may be required to be removed;



- Proliferation of similar land uses in the surrounding area;
- Congestion;
- Property values.

A summary of the submissions including the applicant's response and Officer comments is contained within **attachment 2**.

Consultation with Other Agencies

Main Roads WA (MRWA)

The application was referred to MRWA due to the site taking access from South Western Highway, which is a Primary Regional Road Reserve under the Metropolitan Region Scheme (MRS) and subject to the management and control of MRWA. MRWA raised no objections to the proposal subject to a number of conditions which have been included in the Officer recommendation. The full MRWA submission is included within **attachment 2**, in summary the conditions relate to the following:

- A left auxiliary turn land from South Western Highway into the development;
- The driveway shall be 8m in width and no more than 11m;
- All vehicles must enter and exit the site in forward gear;
- Landscaping Plan for road reservation;
- The submission of an Acoustic Report;
- A Notification under S70A of the *Transfer of Land Act 1893* to be placed on the title in relation to transport noise;
- Signage;
- Stormwater; and
- Removal of redundant crossovers.

Officers have discussed with Main Roads current concerns in respect of a lack of a right turn facility for southbound traffic into the general precinct located south of Abernethy Road and west of South Western Highway. While Main Roads have raised no objection to this proposal, Officers consider it necessary to work collaboratively with Main Roads to develop an access strategy that will ultimately address more convenient and safe access to those landholdings west of the highway.

The access strategy is recommended as a separate piece of work for Officers to undertake in collaboration with Main Roads, which can then form a position to advocate for State Government to deliver whatever ultimate solution is contemplated. Such options may include:

1. Removal of the raised median and replacement with a painted median to enable full access;
2. Development of a dedicated U-turn pocket for southbound traffic to enter the northbound lanes of the highway;
3. Provision of a traffic light or roundabout intersection upgrade to the Nettleton Road / South Western Highway intersection.



Importantly, by recognising the need to develop and implement an access strategy, the Shire can demonstrate it is seeking to work collaboratively with Main Roads and relevant landowners to develop and then advocate for State Government to deliver the preferred solution. The Shire is positioned to lead this work, particularly noting that Main Roads have indicated a desire to work with Officers in order to consider the potential options that may exist. Officers are well placed to be able to undertake a project which is importantly collaborative with both affected landowners and Main Roads.

Department of Fire and Emergency Services (DFES)

The application was referred to DFES due to the Bushfire Management Plan (BMP) prepared for the site indicating the land would be subject to a bushfire attack level (BAL) rating of Flame zone. DFES provided a submission raising a number of amendments required to the BMP, which the applicant subsequently undertook.

Department of Aboriginal Affairs (DAA)

The application as referred to DAA due to the Aboriginal Heritage Site listing for the Beenyup Brook, which runs across the north-eastern corner of the subject site. DAA provided a submission indicating no objection to the proposed development, which is located generally outside of the Aboriginal Heritage listed area.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Metropolitan Region Scheme;*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2;*
- *Environmental Protection (Noise) Regulations 1997.*

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas.

Local Planning Framework

- Draft Local Planning Scheme No.3;
- Draft Local Planning Strategy;
- Byford District Structure Plan 2020;
- Byford Townsite DAP;
- Local Planning Policy 1.4 - Public Consultation for Planning Matters (LPP1.4);
- Local Planning Policy 1.6 – Public Art for Major Developments (LPP1.6);
- Local Planning Policy 2.4 - Water Sensitive Design (LPP2.4);
- Local Planning Policy 4.11 – Advertising Policy (LPP4.11);
- Local Planning Policy 4.15 - Bicycle Facilities (LPP4.15);
- Local Planning Policy 4.16 - Landscape and Vegetation Policy (LPP4.16);
- Local Planning Policy 24 – Designing out Crime (LPP24).



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 Clause 67 Checklist contained within **attachment 3**.

Town Planning Scheme No. 2

The subject site is zoned 'Urban Development' under Town Planning Scheme No.2 (TPS2). Clause 5.18 of TPS2 sets out the objectives of the 'Urban Development' zone, as *"to provide for the orderly planning of large areas of land in a locally integrated manner and within a regional context, whilst retaining flexibility to review planning with changing circumstances"*. This objective is facilitated through the preparation of Structure Plans, which guide land use permissibility and development.

The subject site lies within the Byford District Structure Plan 2020 (BDSP) and the Byford Townsite Detailed Area Plan (DAP) which provide the relevant land use permissibility and indicative zoning applicable to the site. The subject site is identified as 'Highway Commercial' under the DAP and 'Mixed Use' under the BDSP.



Figure 4: Byford District Structure Plan 2020

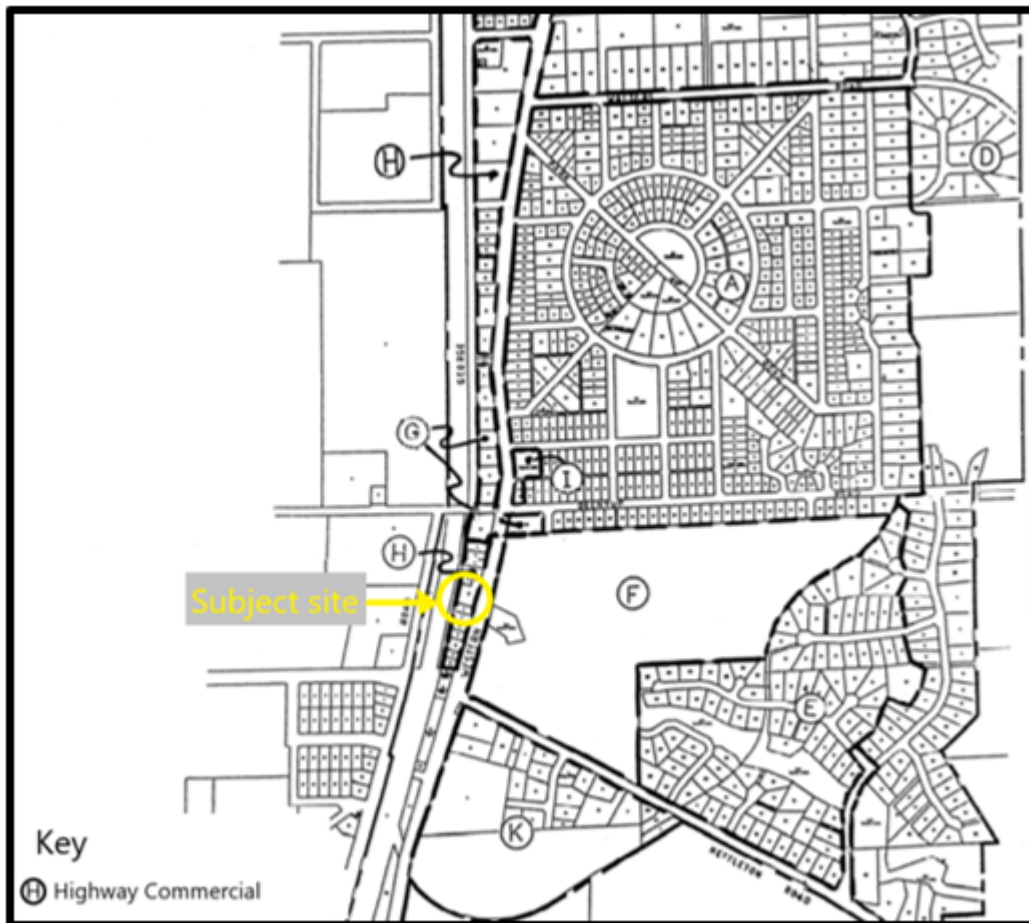


Figure 5: Byford Townsite DAP

Officers note the DAP was endorsed by Council in 2004 while the BDSP was endorsed by Council in 2020. The BDSP is the more current planning instrument and aligns most closely with the local planning framework, which has advanced significantly since 2004. This is also reflected in the proposed 'Mixed Use' zoning of the subject site under final draft Local Planning Scheme No. 3.

Clause 5.25 of TPS2 states that the intent of the 'Mixed Use' zone is *"to provide for a variety of commercial and residential and uses in a complimentary and co-located manner, often in a mixed-use format. Development in the zone may provide a transition between intense activity centre development and surrounding residential areas, or for the purposes of minor local commercial development sites in residential areas. Residential development should allow for the future conversion into mixed use development."*

The intent of the 'Mixed Use' zone is flexible to account for various circumstances and in this instance is considered to most appropriately provide for a transition between the intense activity of activity centre development (Byford Town Centre) and surrounding residential development. The proposed development incorporates a range of commercial uses, which are considered to align with the objectives for the 'Mixed Use' zone, as designated under the BDSP, and therefore capable of approval in the 'Urban Development' zone in accordance with TPS2.

Land Use Permissibility

The proposed development falls within the land use definitions of 'Health Studio', 'Office', 'Consulting Rooms', 'Shop' and 'Restaurant' as defined under TPS2 as follows:



“Health Studio - means land and buildings designed and equipped for physical exercise, recreation and sporting activities including outdoor recreation”.

“Consulting Rooms - means a building (other than a hospital or medical centre) used by no more than two practitioners who are legally qualified medical practitioners or dentists, physiotherapists, chiropractors and persons ordinarily associated with a practitioner in the prevention, investigation or treatment of physical or mental injuries or ailments, and the two practitioners may be of the one profession or any combination of professions or practices.”

“Office - means a building used for the conduct of administration, the practice of a profession, the carrying on of agencies, banks, typist and secretarial services, and services of a similar nature.”

“Restaurant - means a building wherein food is prepared for sale and consumption within the building and the expression shall include a licensed restaurant, and a restaurant at which food for consumption outside the building is sold where the sale of food for consumption outside the building is not the principal part of the business.”

“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.”

Under the Zoning Table of TPS2 a ‘Health Studio’, ‘Office’, ‘Consulting Room’, ‘Shop’ and ‘Restaurant’ would all be ‘P’ uses within the ‘Mixed Use’ zone, as designated under the BDSP. The land uses proposed are therefore considered consistent with the planning framework.

Draft Local Planning Scheme No.3

The subject site is located within the ‘Mixed Use’ zone under LPS3. The proposed development would fall within the land use definitions of ‘Recreation Private’, ‘Office’, ‘Consulting Rooms’, ‘Shop’ and ‘Restaurant/Café’, defined under LPS3 as follows:

“Recreation - Private means premises that are -

- (a) used for indoor or outdoor leisure, recreation or sport; and
- (b) not usually open to the public without charge.”

“Consulting Rooms means premises used by no more than two (2) health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.”

“Office means premises used for administration, clerical, technical, professional or similar business activities.”

“Shop means premises other than a bulky goods showroom, a liquor store large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.”

“Restaurant/Cafe means premises primarily used for the preparation, sale and serving of food and drinks for consumption on the premises by customers for whom seating is provided, including premises that are licenced under the Liquor Control Act 1988.”

Under the Zoning Table of LPS3 a ‘Consulting Room’ and ‘Office’ land use are ‘P’ uses, ‘Recreation-Private’ and ‘Restaurant/Café’ land uses are ‘D’ uses and a ‘Shop’ land use is an ‘A’ use within the ‘Mixed Use’ zone. Each use is capable of approval with varying levels of discretion



required to be exercised and mandatory community consultation before determination of the 'Shop' land use.

The objectives of the 'Mixed Use' zone under LPS3 are to promote a variety of compatible land uses which do not create any adverse impacts to the amenity of the district or to the health, welfare and safety of residents. Officers consider the development generally meets the objectives of the 'Mixed Use' zone as it provides a range of commercial facilities that are considered compatible with the surrounding locality, as discussed within the amenity section of the report.

Byford District Structure Plan 2020

The purpose of this Structure Plan is to provide a *"broad-district level planning framework for development"* which provides the basis for the subsequent preparation of Local Structure Plans.

The subject site is designated as 'Mixed Use' under the BDSP. As discussed above, the purpose of the 'Mixed Use' zone is to *"to provide for a variety of commercial and residential and uses in a complimentary and co-located manner, often in a mixed-use format. Development in the zone may provide a transition between intense activity centre development and surrounding residential areas, or for the purposes of minor local commercial development sites in residential areas. Residential development should allow for the future conversion into mixed use development."*

As previously stated, the subject precinct is considered appropriate for a higher degree of commercial development to provide a transition between the Byford Town Centre and surrounding residential development.

Byford Townsite Detailed Area Plan

The subject site lies within Character Area H – Highway Commercial of the DAP which has the intention of accommodating *"showrooms, bulky goods, offices, medical centres, consulting rooms and the like"*. The local planning framework has developed significantly since the endorsement of the DAP and greater regard has been given to the more recent BDSP and LPS3 in relation to land use permissibility.

The DAP also sets out the aspirations of the future built form of the character area, as shown in Figure 6 below:

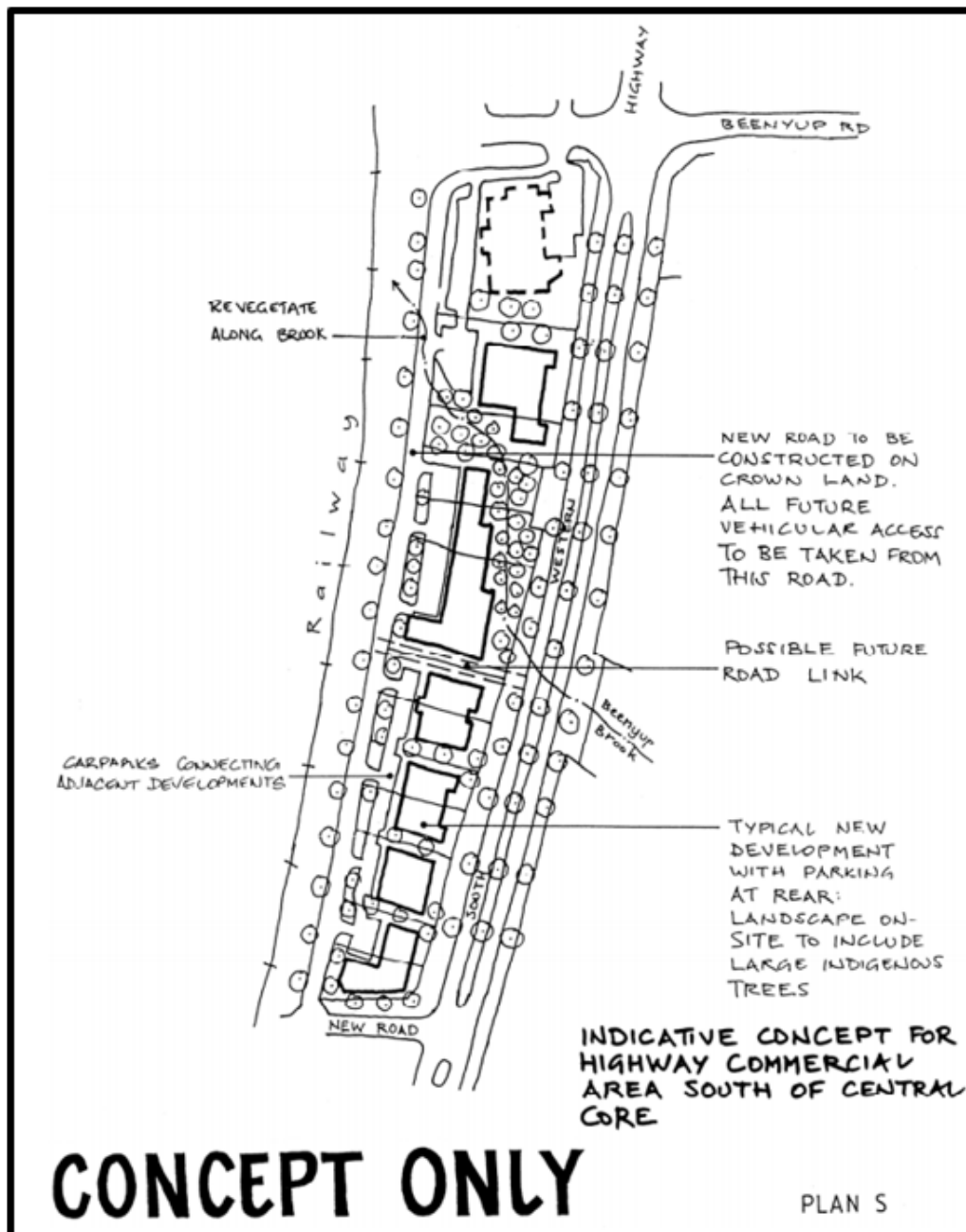


Figure 6: Byford DAP Concept

The concept was designed with the intent of limiting the number of vehicle access points from South Western Highway and proposes access to the rear through a strip of unallocated Crown Land between the lots within the precinct and railway corridor. The viability of this concept is likely to be impacted by the spatial requirements for works associated with the Byford Metronet project, and particularly future extension of rail at some point south to Mundijong. As part of engaging with Metronet on the project, the Shire received response stating that elevated options and designs have not yet been formally determined and until they are the full impact of the planned local road cannot be definitively determined. Accordingly, while the railway reservation is widened in this area, Officers consider that the proposed access plan from South Western Highway enables longer term flexibility for design of passenger rail options south to Mundijong. This enable the Shire to demonstrate it is strategically positioning development to be able to protect and promote southern extensions of rail.



This modified access concept is shown in Figure 7 below and provides for coordinated access and egress at two shared access points, once full development occurs.



Figure 7: Proposed Alternative Concept (Area H - South)

The proposed alternative concept entails a shift in the location of the built form of development to the rear of the lots and shared internal access and car parking to the South Western Highway frontage. This will enable the intent of the initial concept, to reduce the impact of access onto South Western Highway, to be retained without conflicting with anticipated land requirements for the Byford Metronet project.

Car Parking

The proposed development needs to be considered in respect of car parking requirements under TPS2, draft LPS3 and the BDSP. This is provided following:



Land use	TPS2 requirement – CURRENT requirement of planning framework	LPS3 requirement – FUTURE requirement of planning framework	Proposed	Officer Comment
Health Studio / Recreation-Private Total area 876.79m ² However only 620sqm available to public	1 space per 15 square metres floor area available for the public 42 bays	1 bay per 20m ² NLA, 1 bay per 4 spectator seats and 1 bay per employee 31 bays (no spectators, employees) 2		
Consulting Rooms (2 consulting rooms with 1 practitioner each)	6 spaces for 1 practitioner plus 4 spaces for each additional practitioner 10 bays	4 bays per consulting room or professional person and 1 bay for each other employee 8 bays		
Office Total area 156.11m ²	1 space per 40 square metres gross leasable area with a minimum of 2 spaces for each office unit 4 bays	1 bay per 40m ² of NLA 4 bays		
Shop Total area 221.26m ²	1 space per 15 square metres gross leasable area 15 bays	1 bay per 20m ² of NLA 11 bays		
Restaurant/Café 28.1m ²	1 space per 4 persons accommodated 2 bays based on 8 people being accommodated	1 bay per 4m ² of dining, drinking and/or lounge areas and 1 bay per 4m ² of public assembly areas 7 bays		
Totals	73 bays	61	54 bays	TPS2: shortfall - 19 LPS3: shortfall - 7

Final draft LPS3 provides the updated calculation for car parking within the Shire and is considered to be a planning document that the Shire is seriously considering adopting. Indeed, draft LPS3 has reached an advance stage, and provides a specific set of provisions in respect of car parking. It provides updated ratios for assessment, taking consideration of contemporary land use, and how different land uses can integrate where mixed use development is proposed.

Based on the above analysis, the proposal if strictly viewed as separate an independent land uses would result in a 19 bay shortfall under TPS2, and a seven bay shortfall under LPS3. A key consideration for Officers, in accordance with the planning framework, is to what degree that shared parking could be contemplated insofar that the peak demand of one development does



not coincide with the peak demand of another development. Clause 5.2.1 of TPS2 allows for discretion to be exercised to vary a standard or requirement listed under TPS2, and specific to this car parking where there is the potential for shared parking to take place.

The planning assessment considers that the parking shortfall for each land use is relatively minor, except for the use of 'Health Studio'. The TPS2 parking requirement is based on the floor area of the use available to the public, and with a higher ratio of 15sqm per bay. It is considered that this TPS2 requirement is more onerous considering the ancillary areas to the gym are not those which attract further patrons, despite being accessible. This is supported by the LPS3 parking requirement which requires the parking to be calculated based on the more accurate Net Lettable Area (NLA) which is defined as:

"the area of all floors within the internal finished surfaces of permanent walls but does not include the following areas:

- a) stairs, toilets, cleaner's cupboards, lift shafts and motor rooms, escalators, tea rooms and plant rooms, and other service areas;*
- b) lobbies between lifts facing other lifts serving the same floor;*
- c) areas set aside as public space or thoroughfares and not for the exclusive use of occupiers of the floor or building;*
- d) areas set aside for the provision of facilities or services to the floor or building where those facilities are not for the exclusive use of occupiers of the floor or building."*

By basing the parking requirement for the 'Health Studio' on the net lettable area which is the most appropriate measure to exclude those areas which do not generate customer patronage, the gyms would require 31 bays. This requirement is considered a more accurate reflection of parking demand for this land use.

The development as a whole has a seven bay shortfall under LPS3. The applicant has provided additional information for Council to consider the shortfall in parking bays in the form of a traffic impact assessment.

The Traffic Impact Statement (TIS) provided with the application states that the design of the development, specific mix of uses and context of the location are such that the development is expected to attract multipurpose trips. Essentially, each use is not expected to attract independent demand, rather they are designed to complement each other, and users of the site may patronize multiple uses per visit. The TIS also notes there are three bus routes serving the site within close proximity and the future Byford rail station is expected to be located within a walkable catchment to the subject site.

In addition, information has been provided in relation to the differing peak times of the different uses which is considered to result in there being sufficient parking availability across the site. The peak times have been used from other similar uses in nearby locations. For example, the peak period for the gym would typically be before 9:00am and then after 5:00pm. The proposed F45 gym would have classes in the morning and afternoon and typically be closed between the hours of 10:00am and 4:30pm. The offices, shop, consulting rooms and café would operate between the typical business hours of 9:00am to 5:00pm. The applicant has provided parking demand for each use during a weekday and at the weekend as follows:



	Office	Consulting	F45	24/7 Gym	Shop	Cafe
Before 9am	25%	25%	100%	100%	0%	0%
9am – 10am	100%	100%	30%	50%	25%	100%
10am – 12pm	100%	100%	0%	25%	100%	100%
12pm – 4pm	100%	100%	0%	25%	100%	100%
4pm – 6pm	50%	75%	100%	75%	50%	100%
After 6pm	0%	0%	100%	100%	0%	0%

Table 2: Percent Car parking demand for each use during a weekday

	Office	Consulting	F45	24/7 Gym	Shop	Cafe	Total Space Requirement
Before 9am	1	2	14	19	0	0	36
9am – 10am	4	8	5	9	3	2	31
10am – 12pm	4	8	0	5	10	2	29
12pm – 4pm	4	8	0	5	10	2	29
4pm – 6pm	2	6	14	15	5	2	44
After 6pm	0	0	14	19	0	0	33

Table 3: Car parking demand for each use during a weekday

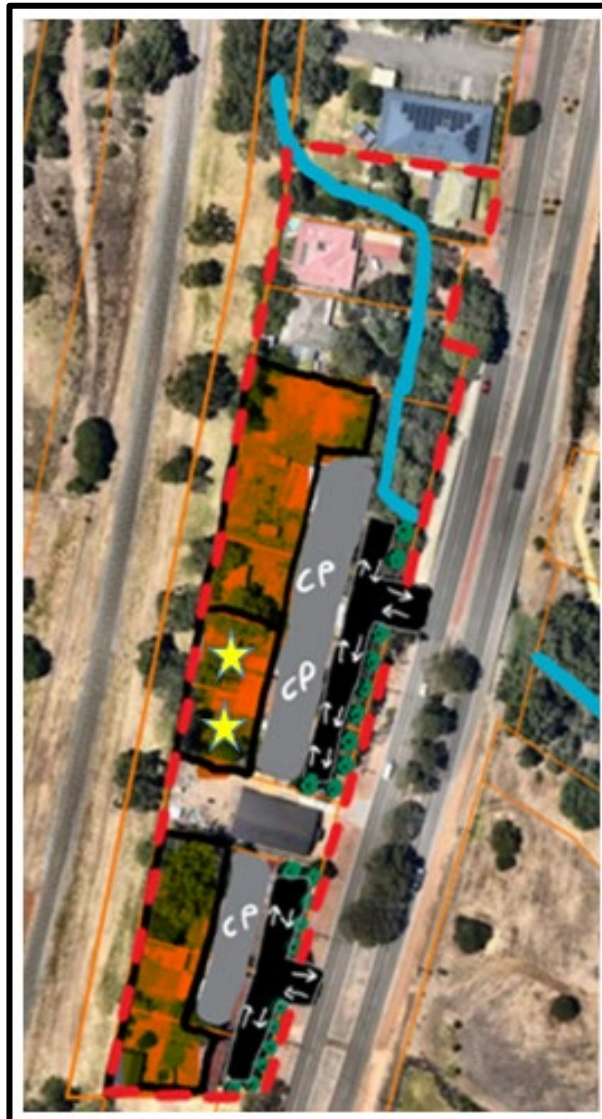
The peak parking period for the full site is detailed as the afternoon/evening between 4:00pm and 6:00pm where there would be some overlap between the gyms and the other uses, however these other uses at this time would have reduced patronage levels.

Based on the peak times of each use and the proposed parking provision, it is considered that sufficient parking is available on the site for the uses and that in this instance, the seven bay car parking variation has been suitably justified.

Officers base this consideration on the planning framework, that recognises that shared parking can reasonably occur where the peak demand of one development does not coincide with the peak demand of another development. This enables the overall car parking requirement to be less than the sum of the individual parts. In this matter, 88.5% of the LPS3 parking requirement is met, and the addition of the TIS demonstrates that actual parking demand generated by the development will be satisfied by the provision of proposed shared parking bays.

Access and Traffic

As mentioned above in the MRWA comment section, vehicle access to the subject site is proposed through a consolidation of existing crossovers between the two lots, onto South Western Highway. Given the proposed deviation from the access design under the Byford DAP, this access is intended provide the primary access point for future development to the south. A condition has been recommended to safeguard this access to ensure shared use is made available to future developments. This will require, prior to issue of a building permit, a suitable reciprocal rights of access agreement to benefit the two southern adjoining properties as indicated below, so that their future development can rely upon shared access to the new crossover to South Western Highway being provided as part of this development.



Due to the existing median within the South Western Highway Road Reserve, the crossover would only provide for a left-in, left-out access arrangement. As previously stated, MRWA has recommended a condition requiring a left auxiliary turn lane from South Western Highway into the site. This has been included in the Officer recommendation.

Due to the access arrangement, southbound traffic intending to access the site will need to undertake a U-turn movement at some point to enable safe access. While the TIA states that 'consideration' should be given to providing a U-turn facility (at the intersection of Nettleton Road and South Western Highway), MRWA have not specifically supported this.

In order to come up with a consolidated and coordinated 'ultimate' access strategy for that section of development on the western side of South Western Highway north of Nettleton Road and south of Abernethy Road, Officers consider it necessary to work collaboratively with Main Roads and landowners to develop an access strategy. This will ultimately address more convenient and safe access to those landholdings west of the highway.

The access strategy is recommended as a separate piece of work for Officers to undertake in collaboration with Main Roads and landowners, which can then form a position to advocate for State Government to deliver whatever ultimate solution is contemplated. Such options may include:



1. Removal of the raised median and replacement with a painted median to enable full access;
2. Development of a dedicated U-turn pocket for southbound traffic to enter the northbound lanes of the highway;
3. Provision of a traffic light or roundabout intersection upgrade to the Nettleton Road / South Western Highway intersection.

Importantly, by recognising the need to develop and implement an access strategy, the Shire can demonstrate it is seeking to work collaboratively with Main Roads and relevant landowners to develop and then advocate for State Government to deliver the preferred solution.

With regard to traffic volumes, it is acknowledged that an objection was received in relation to traffic congestion. The TIA details that the proposal would generate in the order of 335.2 vehicle trips per day and a maximum peak volume of 70.5 in the PM peak period. These traffic volumes are considered capable of being accommodated on the existing road network given South Western Highway is a Primary Regional Road under the (Metropolitan Region Scheme) MRS.

In addition, no concerns in relation to congestion have been raised by MRWA.

Built Form of Development

The proposed development comprises a single 'L' shaped building located to the rear of the lot. The building covers a length of 63.72m and a 13.85m depth at the short side and 32.68m depth at the long side. The building has been designed to present as a two-storey development and features a functional second storey element providing proposed Office and additional Shop floor area above the proposed Shop and Consulting Room tenancies.

The design features use of glazing, vertical and horizontal elements, awnings and other projecting features above the ground floor to break up the building bulk of the structure as viewed from the street. The incorporation of brick feature elements at ground level and timber-look slats on the first-floor level introduces a sense of rural character to the design, in contrast to the otherwise fairly traditional commercial design of the development. This helps to enrich the essential construction methodology proposed for the development. The remainder of the street facing design comprises of concrete tilt panels, which makes up a significant portion of the façade. Perspective street facing views of the proposed façade are shown in Figure 8 and 9 below:



Figure 8: Perspective View South

**Figure 9: Perspective View North**

The proposed design has considered and incorporates the elements of good design. To ensure the materials and palette choice reflect the design aspirations of the area, a condition is recommended requiring a final schedule of colours and materials on submission of a building permit. This must depict the use of recycled facebrick for those portions identified as brickwork; timber features highlighting the integrated signage panels; timber highlighting of the eaves for the upper storey window portions.

Local Planning Policy 1.6 – Public Art for Major Developments

The objective of LPP1.6 is to facilitate public art to enhance public enjoyment, engagement and understanding of places through the integration of public art. The policy sets out the requirements for physical and financial contributions for public art for any development valued at \$1 million or greater. Officers have commenced discussion with the applicant around opportunities for public art on the western rear boundary wall. A condition of approval has been recommended to ensure public art is accounted for and further negotiation with the applicant can be undertaken as part of the ongoing process.

Local Planning Policy - 4.16 - Landscape and Vegetation

The key objective of LPP4.16, relevant to this application, is to “*contribute towards achievement of vegetation and landscape outcomes that meet the expectations of stakeholders and contribute towards the achievement of biodiversity and water use targets and the creation of vibrant places for our communities*”.

The proposal includes removal of vegetation on site to facilitate the development of the commercial building and associated car parking. The subject site also contains a significant environmental feature, being the Beenyp Brook. During the community consultation period a submission raised concern in relation to the loss of Black Cockatoo habitat resulting from the removal of on-site vegetation. Officers recommend a condition requiring a Landscaping Plan to be provided to ensure vegetation is adequately replaced and habitat loss is considered in the planting palette proposed.

Local Planning Policy 2.4 - Water Sensitive Design

LPP2.4 aims to maximise water efficiency by encouraging best practice urban water management methods. The policy aims to ensure water sensitive design best management practices are implemented for new developments with the Shire. This is particularly important given the development site is traversed by the Beenyp Brook.



An Urban Water Management Plan will be required, demonstrating how the stormwater incident to the site is managed shall be provided prior to commencement of works. This will be included as a condition of approval. The car park stormwater drainage system to be designed, constructed and managed in accordance with the Stormwater Management Manual for Western Australia (DWER, 2004). Rain gardens and flush kerbing providing first flush storage and water treatment is considered an important design response for the land.

Local Planning Policy 4.15 (LPP4.15) – Bicycle Facilities

LPP4.15 provides guidance to developers on the design and requirements of bicycle parking and end of trip facilities for each specific land use. In accordance with the policy, bicycle facilities are to be provided in accordance with the schedule 1 of the policy.

A total of four bicycle racks (eight bicycle spaces) have been provided for the short term needs of patrons of the development. A bicycle storage area has also been incorporated into the proposed gym reception with an area of 14.17m². Based on the policy provisions, a total of 6 long term bays and 8 short term bays would be required. Officers consider the bicycle spaces proposed would comply with the bicycle parking requirements.

Consideration has also been given to bicycle parking requirements under LPS3. Under the LPS3 provisions a total of 11 bicycle parking spaces would be required. Officers consider the proposal meets the requirements under LPS3.

Local Planning Policy 24 (LPP24) - Designing Out Crime

LPP24 encourages commercial development to incorporate principles of Crime Prevention through Environmental Design (CPTED). LPP24 sets out five key crime prevention principles that are to be applied to different levels of the planning framework according to the policy. A development application needs to be assessed against the principles of the policy. The principles relate to surveillance, access control, territorial reinforcement, target hardening, management, and maintenance.

Officers are satisfied that the proposal has been designed with active frontages and open spaces to facilitate the passive surveillance of the building fronting South Western Highway, including the internal car park. Pedestrians and cyclists would access the subject site via existing footpaths along South Western Highway.

The applicant has provided information that lighting for the centre will be adequately provided, with part of the proposed gym operating 24/7 ensuring a level of surveillance. It is therefore considered that the application complies with the provisions of the policy.

Local Planning Policy 4.11 (LPP4.11) - Advertising

LPP4.11 sets out development standards and requirements for advertisements. The plans as submitted have identified nominal wall signage for the tenancies integrated into the façade of the development. No detailed drawings of the signage were provided with the application.

If the application is approved, a signage strategy will be required to be prepared and approved prior to operation of the site detailing the signage for the tenancies to ensure compliance with the policy and recommendations made by MRWA. These recommendations are included within the Officer recommendation.

State Planning Policy 3.7 - Planning in Bushfire Prone Areas

SPP3.7 provides the requirements and guidelines for development within areas identified as bushfire prone. The subject site is located within a designated bushfire prone area in accordance with the Department of Fire and Emergency Services (DFES) Map of Bushfire Prone Areas.



SPP3.7 seeks to ensure the risk of bushfire to developments is considered and mitigated through the development assessment process. This primarily entails determining the Bushfire Attack Level applicable to the development, which should achieve a risk rating below BAL-40, and consideration of the four elements of the bushfire protection criteria: location, siting and design, vehicular access and water.

Pursuant to the provisions of SPP3.7, the application included a Bushfire Management Plan (BMP) for the subject site. The BMP identified a risk rating of BAL-19 for the development and outlined compliance with the four elements of the bushfire protection criteria. Given the size of the lot and location within a developing Urban area, the proposed development readily complies with all four elements.

The BMP also indicated the proposed development included a vulnerable use due to the inclusion of a creche, which triggers mandatory referral to DFES for assessment. Comments were received from DFES noting some amendments to be made, which were subsequently addressed by the applicant through submission of a revised BMP. The revised BMP is considered to be acceptable.

Amenity

The proposed development comprises of a number of different uses and is likely to generate noise potentially impacting adjoining residential properties. As the land has been identified for redevelopment for commercial use, dating back to the Byford DAP in 2004, there is an expectation for the types of land use and subsequent level of amenity to be afforded to the area. However, acknowledgement of existing surrounding residential uses is required and consideration of noise impacts from vehicles using car park areas and noise generating activities should be taken into account while the area is in transition.

In that regard, Officers have recommended, as a condition of approval, that the applicant prepare a Noise Management Plan for the development prior to the issue of a Building Permit, and demonstrate all requirements of the Noise Management Plan being integrated into the design and ongoing operation of the development. This is required to demonstrate compliance with the Environment Protection (Noise) Regulations 1997. This must also demonstrate:

- Effective building design to enable acceptable indoor noise levels while attenuating for traffic and rail noise cause by South Western Highway and the adjoining rail; and
- Able to accurately quantify noise impacts on the nearby sensitive receptors (residential premises on adjoining lots).

Options and Implications

Option 1

That Council:

1. APPROVES the development application for a Gym, Office, Consulting Rooms, Shop and Café at Lot 201 (895) and Lot 8 (899) South Western Highway, Byford, as contained within **attachment 1**, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* 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 – P6 (Development Plans) received at the Shire's Offices on 22 February 2021;
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	P7 (Traffic Impact Statement) received at the Shire's Offices on 24 March 2021; P8 (Bushfire Management Plan) received at the Shire's Offices on 24 March 2021.
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- b. Prior to occupation, the provision of art being provided in accordance with Local Planning Policy 1.6 – Public Art for Major Developments to the satisfaction of the Shire of Serpentine Jarrahdale. The artwork concept must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- c. Prior to occupation of the development, all vehicle parking areas accessways and crossovers shall be designed, constructed, sealed, kerbed, drained, line marked in accordance with the approved plans and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. Detailed design plans must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- d. Prior to issue of a Building Permit, a reciprocal rights of access agreement shall be prepared by the Shire's lawyers at the cost of the applicant, to the satisfaction of the Shire. This is to ensure that reciprocal rights of access will be available for the southern two adjoining properties over the driveway access, internal north south access ways and crossover to South Western Highway, if they are in turn developed for mixed use.
- e. Prior to the issue of a Building Permit for the development, a Landscape Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. This must demonstrate:
 - i. landscaping abutting the South Western Highway road reservation being limited and maintained to a mature height of 1 metre;
 - ii. sight lines being maintained to ensure driver safety;
 - iii. the car park area being designed to provide a rain garden and flush kerbing treatment methodology.

The Landscape Plan must also show all areas of retained vegetation, additional planting including all car parking areas, access roads and road verges. Once approved, the Landscape Plan shall be implemented in its entirety and maintained thereafter.

- f. Prior to issue of a Building Permit, an Urban Water Management Plan (UWMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the UWMP shall be implemented and maintained thereafter. The UWMP shall be prepared in accordance with Local Planning Policy 2.4 – Water Sensitive Design. Stormwater discharge (if any) must not exceed pre-development discharge to the South Western Highway road reserve or the widened road reservation.
- g. Prior to issue of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Signs and include information to demonstrate:
 - i. Any proposed illumination of signage must not exceed 300cd.m² (candela per square metre) between sunset and sunrise;
 - ii. The proposed signage must not flash, pulsate or chase; and
 - iii. The device must not contain fluorescent, reflective or retro reflective colours or materials.



Once approved, signage shall be displayed and maintained in accordance with the strategy.

- h. Prior to issue of a Building Permit, a Waste Management Plan must be submitted to and approved by the Shire of Serpentine Jarrahdale. The Waste Management Plan must include the following:
 - i. The location of bin storage areas and bin collection areas;
 - ii. The number, volume and type of waste to be placed in the bins;
 - iii. Management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas;
 - iv. Frequency of bin collections;
 - v. No waste collection being permitted from the South Western Highway road reserve.

Once approved, the Waste Management Plan shall be implemented and maintained thereafter.

- i. Prior to issue of a Building Permit, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale, demonstrating adequate lighting responses which do not cause unobtrusive lighting impact. The approved lighting plan shall be implemented and maintained thereafter.
- j. Prior to the issue of a Building Permit, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale, demonstrating compliance of the development with the *Environment Protection (Noise) Regulations 1997*. Plans submitted for a Building Permit must demonstrate all requirements of the Noise Management Plan being integrated into the design. The Noise Management Plan must also demonstrate the ongoing operational requirements of the development in order to comply with the Noise Regulations. This must also demonstrate:
 - i. Effective building design to enable acceptable indoor noise levels while attenuating for traffic and rail noise cause by South Western Highway and the adjoining rail; and
 - ii. Able to accurately quantify noise impacts on the nearby sensitive receptors (residential premises on adjoining lots).
- k. A Notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). The notification is to state as follows:

'The lots are situated in the vicinity of a transport corridor and are currently affected, or may in future be affected by transport noise.'
- l. Prior to the issue of a Building Permit, a Schedule of Colours and Materials shall be submitted to and approved by the Shire. This must depict the use of recycled facebrick for those portions identified as brickwork; timber features highlighting the integrated signage panels and; timber highlighting of the eaves for the upper storey window portions. Once approved, the development shall be constructed in accordance with the Schedule of Colours and Materials.
- m. Prior to issue of a Building Permit, the applicant is to submit road upgrade plans to the specifications and satisfaction of the Shire, based on the advice of MRWA. This must demonstrate design for a left auxiliary turn lane from South West Highway into the development. Once approved, the road upgrade plans must be implemented at the full cost of the applicant prior to occupation of the development.



- n. One (1) driveway is permitted onto South Western Highway. This driveway width must be 8 metres in width and must not exceed 11 metres in width to accommodate a 12.5metre service vehicle. The driveway must be at right angles to the carriageway.
 - o. Vegetation within the state road reserve must not be removed or trimmed to improve the visibility of the proposed advertising sign. The landowner/applicant must make good any damage to the existing verge vegetation within the South Western Highway road reserve.
 - p. Redundant vehicle crossover(s) to be removed and kerbing, verge, and footpath reinstated with grass or landscaping to the satisfaction of the Shire of Serpentine Jarrahdale.
 - q. No earthworks are to encroach onto the South Western Highway road reserve.
 - r. The ground levels on the South Western Highway are to be maintained as existing.
 - s. Prior to the issue of a Building Permit for the development, Lot 201 (895) and Lot 8 (899) South Western Highway, Byford are to be amalgamated into one (1) lot on the Certificate of Title.
2. REQUESTS the Chief Executive Officer to work collaboratively with Main Roads WA and affected landowners to prepare an access strategy that will provide for south bound access into and out of the Mixed Use precinct located on the western side of South Western Highway, north of Nettleton Road and south of Abernethy Road. The access strategy to be presented back to Council within six months of the date of approval, together with indicative costing, so that Council can consider an advocacy strategy to achieve implementation of the strategy.

Option 2

As per Option 1, however with a modified condition h. which deletes point v. so as to allow waste collection of bins from the kerb side of South Western Highway.

Options 3

That Council REFUSES the application providing appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for Gyms, Office, Consulting Rooms, Shop and Café. The uses are considered appropriate in accordance with the planning framework for the area and would not result in adverse amenity impacts. Notwithstanding the objections, it is considered that the proposal is consistent with the objectives of the planning framework and the principles of orderly and proper planning. For the reasons outlined in the report it is recommended that the application is approved subject to conditions.

Attachments

- **10.1.1 – attachment 1** – Development Plans including TIA and BMP (E21/5690)
- **10.1.1 – attachment 2** – Summary of Submissions (IN21/13783)
- **10.1.1 – attachment 3** – Clause 67 Checklist (E21/3417)



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	There are no material risks associated with option 1						
2	If the waste management plan allows kerb side collection, there could be a degree of inconvenience to road users of South Western Highway given a larger number of bin collections that the development will likely generate.	Planning framework	Reputational	Possible	Moderate	MODERATE	If this is supported, it is recommended that the Shire’s waste contractor continue their current practices to avoid major roads at peak time periods.
2	If Council refuse the application, it may result in the application appealing the decision to the State Administrative Tribunal.	Nil	Financial	Possible	Minor	MODERATE	Ensure valid planning reasons for refusal.

**Voting Requirements:** Simple Majority

Officer Recommendation

That Council:

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- c. Prior to occupation of the development, all vehicle parking areas accessways and crossovers shall be designed, constructed, sealed, kerbed, drained, line marked in accordance with the approved plans and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. Detailed design plans must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- d. Prior to issue of a Building Permit, a reciprocal rights of access agreement shall be prepared by the Shire's lawyers at the cost of the applicant, to the satisfaction of the Shire. This is to ensure that reciprocal rights of access will be available for the southern two adjoining properties over the driveway access, internal north south access ways and crossover to South Western Highway, if they are in turn developed for mixed use.
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- landscaping abutting the South Western Highway road reservation being limited and maintained to a mature height of 1 metre;
 - sight lines being maintained to ensure driver safety;
 - the car park area being designed to provide a rain garden and flush kerbing treatment methodology.

The Landscape Plan must also show all areas of retained vegetation, additional planting including all car parking areas, access roads and road verges. Once approved, the Landscape Plan shall be implemented in its entirety and maintained thereafter.

- f. Prior to issue of a Building Permit, an Urban Water Management Plan (UWMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the UWMP shall be implemented and maintained thereafter. The UWMP shall be prepared in accordance with Local Planning Policy 2.4 – Water Sensitive Design. Stormwater discharge (if any) must not exceed pre-development discharge to the South Western Highway road reserve or the widened road reservation.



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- g. Prior to issue of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Signs and include information to demonstrate:
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 - ii. The proposed signage must not flash, pulsate or chase; and
 - iii. The device must not contain fluorescent, reflective or retro reflective colours or materials.
- Once approved, signage shall be displayed and maintained in accordance with the strategy.
- h. Prior to issue of a Building Permit, a Waste Management Plan must be submitted to and approved by the Shire of Serpentine Jarrahdale. The Waste Management Plan must include the following:
- i. The location of bin storage areas and bin collection areas;
 - ii. The number, volume and type of waste to be placed in the bins;
 - iii. Management of the bins and the bin storage areas, including cleaning, rotation and moving bins to and from the bin collection areas;
 - iv. Frequency of bin collections;
 - v. No waste collection being permitted from the South Western Highway road reserve.
- Once approved, the Waste Management Plan shall be implemented and maintained thereafter.
- i. Prior to issue of a Building Permit, a Lighting Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale, demonstrating adequate lighting responses which do not cause unobtrusive lighting impact. The approved lighting plan shall be implemented and maintained thereafter.
- j. Prior to the issue of a Building Permit, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale, demonstrating compliance of the development with the *Environment Protection (Noise) Regulations 1997*. Plans submitted for a Building Permit must demonstrate all requirements of the Noise Management Plan being integrated into the design. The Noise Management Plan must also demonstrate the ongoing operational requirements of the development in order to comply with the Noise Regulations. This must also demonstrate:
- i. Effective building design to enable acceptable indoor noise levels while attenuating for traffic and rail noise cause by South Western Highway and the adjoining rail; and
 - ii. Able to accurately quantify noise impacts on the nearby sensitive receptors (residential premises on adjoining lots).
- k. A Notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s). The notification is to state as follows:
'The lots are situated in the vicinity of a transport corridor and are currently affected, or may in future be affected by transport noise.'
- l. Prior to the issue of a Building Permit, a Schedule of Colours and Materials shall be submitted to and approved by the Shire. This must depict the use of recycled facebrick for those portions identified as brickwork; timber features highlighting the integrated signage panels and; timber highlighting of the eaves for the upper storey window portions.



Once approved, the development shall be constructed in accordance with the Schedule of Colours and Materials.

- m. Prior to issue of a Building Permit, the applicant is to submit road upgrade plans to the specifications and satisfaction of the Shire, based on the advice of MRWA. This must demonstrate design for a left auxiliary turn lane from South West Highway into the development. Once approved, the road upgrade plans must be implemented at the full cost of the applicant prior to occupation of the development.
 - n. One (1) driveway is permitted onto South Western Highway. This driveway width must be 8 metres in width and must not exceed 11 metres in width to accommodate a 12.5metre service vehicle. The driveway must be at right angles to the carriageway.
 - o. Vegetation within the state road reserve must not be removed or trimmed to improve the visibility of the proposed advertising sign. The landowner/applicant must make good any damage to the existing verge vegetation within the South Western Highway road reserve.
 - p. Redundant vehicle crossover(s) to be removed and kerbing, verge, and footpath reinstated with grass or landscaping to the satisfaction of the Shire of Serpentine Jarrahdale.
 - q. No earthworks are to encroach onto the South Western Highway road reserve.
 - r. The ground levels on the South Western Highway are to be maintained as existing.
 - s. Prior to the issue of a Building Permit for the development, Lot 201 (895) and Lot 8 (899) South Western Highway, Byford are to be amalgamated into one (1) lot on the Certificate of Title.
2. Separate to this development application, REQUESTS the Chief Executive Officer to work collaboratively with Main Roads WA and affected landowners to prepare an access strategy that will provide for south bound access into and out of the Mixed Use precinct located on the western side of South Western Highway, north of Nettleton Road and south of Abernethy Road. The access strategy to be presented back to Council upon completion, together with indicative costings, so that Council can consider an advocacy strategy to achieve implementation of the strategy.

OCM174/07/21

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Strautins

That the Council DEFER the matter to the August 2021 Ordinary Council Meeting to enable legal advice to be obtained regarding proposed condition s and further consultation with Main Roads regarding proposed condition m.

CARRIED UNANIMOUSLY 7/0

Councillor Atwell returned to the Chambers at 7:55pm.

Presiding Member, Councillor Rich advised Councillor Atwell of the Council Resolution for item 10.1.1.



Deputy CEO/Director Community and Organisational Development, Helen Sarcich declared a Financial Interest in item 10.1.2 and left the Chambers at 7:55pm prior to this item being discussed.

10.1.2 – Lot 60, 394 Robertson Road, Cardup – Proposed Mobile Concrete Batching Plant (PA21/163)	
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 (e.g. 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 Pty Ltd
Owner:	Kandalee Pty Ltd and Mecca Holdings Pty Ltd
Date of Receipt:	23 February 2021
Lot Area:	47.39ha
Town Planning Scheme No 2 Zoning:	'Urban Development' and 'Special Use'
Metropolitan Region Scheme Zoning:	'Industrial' and 'Rural'

Report Purpose

The purpose of this report is for Council to consider a development application for a Mobile Concrete Batching Plant at Lot 60, 394 Robertson Road, Cardup.

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

It is recommended that Council refuse the development application, due to reasons of potential adverse amenity impacts primarily associated with dust, and the need to apply the precautionary principle given the absence of separation distances from current and future sensitive development.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

Background

Existing Development

The subject site was developed in the 1980s for the purpose of a timber mill business. The site is currently utilised by Permacast concrete distribution business and the Permapole timber



processing business. The original shed on site was developed between 1983 and 1985, with an extension to the shed being developed in 2009. Various ancillary site works associated with the business operations have taken place over the years since the site was originally developed, with the yards being utilised for the storage of products and materials. The southern portion of the lot contains bush forever as depicted below.

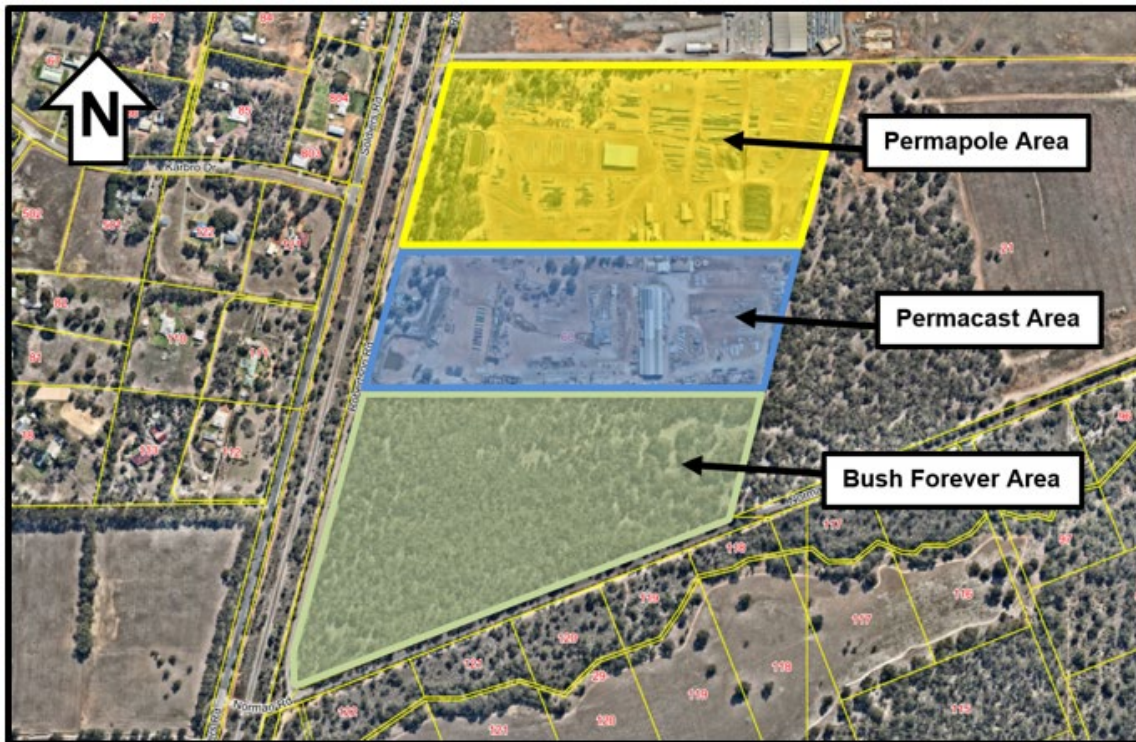


Figure 1: Aerial image with existing use overlay

Proposed Development

The development application seeks approval for a mobile concrete batching plant, proposed to be located adjacent to the existing Permacast shed, as depicted below:

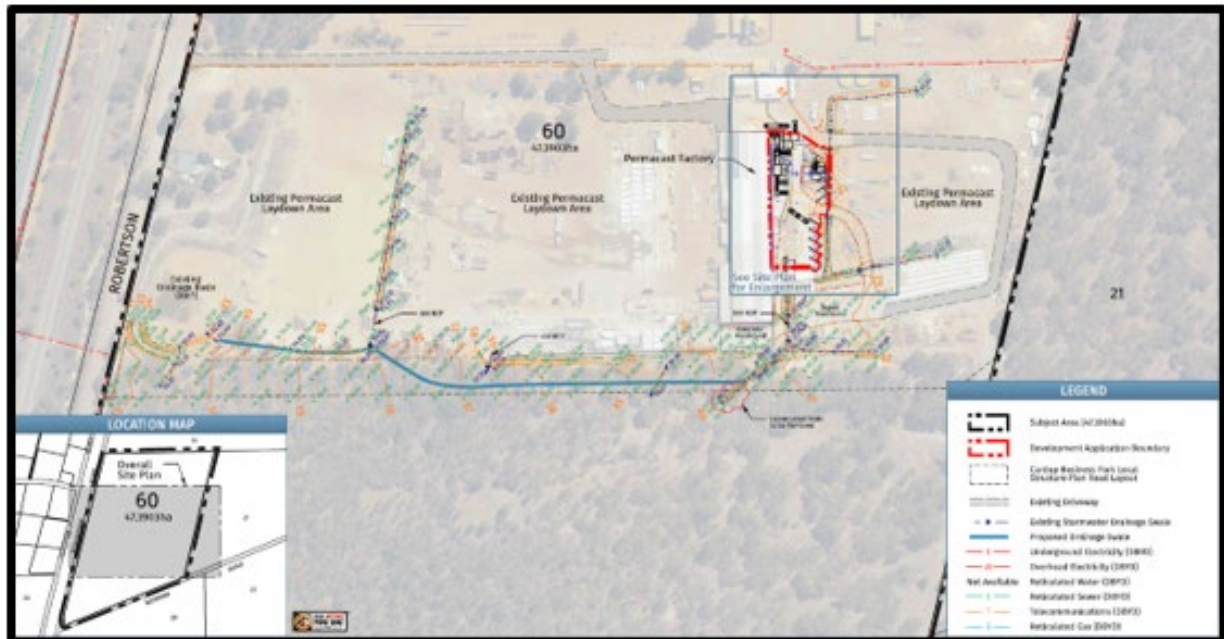


Figure 2: Site plan with the development area highlighted in red

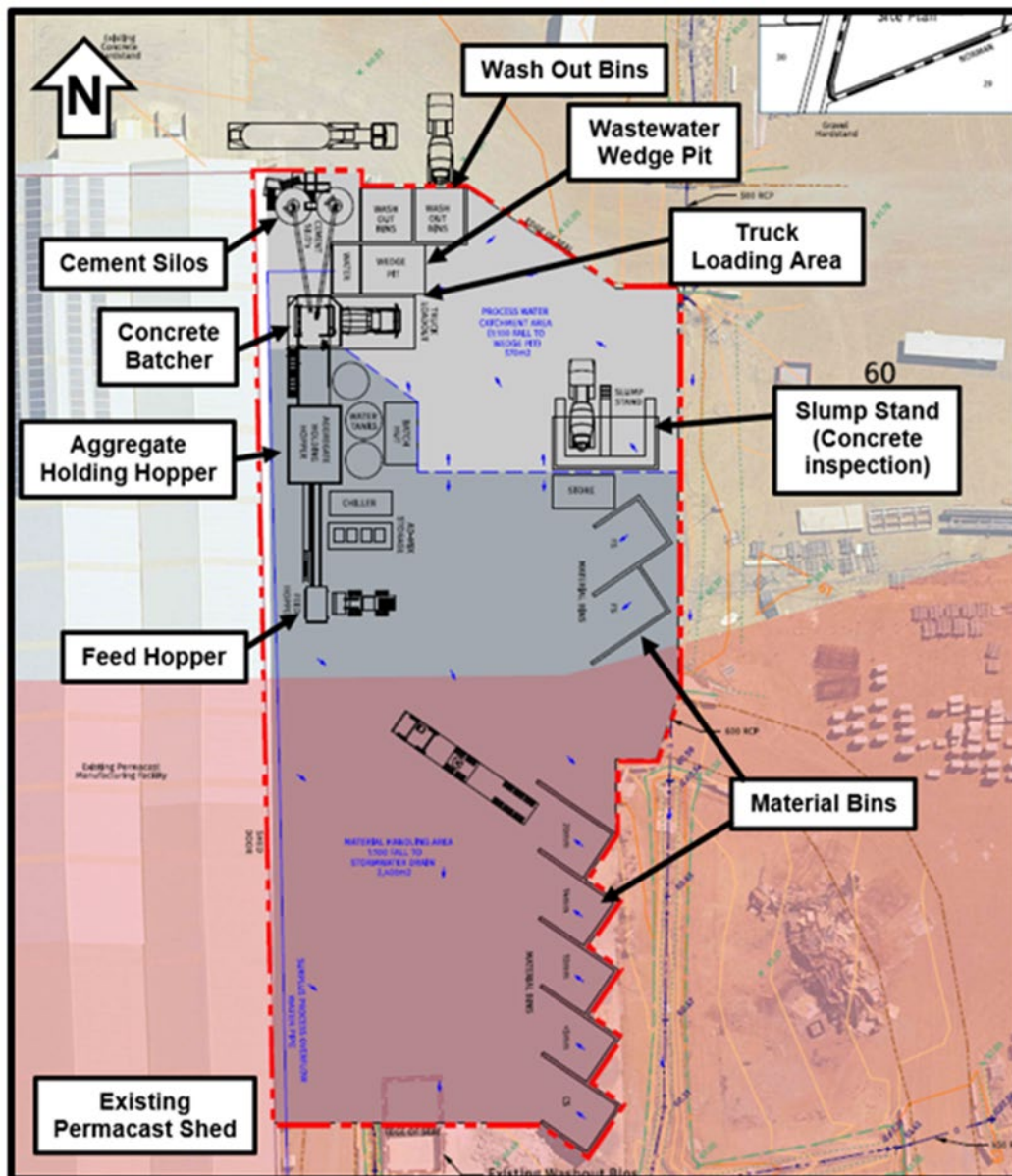


Figure 3: Concrete batching area

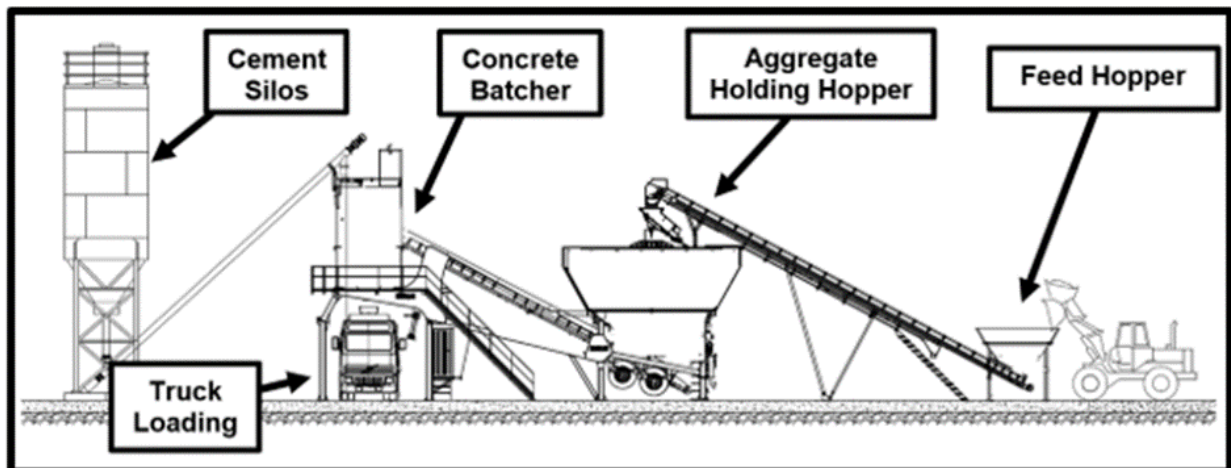


Figure 4: Elevation of Proposed Plant



The proposed development comprises of:

- An area of concrete hardstand measuring 2,970m²;
- The concrete batching plant; specifically, a feed hopper, aggregate holding hopper, the batching computer and the sealed plant batcher;
- A material storage area being made up of:
 - seven storage bins enclosed on three sides with a capacity of 150m³;
 - two base cement material holding silos; and
 - three water tanks.
- Initially the proposal included eight RAV 4.1 trucks for the delivery of raw materials to the site for processing. Following comments from Main Roads Western Australia (MRWA), this aspect of the proposal has been amended and now includes a maximum of 16 smaller material delivery trucks. These trucks can travel on the road network 'as of right' and do not need specific approvals or have requirements to travel on the RAV network;
- A maximum of 20 concrete agitator trucks for external deliveries (used on a needs basis only);
- Associated with the trucks are slump stands (where the concrete quality is assessed in the truck), truck loading and wash out areas;
- A stormwater management system including:
 - A wedge pit that the water from the processing area is directed to; and
 - A detention basin immediately to the south of the material storage area that would contain stormwater runoff from the hardstand.

This aspect of the proposal is also an amendment since the submission of the application. Initially, the proposal sought approval for a water management system that included infrastructure within the bush forever. This was not supported by the Department of Planning Lands and Heritage (DPLH) and therefore has been removed from the proposal.

The proposed batching plant is estimated to have an output of 62,400m³ or 146,640 tonnes of concrete per year which would generally be used by the neighbouring Permacast facility. However, there may be instances where concrete would be delivered offsite, utilising the 20 agitator trucks as mentioned above.

The proposal seeks to utilise a 'wet-mix' process in order to create the concrete. The wet-mix process combines all the dry ingredients (concrete base material, aggregate and sand) and water by computer control in a central mixer within the plant, which fully mixes and prepares the concrete within a sealed and enclosed compartment before loading into a concrete agitator truck for delivery.

The raw materials (sand and aggregate) would be delivered to the site and stored in material bins, as shown on the site plan. The sand and aggregate are transported using a front-end-loader onto a hopper which feeds it into a storage area, awaiting processing within the plant. The concrete base material would be delivered by a sealed tanker and transferred to sealed storage silo's that are attached to the plant itself.

The abovementioned materials (the concrete base, the sand and the aggregate), are then loaded into the plant. The plant batcher enters the required mix and quantity of concrete to be produced



into the batch computer, and the batch of concrete is produced autonomously. The batch is then completely mixed within the plant prior to discharge into the truck.

Once the batch has been completely mixed within the sealed plant, it is discharged into a concrete agitator truck via a rubber chute. The agitator truck then moves from the loading area to the slump stand where both the load and truck are inspected prior to being delivered to either the adjacent Permacast business or offsite.

Community / Stakeholder Consultation

Community consultation was carried out in accordance with the Shire's Local Planning Policy 1.4: Public Consultation for Planning Matters (LPP1.4) for a period of 21 days, from 8 March 2021 – 29 March 2021 as follows:

- An advertisement placed on the Shire's Community Engagement page on the Website;
- A sign displayed on site giving details of the proposal; and
- Letters were sent to surrounding landowners within a 1km radius of the site.

During the consultation period, eight submissions were received, which include six objections and two letters of support. Full details of the submissions together with the applicant's response and Officer comments are contained within **attachment 1**. The concerns raised in the objections are summarised below and addressed under the relevant headings of the report.

- Noise impacts;
- Dust and particle impacts;
- Amenity impacts due to operational hours;
- Water usage, stormwater and drainage management; and
- Traffic impacts.

In addition, the application was referred to relevant State Government Departments for a period of 42 days. The comments received are also contained within **attachment 2** and summarised below:

Department of Planning Lands and Heritage (DPLH)

As previously stated, the infrastructure initially proposed as part of the stormwater management system was located within the bush forever site portion.

DPLH provided comments that amendments to the Bush Forever area are currently being discussed between the landowner and the Western Australian Planning Commission (WAPC). The amendments proposed would realign the bush forever outside of the application site.

A Deed of Agreement and an amendment to the Metropolitan Regional Scheme (MRS) would first be required to be in place prior to DPLH being in a position to support any infrastructure within the bush forever, notwithstanding the amendments that were being worked towards.

As such, DPLH initially recommended that the application be deferred until such time as the Deed of Agreement is executed and the MRS amendment advertised for comment.

Subsequently, the proposed stormwater management system has been amended and there is no longer any infrastructure proposed within the bush forever.

DPLH has provided an amended submission raising no objections to the amended proposal. This is contained within **attachment 2**.



Department of Water and Environmental Regulation (DWER)

DWER provided the following:

- A works approval is required to be lodged with DWER under Part V, Division 3 of the *Environmental Protection Act 1986*. DWER's groundwater impact assessment would be conducted at the lodgement of the works approval to DWER.
- DWER's Environmental Noise Branch was in agreeance with the assertions of the Acoustic Assessment Report lodged by the applicant that the noise generated by the proposal would comply with the relevant legislation, being the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) at all times.

Officer Comment:

These comments have been forwarded to the applicant for information.

Main Roads Western Australia (MRWA)

The application was initially referred to MRWA due to the inclusion of eight heavy haulage RAV 4.1 trucks for the purpose of raw material supply. MRWA did not provide a response to the referral within the 42-day advertising period, however a later response was provided. MRWA requested an updated Traffic Impact Assessment (TIA) that addresses the following:

- Demand profiles to be consistent. Section 6.3 of the TIA discusses the peak arrival of the concrete deliveries is during AM, but Section 8.2 assumes a 50/50 split of the trips between the AM and PM peaks.
- Further detail is needed on heavy vehicle routes to and from the site including whether vehicles travel north and/or south along the South Western Highway.
- Traffic Impact Assessment to assess the intensification of heavy vehicles traffic at intersections and identify suitable intersection treatments to be undertaken by the developer as part of the development. The assessment must be undertaken using the 2023 volume.

Officer Comment:

This referral from MRWA resulted in the applicant revising their proposal to remove the heavy haulage RAV trucks. Traffic issues are discussed further in the Traffic section of this report.

Department of Biodiversity, Conservation and Attractions (DBCA)

DBCA did not provide a response to the referral within the 42-day referral period, though provided a late submission which in summary reiterated the approach DPLH has undertaken in seeking an amendment to the stormwater management arrangements so that there is no adverse impact to the Bush Forever Site.

Officer Comment:

Officers have forwarded the comments to the applicant for response and factored the comments in when considering the amended stormwater proposal.

Statutory Environment

Legislation

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



- *Environmental Protection (Noise) Regulations 1997*
- *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*

State Government Policies

- Environmental Protection Authority Draft Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses (Guidance Statement)
- State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region (SPP2.8)

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3)
- Cardup Business Park Local Structure Plan (LSP)

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 **attachment 3**.

Land Use

The Mobile Concrete Batching Plant falls within the land use of 'Industry General' in accordance with TPS2, which is defined as:

"Industry General - means an industry other than a cottage, extractive, hazardous, light, noxious, rural or service industry."

The site is zoned 'Urban Development' and 'Special Use' under TPS2, as depicted below. The portion of the site in which the proposal is located is zoned 'Urban Development'.

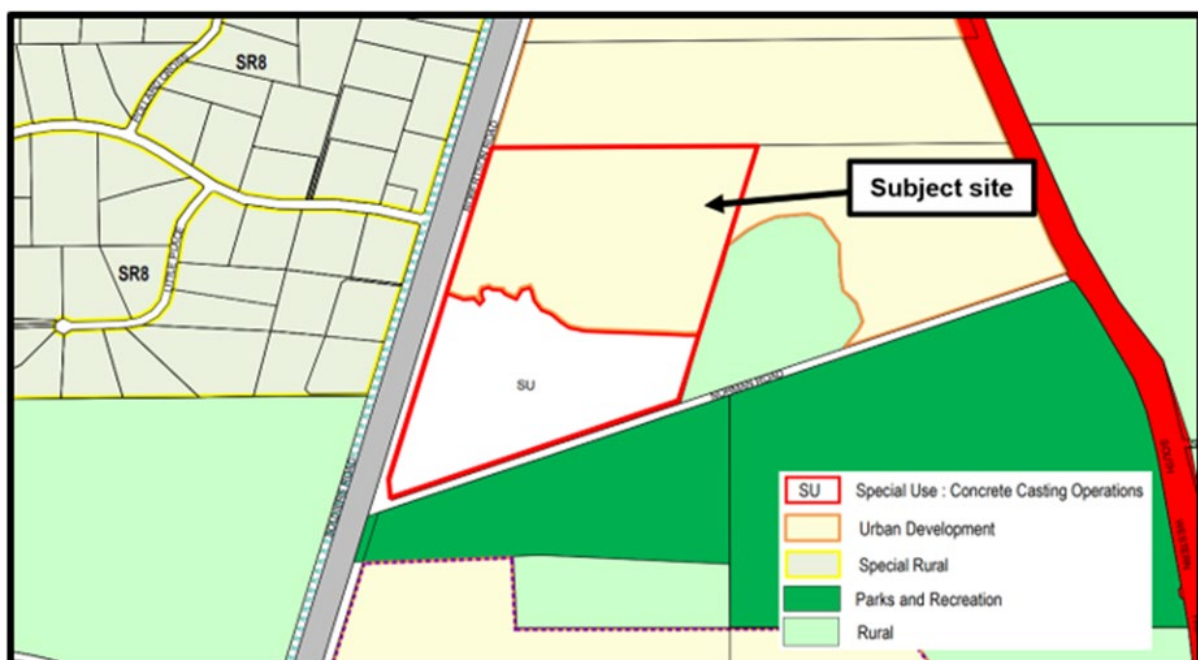


Figure 5: The split zoning of the property under TPS2



Land use and development within the 'Urban Development' zone is guided by Structure Plans. In this case, the proposal falls within the Cardup Business Park Local Structure Plan (LSP) which is further considered later in the report.

The development site is designated as 'Industry General' under the LSP. Under Table 1 – Zoning Table of TPS2, the land use of 'Industry General' is a 'P' use meaning had the LSP designation been the zone, the land use would be permitted. Whereas the use is permitted, an assessment is required against the physical works component of the proposal, including the processes and operations involved.

Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)

Clause 5.18 of TPS2 states that, *"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."* The objective is facilitated through the preparation of Structure Plans which guide the land use permissibility and development.

As previously mentioned, 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:

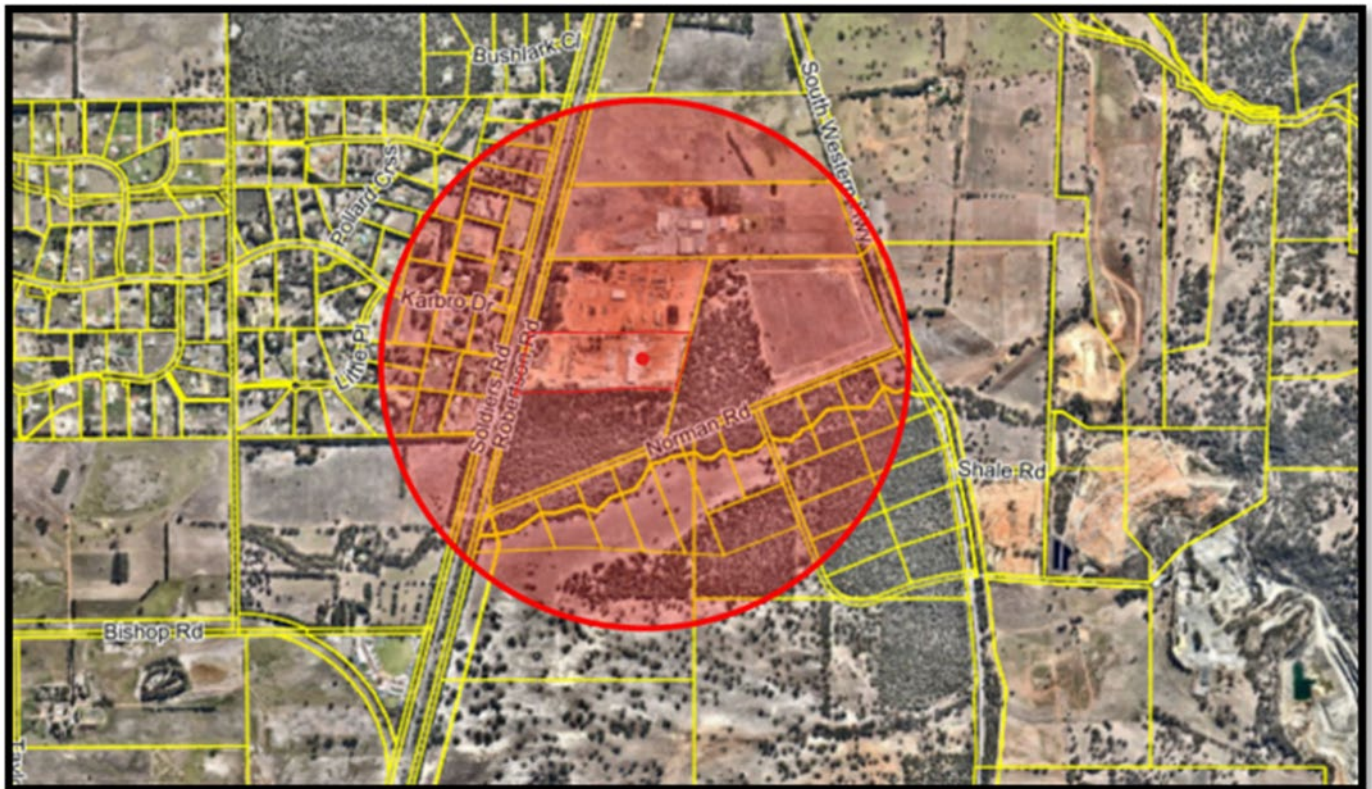
"The purpose and intent of the General Industry zone is to provide for industries which require large areas of land for their operation".

While the site is a large land area, the processes and operations involved (being Cement product manufacturing concrete from 5000 to 150 000 tonnes per year) requires a buffer distance of 500-1000m depending on site.

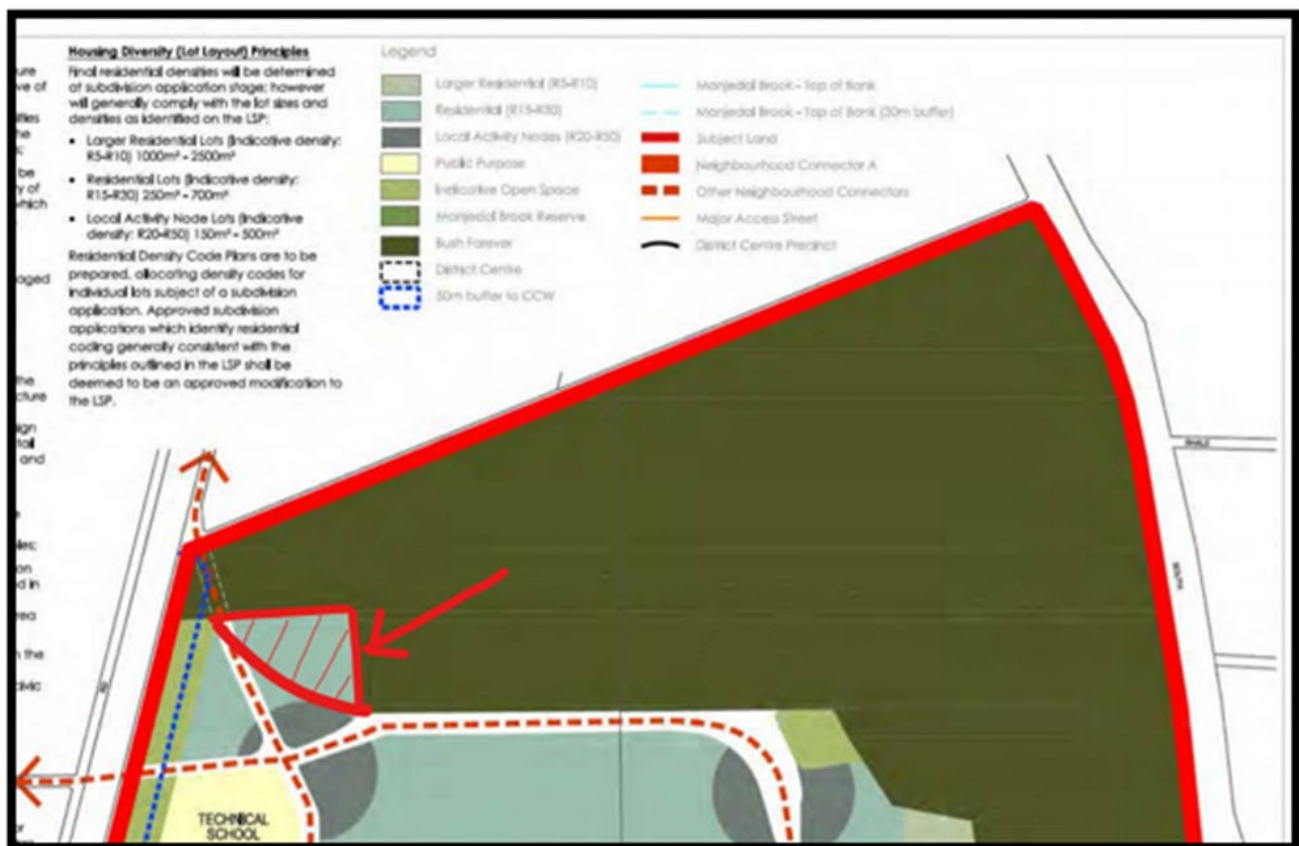
As per the EPA Guidance Statement No. 3 (Separation Distances between Industrial and Sensitive Land Uses), given that the processes and operations involved are at the upper limit of the spectrum that is identified, it is recommended that a 1000m buffer would be a starting point.

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 separation distance 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.



1000m buffer



1000m buffer affecting future residential land on Approved Structure Plan



Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3)

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. This would require a merits based assessment to be performed against both the use component and the physical works component of the proposal. As it stands, however, given the current Scheme permits the use, it is a focus on the physical works, processes and operations that are the basis of the planning assessment.

Shire of Serpentine Jarrahdale Draft Local Planning Strategy

The Statutory Planning Committee of the WAPC recently considered the Shire's Final Draft Local Planning Strategy. At the time of writing this report, the minutes had not yet been released. Council at the June 2020 Special Council Meeting resolved a specific modification to the Local Planning Strategy to the Cardup Business Park as follows:

Action 8 – Facilitate the zoning of the Cardup Business Park as 'Industrial Development', to enable a review of the current Structure Plan in response to evolving planning and development in the locality, to provide for a mix of non-impacting industrial, service commercial and composite land uses that better respond to the need to minimise offsite impacts while protecting established industrial businesses. Following a revised Structure Plan, the normalisation of zoning to occur.'

This was only partially supported in the DPLH Officer report however, which indicated an intent to give the Cardup Business Park and the West Mundijong Industrial Area the same Industrial zoning.

Officers of the Shire further responded to this indicating that Cardup Business Park did not enjoy the secured 1000m buffer from its outer precinct edges, and therefore was appropriate for non-impacting industries only.

As it stands, the proposed development is not consistent with the position expressed by Council in respect of adopting the Draft Local Planning Strategy, while noting the DPLH Officer position did not support that of the Shire's.

Cardup Business Park Local Structure Plan (LSP)

As previously stated, 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 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.

This proposal includes such dust generating activities, as per the EPA guidance statement that identifies noise and dust as associated impacts.

The applicant has provided a Dust Management Plan (DMP), prepared according to the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*. The DMP considers the proposal against the wider operations occurring on site.

The DMP identifies that the sensitive receptors to the wider operations on site include the rural residential development to the west of the site and the Court Grammar School 1km to the south-west of the site. The DMP identifies the following dust sources:

- Raw material delivery; and
- Manufacturing (mixing of materials or transportation within the site).

In summary, the following methods of mitigating dust impacts are proposed within the DMP:

- Training of staff on dust management;
- Possible cease of operation if dust cannot be managed;
- Regular washing and cleaning of equipment to minimise dust build up;
- All surfaces around the concrete batching area are to be constructed on hardstand, to minimise dust;
- The availability of a water cart to dampen materials and the wider concrete batching area;
- The washing of trucks prior to leaving site, minimising dust/material being brought offsite;
- The use of storage bins for raw material which will be dampened prior to delivery and moisture levels monitored and rectified as required;
- The raw cement mix material will be stored within a fully sealed silo; and
- Regular and ongoing maintenance of equipment and processes.

Officers assessed the DMP, to determine its consistency or otherwise with the specified standard under the LSP.

Officers note the following concerns:

- The DMP did not consider site specific meteorological conditions. No information was provided to confirm that consideration had been given to the katabatic winds moving east to west across the Scarp. Rather, s2.2. of the DMP states wind data from Perth Airport being used.
- The DMP expresses *"It is likely that any dust generated by the morning easterly winds would be abated by the shed prior to leaving the property and is therefore unlikely to reach the residential dwellings located within the buffer area. Likewise, the shed is likely to screen the processing area and restrict the south westerly winds from producing dust within the processing area."* Officers are concerned that without site specific meteorological conditions, together with the fact that a number of current and future sensitive premises



are located within the 1000m buffer, means Officers cannot be confident that dust is capable of being managed and monitored in accordance with EPA regulations.

It is important to note that the DWER Guideline for managing dust states: "Where meteorological information is not available, or the site characteristics such as topography are difference from those at the nearest BoM station, then site specific metrological monitoring will be required. DOH requires that meteorological data is matched to the activity on site, particularly if there is considerable potential to adversely impact public health."

The assessment of Officers is that there is potential adverse amenity impact, and the lack of certainty resulting from the absence of site specific meteorological data is a caused for the application to be refused.

State Planning Policy 2.8: Bushland Policy for the Perth Metropolitan Region (SPP2.8)

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:

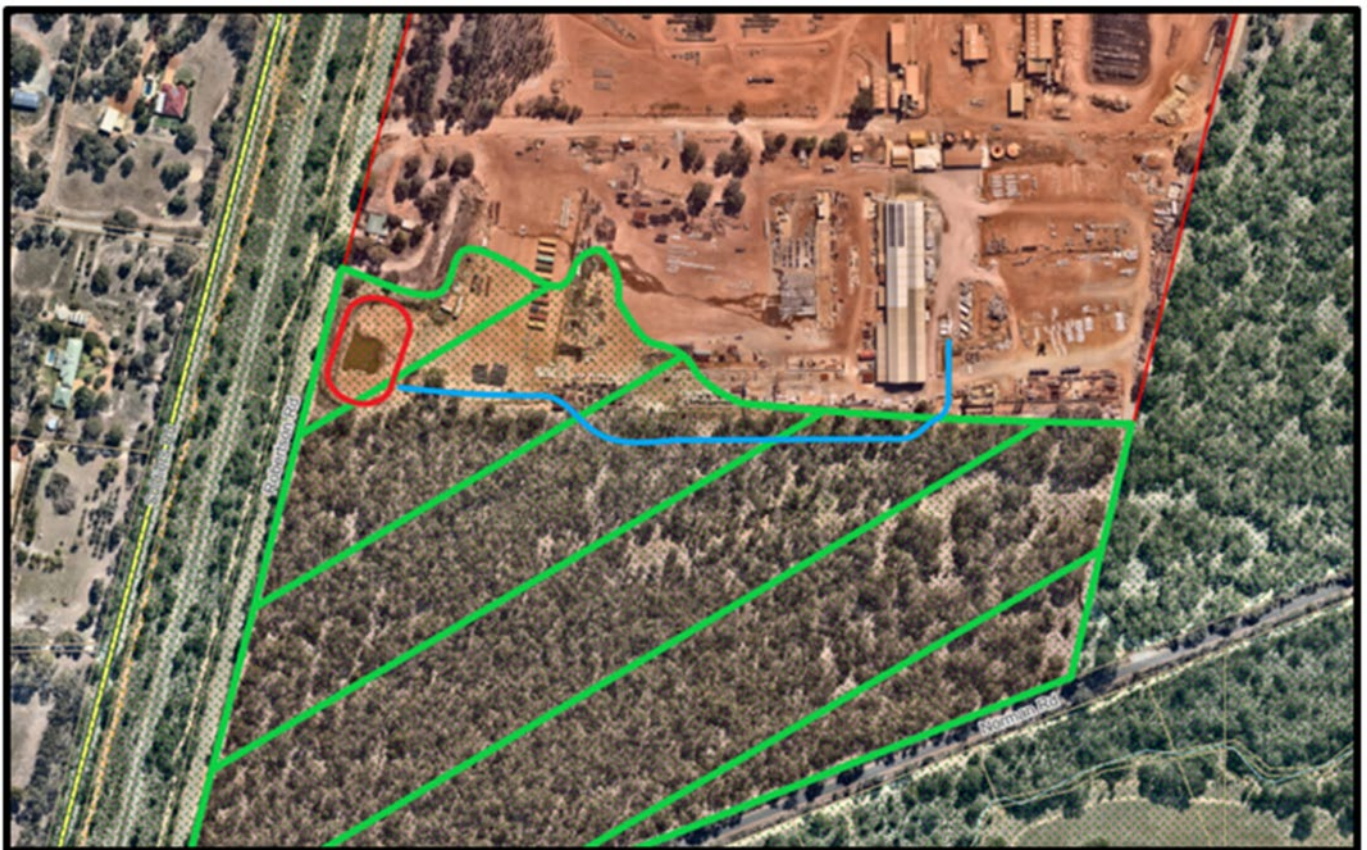


Figure 7: Bush Forever Area 361 (green), the initially proposed swale (blue) and drainage basin (red)

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.

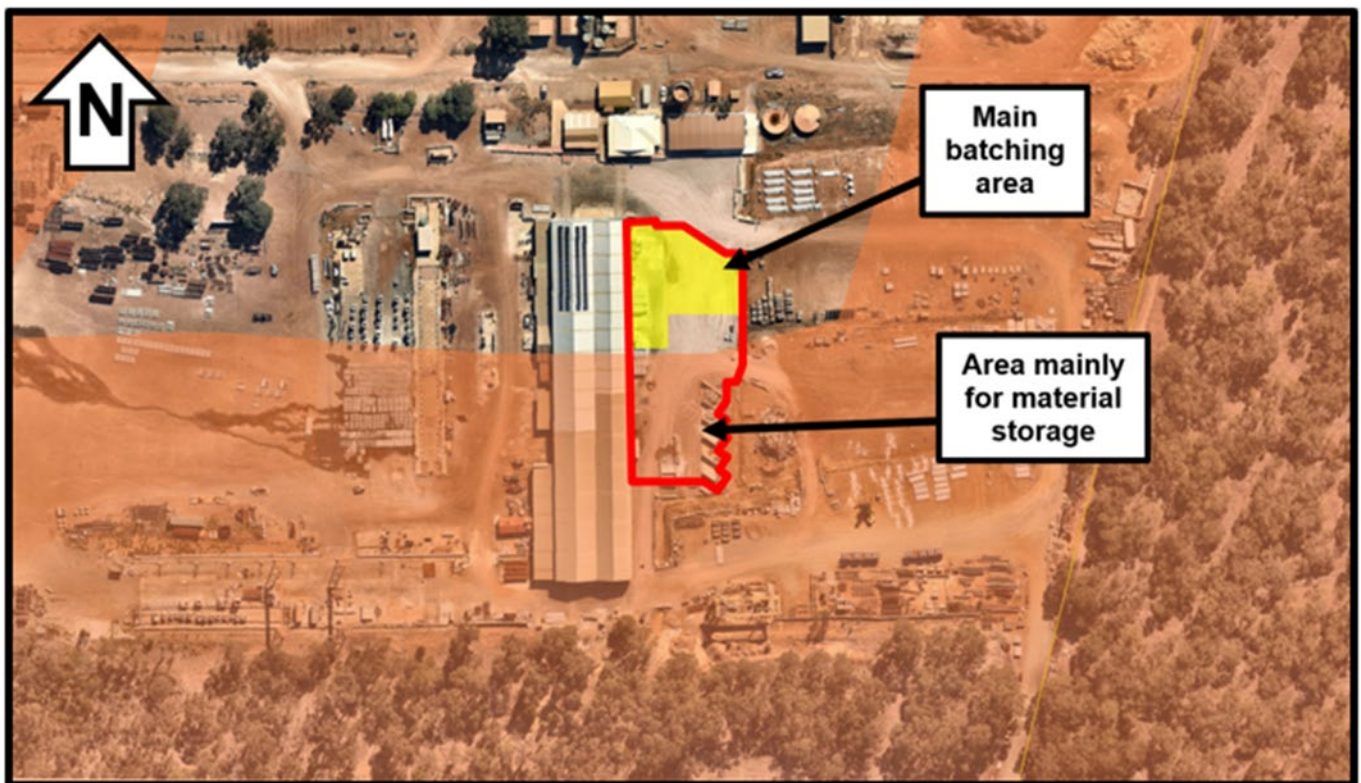


Figure 8: The bushfire prone area (orange overlay) compared to the development area

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. This issue, however, could be adequately conditioned if Council were to consider approving the application.



Amenity

Visual Amenity:

Clause 67 of the Deemed Provisions, specifically K, L, M, N, P, all relate to the form and amenity of the development that is required to be assessed.

The development area is set back significantly from all property boundaries as follows:

- 386m to the primary street boundary (west);
- 330m to the side boundary (north);
- 257m to the side boundary (south); and
- 128m to the rear boundary (east).

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, as depicted below.



Figure 9: Image from Robertson Road entry point to site. The Permacast shed just being visible would screen the concrete batching area fully from the streetscape

Officers therefore do not consider that the proposal would adversely impact the locality by way of visual amenity.

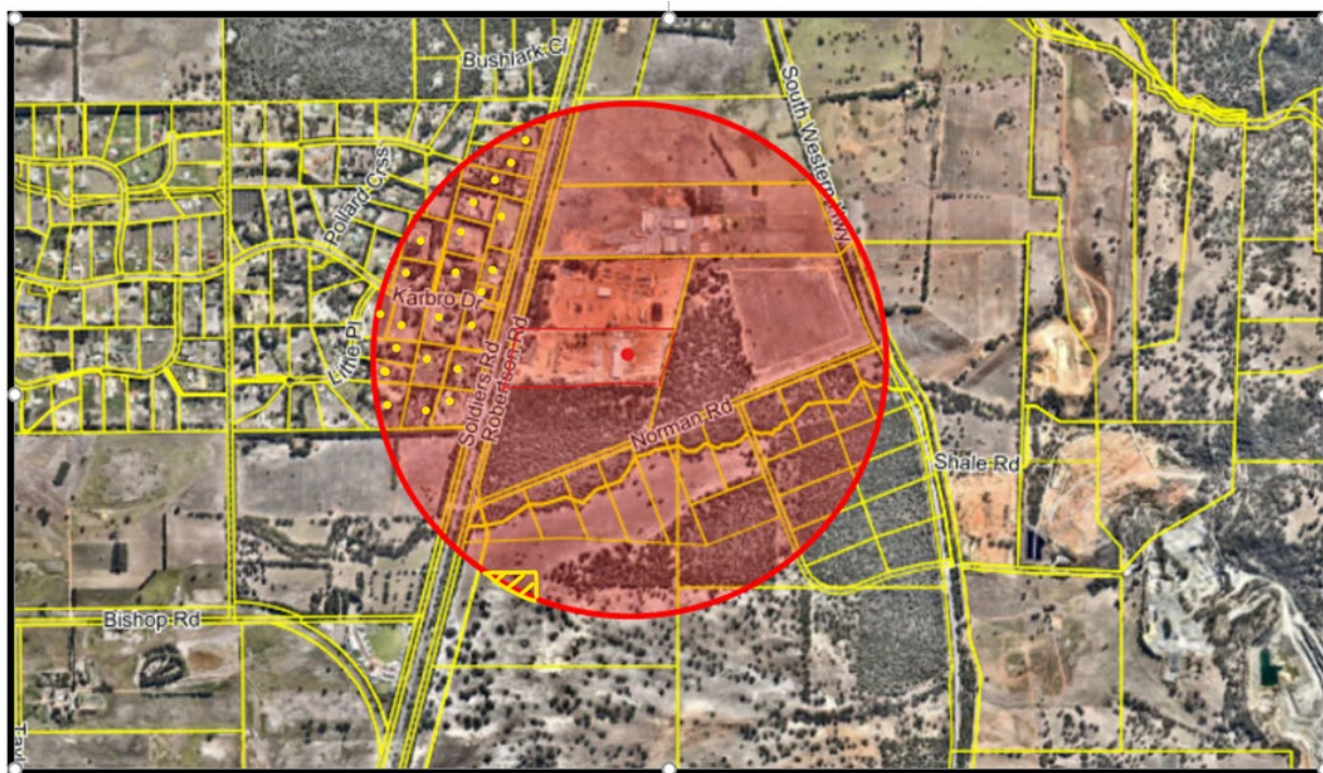
The Environmental Protection Authority Guidance Statement 3 - Separation Distances between Industrial and Sensitive Land Uses (Guidance Statement)



As mentioned above, 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 previously 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. To the west, these lots are designated to continue for Rural Residential development under the current and future scheme. The amenity for this area is one which affords for a limited range of appropriately scaled rural uses to occur. Indeed, the new Local Planning Scheme No. 3 adopts the model zone provisions which provides for “residential amenity with a rural character.”

These lots also form part of a planning investigation area under the Perth and Peel Subregional Frameworks document, which is considering whether land use should remain the same, or change, in the long term. While the Shire’s position is for the protection of Rural Residential in this area, to create clear and coherent rural green belts between the urban nodes of Byford and Mundijong, it could mean even more intensive development.

To the south, for those lots adjoining Norman Road, the Whitby Precinct A Local Structure Plan designates these lots as a ‘Reserve’ for the purpose of a Bush Forever Site. The Structure Plan does not anticipate residential development on these lots. Separately, as shown on the Structure Plan, a portion of future residential development will extend to within the 1000m separation distance, south of the lots adjoining Norman Road.

As mentioned, the technical dust report does not sufficiently address Officer concerns that that the proposed physical works, processes and operations at the scale proposed will not adversely impact sensitive receptors.

In respect of noise, the applicant has provided an acoustic assessment in order to address noise impacts against the *Environmental Protection (Noise) Regulations 1997 (Noise Regulations)*. The Acoustic Assessment identifies noise sources as:

- Truck and vehicle movements;
- The loading and unloading of materials;
- Vehicle wash down;
- The operations occurring prior to 7:00am on weekdays and 9:00am on weekends are typically the first agitator trucks attending site at 6:00am.
- The operations would operate typically between 5:00am to 2:00pm, with a maximum of 16 ‘as of right’ trucks attending site to restock materials between 2:00pm to 6:00pm, at which time the plant would close.
- The nearest noise sensitive “residential” premises being located just over 500m to the west of the concrete batching area of the site.

Noise measurement and monitoring of the existing Permacast operations have been undertaken as a part of this acoustic assessment. Predictive noise modelling has been used to assess the cumulative operations of the current facility, with the addition of the proposed Concrete Batching Plant.



The acoustic assessment identifies that the main concrete production area would be screened to the nearest noise sensitive “residential” premises by the existing Permacast shed, which would act as a noise attenuating buffer reducing the level of noise that would be received at the sensitive receptors.

It further identifies that main impact to the nearby residences from the development would be from the movement of trucks to and from site, as the vehicle access point to the site is approximately 100m from the boundary of the nearest rural residential property.

The tables below detail the four different scenarios and the noise levels recorded in relation to the assigned levels.

TABLE 7.1 – ASSESSMENT OF NOISE LEVELS						
LA10 NOISE LEVELS						
Assessable Noise Level dB(A)	Res A	Res B	Res C	Time of Day	Assigned LA10 Level (dB)	Compliance
Scenario 1 – Permacast Current Operations	33	31	29	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays (Night)	38	Complies
Scenario 2 – Proposed Batch Plant Operations	31	23	22			Complies
Scenario 3 – Current and Proposed Operations combined	35	31	30			Complies

TABLE 7.2– ASSESSMENT OF NOISE LEVELS						
LA01 NOISE LEVELS						
Assessable Noise Level dB(A)	Res A	Res B	Res C	Time of Day	Assigned LA10 Level (dB)	Compliance
Scenario 4 – Truck movements prior to 07:00am	43	38	35	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and Public Holidays (Night)	48	Complies

Figure 12: Noise modelling and monitoring results

The results, as shown above, demonstrate that the proposed noise levels achieve compliance with the Noise Regulations at all times.

The main amenity concerns therefore relate to dust.

Traffic

Access is proposed to be taken via the existing crossover on Robertson Road, which is currently utilised by the two existing industries of Permacast and Permapole. The existing driveway is approximately 14m in width and is constructed of a hardened gravel sub-base material which allows for heavy vehicle movements.

The proposal would result in the movement of a maximum of 36 trucks in total, per day. Of the 36 vehicles, 20 of the vehicles form part of the existing operations currently being used to deliver concrete to site. The proposed development seeks to reduce the number of agitator trucks being used on a daily basis as these vehicles will now be used to transport concrete to various external projects, based on demand. It is not anticipated that the full complement of agitator trucks will be used daily to transport concrete offsite as this is not the primary function of the proposed operations.



The development will however generate an additional 16 'as of right' vehicles (under 19m in length) that would attend site for the purpose of material supply for the concrete batching process. As mentioned in the MRWA referral section of this report, the applicant initially proposed to utilise eight RAV4.1 trucks with double trailers. However, the applicant has revised their proposal to use smaller vehicles, as it would remove the need to consider intersection upgrades to the South Western Highway and Norman Road intersection.

In summary, the maximum number of vehicles attending site each day would be as follows:

- Concrete deliveries (agitator trucks – used based on a demand basis) – 20 trucks per day
- Aggregate re-supply ('as of right' trucks) – 8 trucks per day
- Sand re-supply ('as of right' trucks) – 6 trucks per day
- Cement re-supply ('as of right' trucks) – 2 truck per day.

The route of transport of the trucks from the site would be from Robertson Road to Norman Road, to South Western Highway and then to various sites as detailed below.

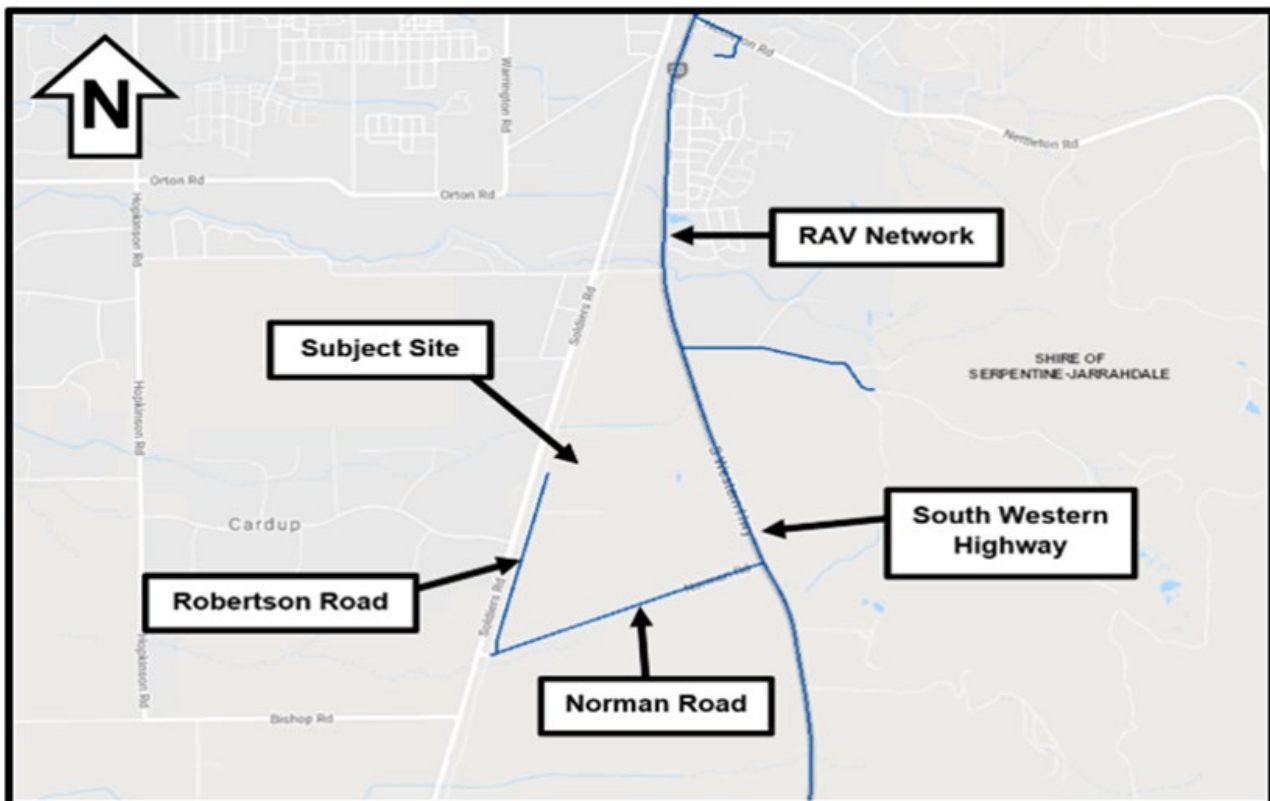


Figure 14: RAV Network and proposed route of vehicles associated with the proposal

South Western Highway, Robertson and Norman Road are all on the RAV4 network therefore are suitable for facilitating trucks associated with the development. Robertson Road and Norman Road are both Urban Local Roads with an indicative traffic volume of up to 4000 vehicles per day (vpd). Norman Road typically facilitates 416 vpd and it is expected this is similar for Robertson Road. Given the additional 16 trucks associated with the proposal and potentially 20 delivery trucks, it is considered that the road network is capable of accommodating the additional vehicles without having adverse traffic impacts, as identified in the TIA.

With regard to any vehicle movements for external concrete delivery, this is dictated by customer demand. On average for ready-mix concrete supply in the metropolitan area, peak demand is



typically reached by 7:30am and reduces substantially by 9:00am with production finishing by 2:00pm. The additional sixteen service/delivery vehicles to supply aggregate, sand and cement materials to the batching plant would occur daily between 2:00pm – 6:00pm. It is considered that these additional movements at these times of day would not adversely impact on the current road network given its capacity and existing utilisation.

It is noted that Court Grammar School is located 1km to the south of the site along Soldiers Road. Officers do not consider that the vehicles associated with the proposal would adversely impact on the operation of the school and its traffic movements as trucks associated with the proposal will be confined to the RAV network along Norman Road and thereby not travelling past the school.

Regarding vehicle safety at intersections, the applicant provided initial swept paths for the intersections of Norman Road/Robertson Road, Norman Road/South Western Highway and the site access point to demonstrate that the RAV heavy trucks can enter and exit these intersections safely and remain lane compliant. However, Officers note that the proposal has been amended so that now only 'as of right vehicles' are proposed, rather than the heavy haulage RAV trucks initially considered. The initial swept path analyses indicated general compliance with the intersections, with the exception of right turning movements leaving Norman Road and traveling south on South Western Highway.

It is considered that, based on the TIA provided, due to the minor addition of vehicles associated with the proposal, it would not adversely impact on the local road network by way of capacity or safety.

Stormwater

A Stormwater Management Plan (SMP) has been prepared and submitted as part of this application. The SMP expands upon another SMP that was developed for the site in 2014 (2014 SMP). The SMP relates specifically to the management of stormwater from the 2,400m² hardstand area of the plant utilised for raw material handling. Water generated or used within the mobile batching plant processing and vehicle washdown area is to be contained within a wedge pit, managed and reused by the operator within the processing area. The SMP was developed in accordance with the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*.

2014 SMP:

The 2014 SMP identifies a number of best management practices for development of this kind, to which development on the site intends to conform to. These practices are as follows:

- Measures to manage water balance including practices to promote local infiltration and detention;
- Measures to maintain and if possible, enhance water quality such as:
- Practices to control scour, erosion and sedimentation;
- Strategies to control stormwater run-off pollution;
- Approaches to minimise pollution and encourage wastewater recycling;
- Measures to promote water conservation;
- Measures to maximise permeable surfaces and to minimise runoff; and
- Measures to utilise natural drainage features.

The 2014 SMP identified three systems for the management of stormwater, which are as follows:



- **System 1 – Drainage system to the east of existing main buildings.** This system comprises a series of open v-drains incorporating 450 mm diameter culverts at traffic crossings which discharge into a shallow swale at the southern end of the system.
- **System 2 – Drainage system to the west of the existing main buildings.** This system comprises an open v-drain incorporating 450 mm diameter culverts at traffic crossings which discharge into a drainage basin at the western end of the system.
- **System 3 – Driveway drainage.** This system comprises a v-drain running parallel with the existing entry driveway and which discharges into the Robertson Road drainage system.

The extent of these systems is identified in figure 15 below:

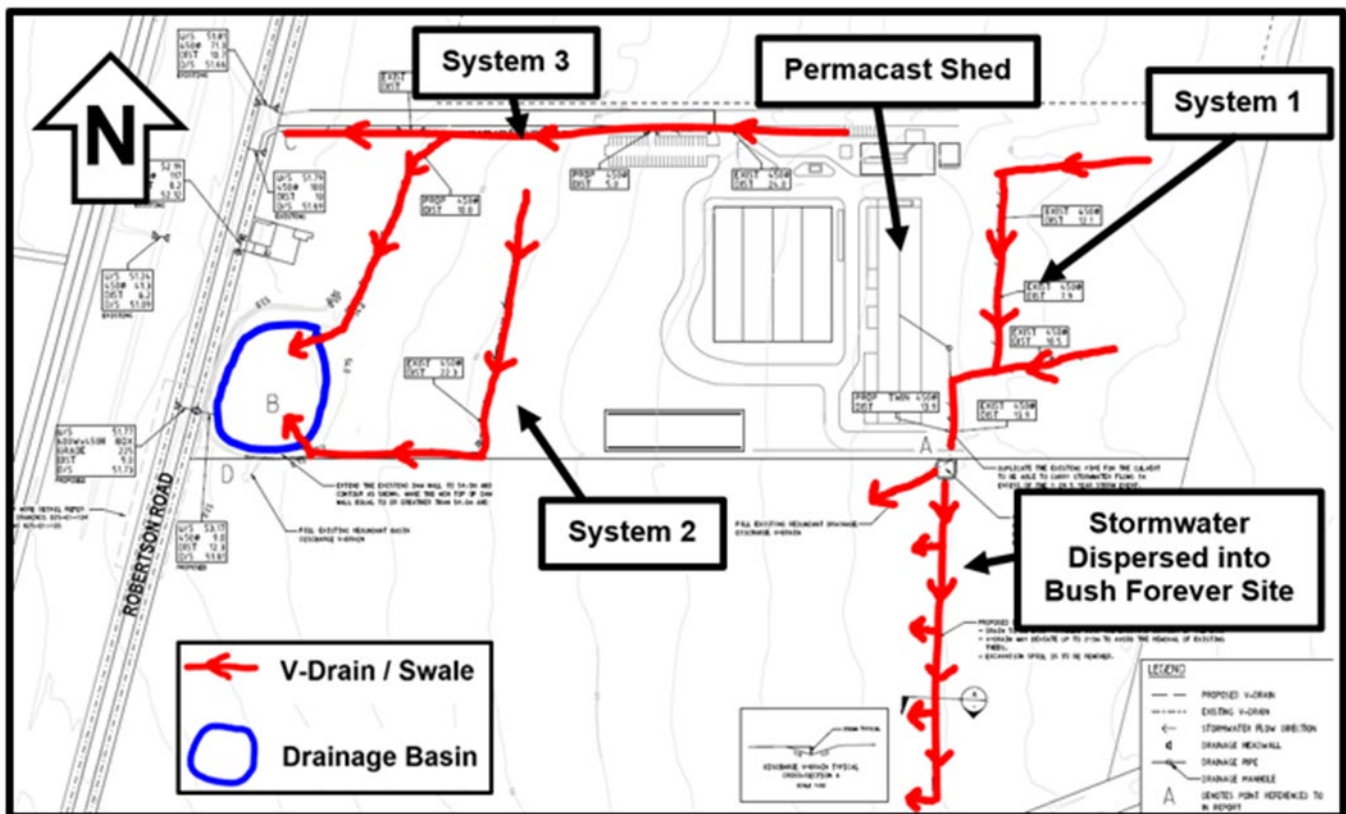
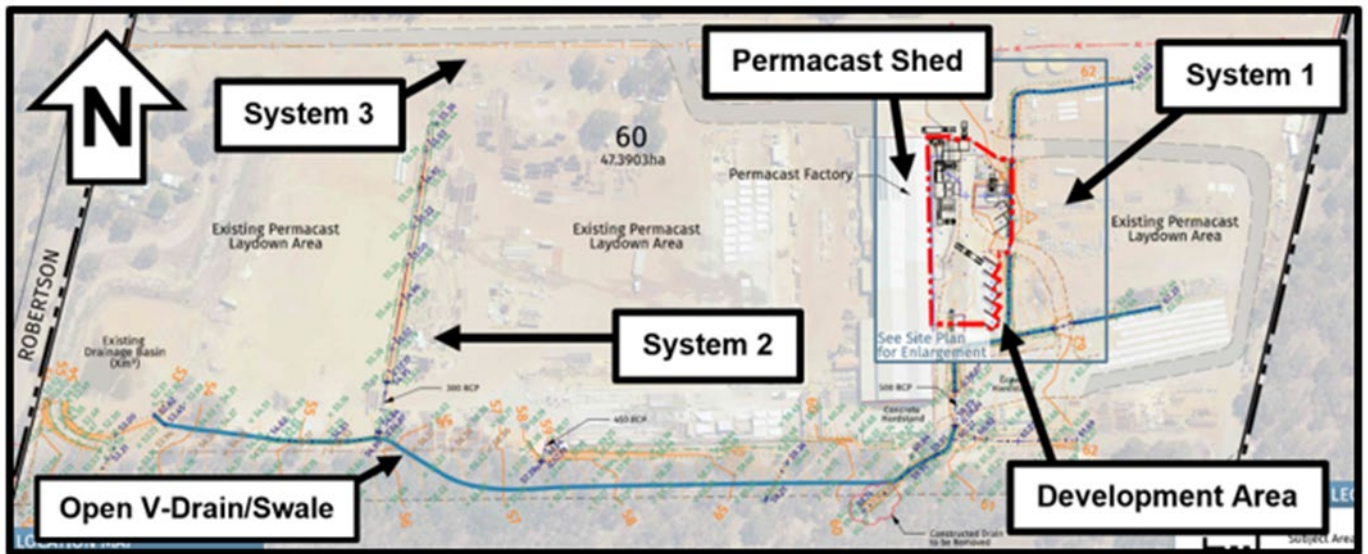


Figure 15: Stormwater management systems in the 2014 SMP

SMP:

Based on the existing stormwater management in the 2014 SMP, and taking into account the impact of the proposed development, the applicant initially proposed upgrades to the three stormwater management systems in place.

All stormwater from the proposed development area was to be drained into system 1 and transported via an open V-Drain (shown in the figure below), connecting to the existing drainage basin onsite. This constructed V-Drain was to be located within the portion of land identified as a future road reserve under the Cardup Business Park LSP and was to be constructed without the removal of any remnant vegetation. The drainage swale was to be planted with appropriate nutrient stripping vegetation and managed in accordance with the SMP. The water from the drain would traverse the site from east to west into the existing drainage basin to the west of site abutting Robertson Road.



Figures 16: Proposed upgrades to existing stormwater management systems

Amended Stormwater Management Proposal:

As previously stated, DPLH were not supportive of the initial stormwater arrangement in particular the infrastructure being located in the bush forever.

The applicant therefore proposed an updated stormwater system to ensure that all stormwater associated with the proposal would be managed outside of the Bush Forever Site. This involves the construction of a separate drainage basin, directly to the south of the concrete batching area as depicted below:

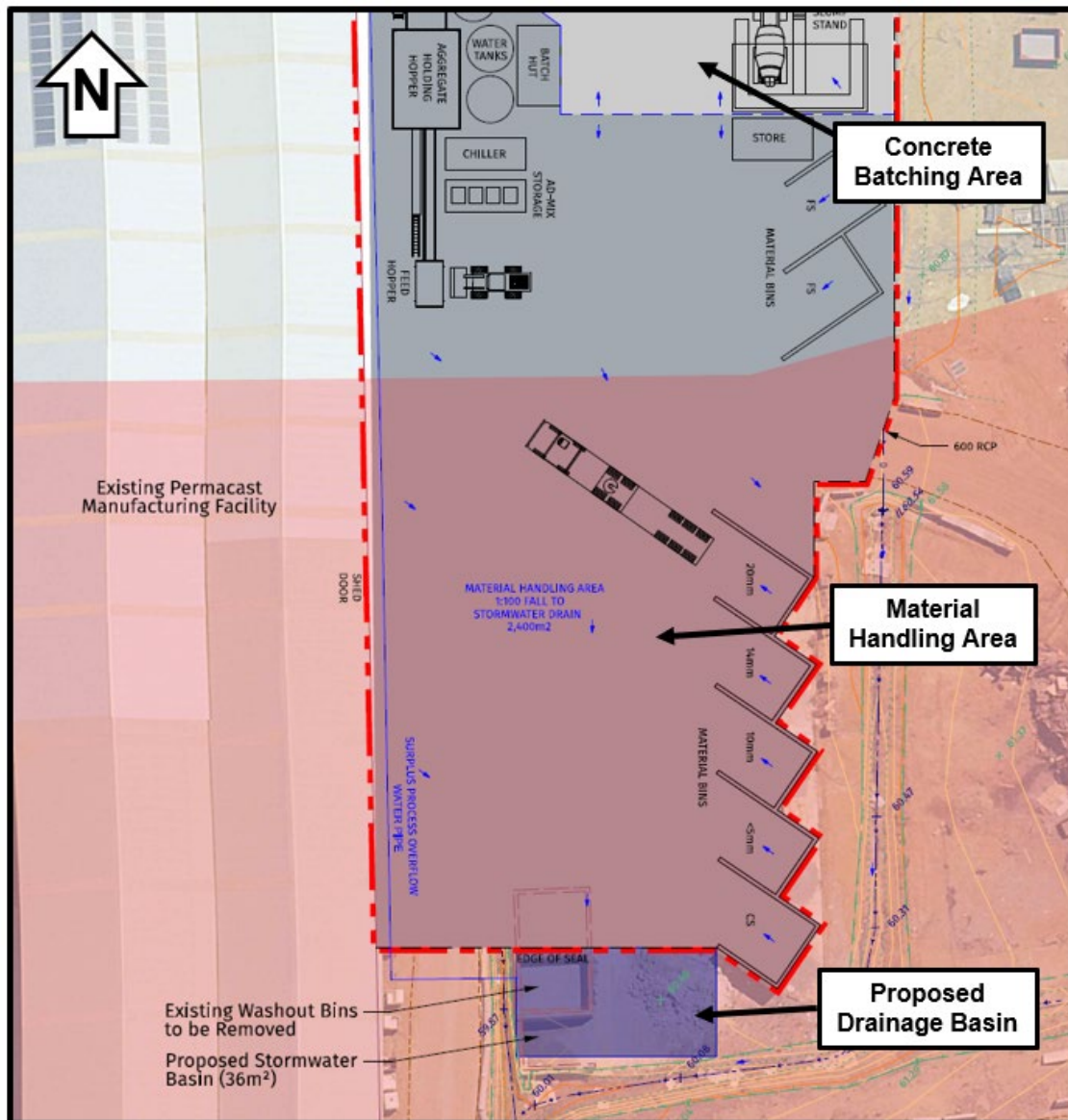


Figure 17: Amended stormwater management arrangements through new drainage basin

The drainage basin would be capable of capturing 1m^3 per 65m^2 of stormwater runoff from the material handling area. The drainage basin would have a surface area of 120m^2 . Officers are satisfied that stormwater is capable of being managed through the updated method.

The application demonstrates that issues of noise and stormwater management have been adequately addressed. Officers however are unable to conclude, based on the submitted dust management plan, that the proposal would not potentially impact sensitive receptors of which a number are located within the 1000m separation distance. Concerns exist in respect of the meteorological data inputs used, and that the DMP is not able to demonstrate in absolute terms that impacts won't occur. Rather, terminology of impacts being 'unlikely', but one assumes this isn't certain. Whereas it may be acceptable to view this as a low risk in an area which is not within proximity to sensitive receptors within the 1000m separation distance, this is not the case with the subject land.

In terms of the planning analysis, Officers consider it appropriate to apply the precautionary principle and recommend refusal, on the basis of the proposal not being sufficiently separated from rural residential and (future) residential areas.



Options and ImplicationsOption 1

That Council refuses the application for the following reasons:

- a. Insufficient information has been provided to adequately demonstrate that the proposal will not adversely impact the current and intended future amenity of the locality, specifically in respect of amenity impacts associated with dust.

Option 2

1. That Council APPROVES the development application for a mobile concrete batching plant, as contained within **attachment 1**, at Lot 60, 394 Robertson Road, Cardup 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 (P1-P3) received at the Shire Offices on 27 May 2021; Traffic Impact Assessment (P4-P47) dated 1 February 2021; Dust Management Plan (P48-P73) dated 29 January 2021; Stormwater Management Plan (P74-P141) dated 1 February 2021; and Acoustic Assessment (P142-P167) dated 1 February 2021.
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- b. Production shall not exceed 150,000 tonnes of concrete per annum, unless otherwise approved by the Shire of Serpentine Jarrahdale.
- c. Prior to commencement of works or issue of a Building Permit (whichever comes first), an updated Stormwater Management Plan (SMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The SMP shall include the following:
 - i. Detailing design, capacity, overflow and predevelopment discharge rates for the basin;
 - ii. Emptying of the drainage basin after each rainfall event;

Once approved, development and operations shall be carried out in accordance with the approved SMP.

- d. Prior to commencement of works or issue of a Building Permit (whichever comes first), an amended Traffic Impact Assessment (TIA) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The updated TIA shall include the following:
 - i. Amended intersection swept path analysis of the Robertson Road/Site Entry, Robertson Road/Norman Road and Norman Road/South Western Highway intersections;
 - ii. The removal of heavy haulage RAV trucks from the proposal and their replacement with 'as of right' trucks.

Any upgrades recommended by the amended TIA shall be undertaken to the satisfaction of the Shire of Serpentine Jarrahdale at the full cost of the applicant.



- e. No vegetation shall be removed unless otherwise approved by the Shire of Serpentine Jarrahdale.
- f. All existing trees and approved revegetation areas on the lot are to be retained and protected from any approved works in accordance with AS4970 (2009) Protection of Trees on Development Sites.
- g. Vehicles no greater than 19m are permitted to service the development at any given time unless approved by the Shire of Serpentine Jarrahdale on advice from Main Roads Western Australia.
- h. Prior to commencement of works or issue of a Building Permit (whichever comes first), a Bushfire Management Plan (BMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale, on advice of DFES. The BMP is to demonstrate management of bushfire risk affecting the subject land. Once approved, development and operations shall be carried out in accordance with the approved BMP.

Option 1 is recommended.

Conclusion

The application seeks approval for a concrete batching plant expanding the existing industries operating on site. The key offsite impacts generated by the operation are noise, dust, traffic and stormwater. Officers consider that, of these impacts, dust is most significant and has not been adequately demonstrated as being managed by the proposal in a way that protects current and future intended amenities. The application is therefore recommended for refusal.

Attachments

- **10.1.2 - attachment 1** – Development Plans (E21/5717)
- **10.1.2 - attachment 2** – Summary of Submissions (E21/3462)
- **10.1.2 - attachment 3** – Clause 67 Assessment (E21/7065)

Alignment with our Strategic Community Plan

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
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	The risk associated with Option 1 is considered manageable.						
2	That Council approved the development application, and this resulted in adverse amenity impacts from dust which could not be adequately managed.	Planning framework	Social / Community Outcomes	Possible	Moderate	MODERATE	Ensuring conditions to manage the risks associated with dust generation are imposed.

Voting Requirements: Simple Majority

Officer Recommendation

That Council REFUSES the application for the following reasons:

- a. Insufficient information has been provided to adequately demonstrate that the proposal will not adversely impact the current and intended future amenity of the locality, specifically in respect of amenity impacts associated with dust.

**MOTION****Moved Cr Strautins**

1. That Council **APPROVES** the development application for a mobile concrete batching plant, as contained within attachment 1, at Lot 60, 394 Robertson Road, Cardup 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.

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- Detailing design, capacity, overflow and predevelopment discharge rates for the basin;
 - Emptying of the drainage basin after each rainfall event;
- Once approved, development and operations shall be carried out in accordance with the approved SMP.
- d. Prior to commencement of works or issue of a Building Permit (whichever comes first), an amended Traffic Impact Assessment (TIA) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The updated TIA shall include the following:
- Amended intersection swept path analysis of the Robertson Road/Site Entry, Robertson Road/Norman Road and Norman Road/South Western Highway intersections;
 - The removal of heavy haulage RAV trucks from the proposal and their replacement with 'as of right' trucks.
- Any upgrades recommended by the amended TIA shall be undertaken to the satisfaction of the Shire of Serpentine Jarrahdale at the full cost of the applicant.



- e. No vegetation shall be removed unless otherwise approved by the Shire of Serpentine Jarrahdale.
- f. All existing trees and approved revegetation areas on the lot are to be retained and protected from any approved works in accordance with AS4970 (2009) Protection of Trees on Development Sites.
- g. Vehicles no greater than 19m are permitted to service the development at any given time unless approved by the Shire of Serpentine Jarrahdale on advice from Main Roads Western Australia.
- h. Prior to commencement of works or issue of a Building Permit (whichever comes first), a Bushfire Management Plan (BMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale, on advice of DFES. The BMP is to demonstrate management of bushfire risk affecting the subject land. Once approved, development and operations shall be carried out in accordance with the approved BMP.

MOTION LAPSED for want of a seconder.

OCM175/07/21

COUNCIL RESOLUTION

Moved Cr Rich, seconded Cr Atwell

That the Council DEFER consideration of the matter to the August Ordinary Council Meeting to enable further consultation between the Applicant and Officers.

CARRIED UNANIMOUSLY 8/0

Reason for difference to Officer recommendation

For further consultation on the matter.

Deputy CEO/Director Community and Organisational Development, Helen Sarcich returned to the Chambers at 7:59pm.

Presiding Member, Councillor Rich advised Deputy CEO/Director Community and Organisational Development, Helen Sarcich of the Council Resolution for item 10.1.2.



10.1.3 - Proposed Earthworks – Lot 5 Kiln Road, Byford (PA21/102)	
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 (e.g. 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:	Matthew Silver
Owner:	Matthew Silver
Date of Receipt:	29 January 2021
Lot Area:	28.23 ha
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 earthworks comprising of cut at a depth of 4.47m and fill to a height of 5.39m within an area of 7,500m² at Lot 5 Kiln Road, Byford located on the Darling Scarp. The earthworks have been proposed to establish a finished level suitable for the development of a future residence.

A portion of the earthworks, approximately 1,900m² in size, has already been undertaken on site. The full extent of the development is proposed to be undertaken within a visually exposed area of the site and also within the 'Seen Area' of *Local Planning Policy 4.3: Landscape Protection* (LPP4.3).

The site was subject to a formal compliance investigation in mid-2019 after complaints were received by the community relating to earthworks which have already been undertaken. The Shire successfully prosecuted the landowner for the unauthorised works where fines and penalties were awarded to the Shire as part of the process.

The application is presented to Council as a portion of the works which have already been undertaken was subject to previous Council decision relating to unauthorised development which resulted in a successful prosecution. Furthermore, the site falls within the 'Landscape Protection Area' of LPP4.3 which seeks to protect the visual appearance of the Darling Scarp and its natural landscape features.

Officers recommend that the development be approved, subject to conditions requiring new landscaping and landform re-contouring to help blend the existing and proposed excavation extents with the broader 'Seen Area' of the land.



Relevant Previous Decisions of Council

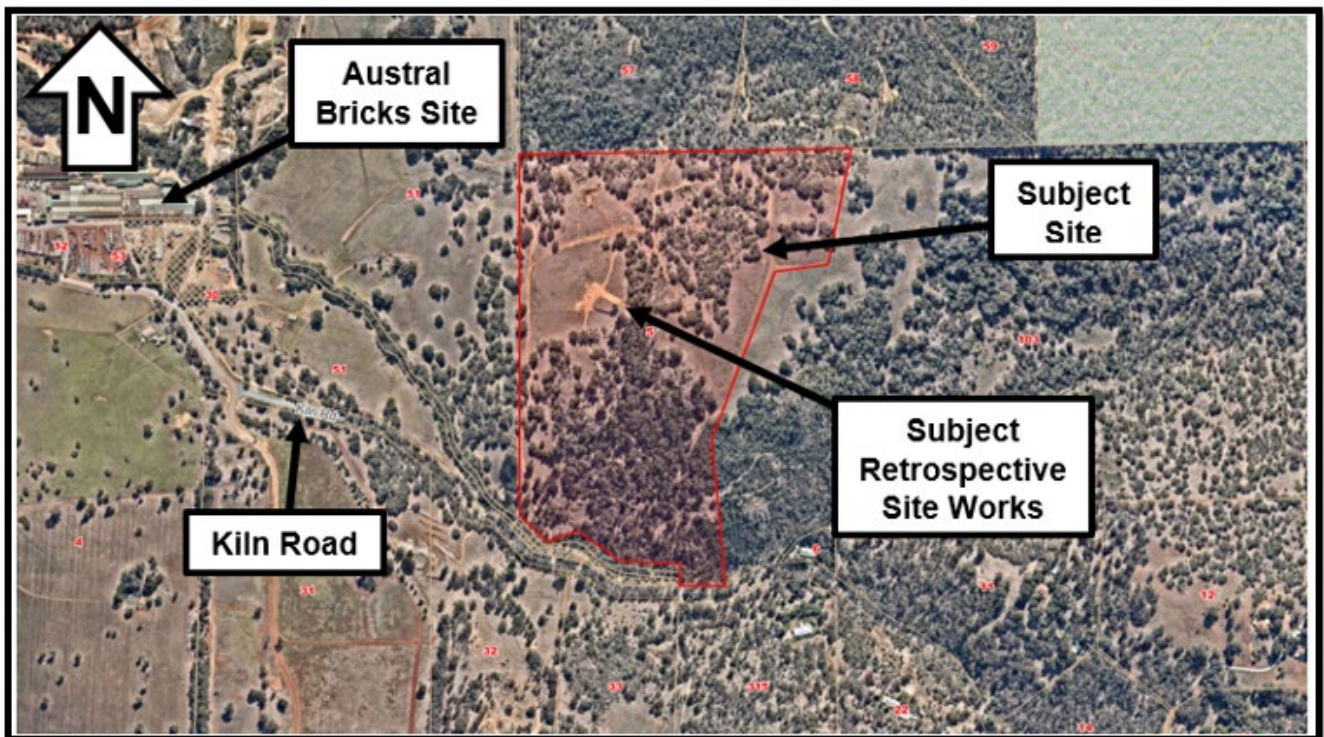
Ordinary Council Meeting – 15 June 2020 - CM176/06/20 – COUNCIL RESOLUTION / Officer Recommendation:

That Council AUTHORISES the prosecution proceedings under section 20 (1)(b)(ii) of the Criminal Procedure Act 2004 against Matthew Colin Silver for unauthorized development, noting also that Officers made the landowner aware that development approval was required prior to development taking place. The unauthorized development being:

- *Crushing and processing of stockpiled construction and demolition waste;*
- *excavation of land; and*
- *any additional offences advised by the Shire's Solicitors.*

Background

The site is approximately 28ha in area and is zoned 'Rural' under Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2). Existing access to the site has been taken from Kiln Road.



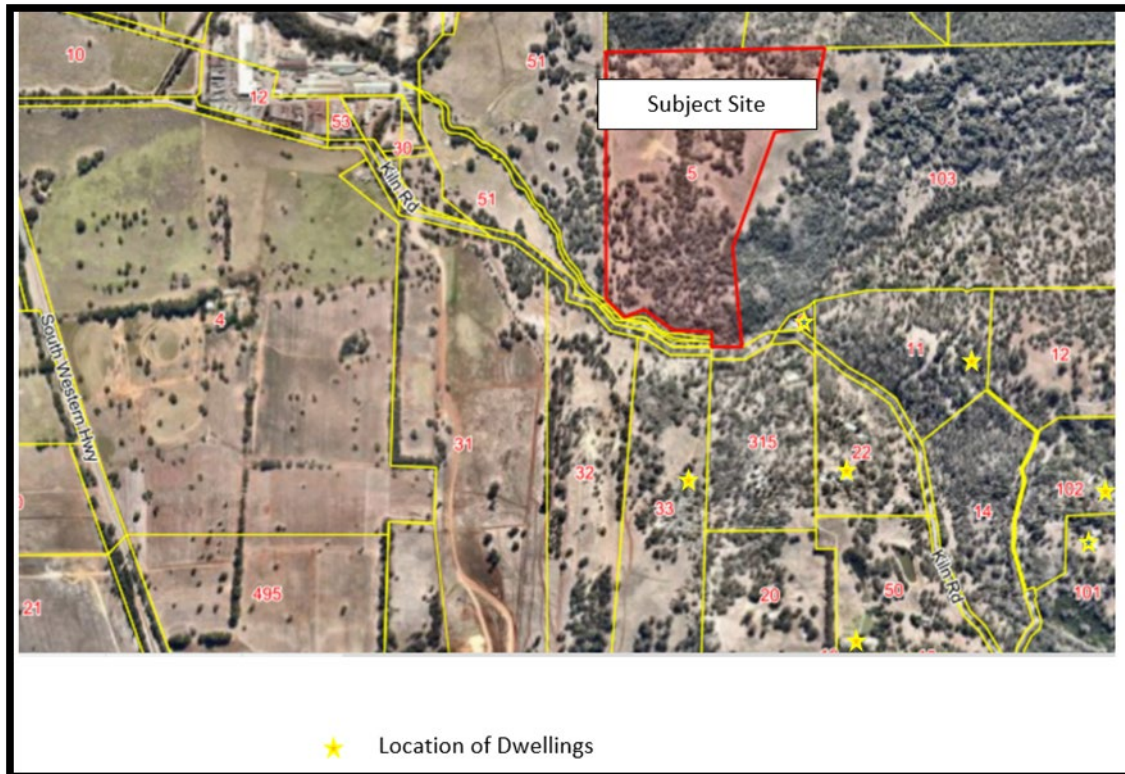
Aerial Image - Lot 5 Kiln Road

The site rises from Kiln Road from approximately 110 Australian Height Datum (AHD) to 160AHD to the area of unauthorised works, a steep 50m incline before falling to the rear. The site can be described as two parts, the southern face and western face from Kiln Road. The southern face of the site comprises of dense vegetation which appears to form part of the broader complex of vegetation type within the locality. The western face described as being sparsely vegetated with cleared grassed areas. This section of the property is clearly visible from South Western Highway.

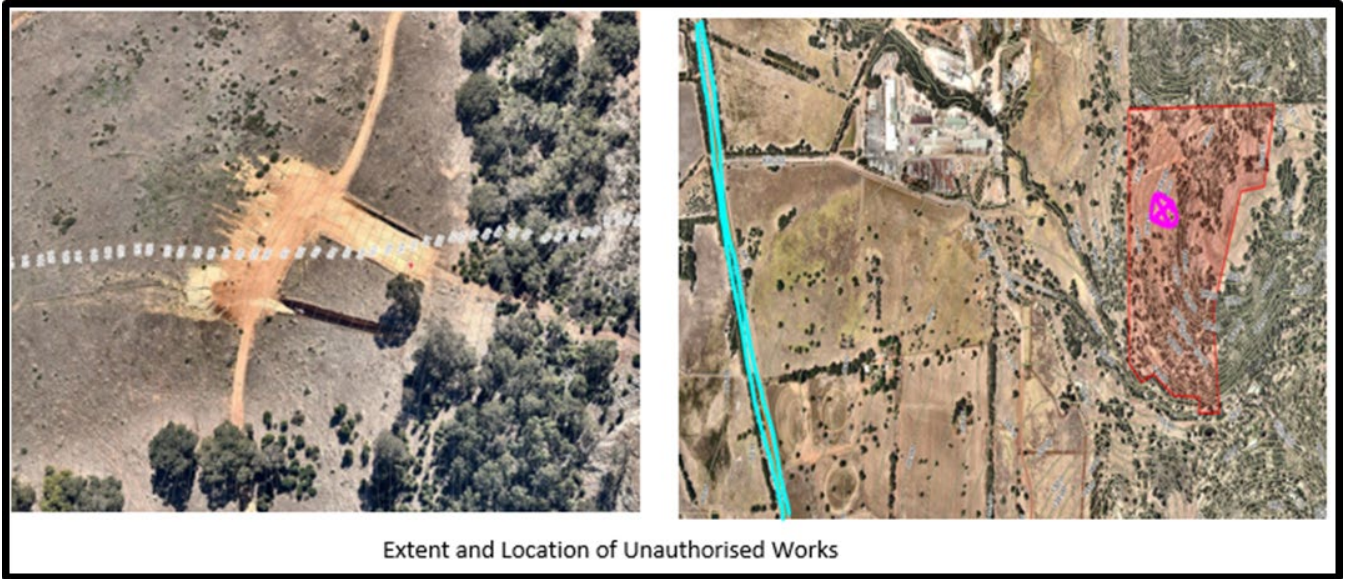
In regard to the broader locality, the land at the base of the Darling Scarp gently rises from South Western Highway to the subject site. The elevation significantly changes past this point. A number of existing properties have been constructed within the lower contours at the base of the Darling Scarp. There are also dwellings located at higher elevations, however, nestled amongst



the vegetation and appear to blend with the existing natural landscape contours of the Darling Scarp. The scale and size of these developments can be considered as moderate in scale and size. Location of existing dwellings located at the base and on the Darling Scarp are indicated below:



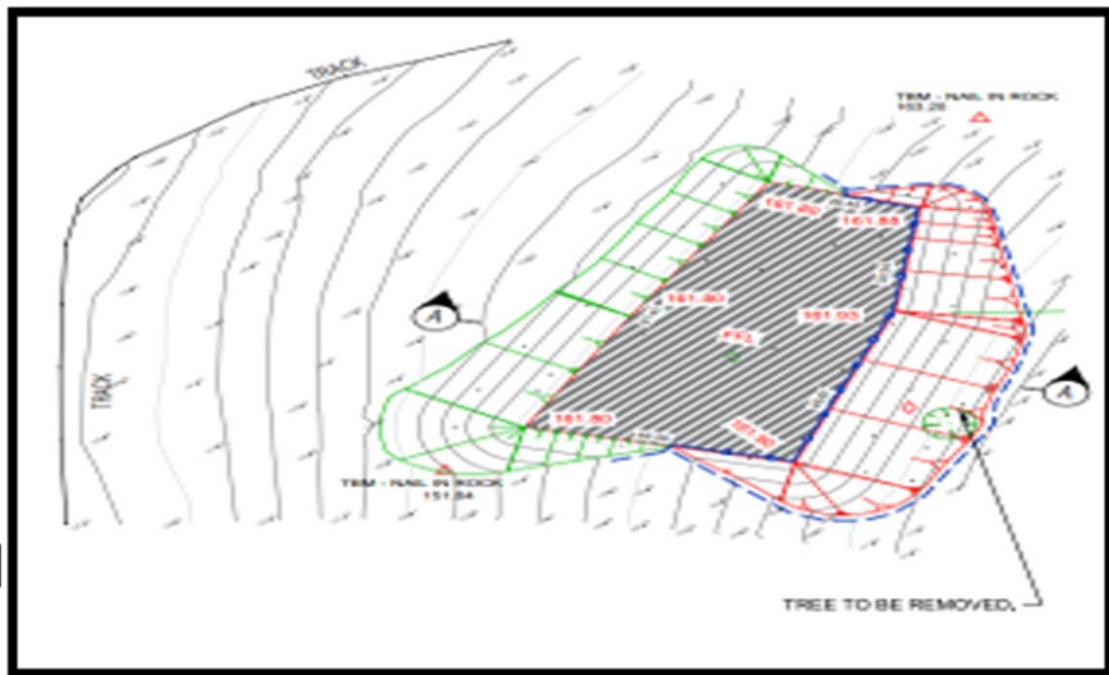
In 2019, the Shire received complaints relating to unauthorised works being undertaken onsite, approximately 1,900m² in area. Due to its prominent position on the Darling Scarp, Officers had immediately engaged the landowner to stop the works and to progress towards submitting an application for planning approval. Due to the impacts to the visual amenity of the scarp caused by the works, Officers issued a s214 Directions Notice under the *Planning and Development Act 2005* to the landowner who was undertaking the works, to cease. However, this was unsuccessful in halting of the works. As a result, Council at its June 2020 Ordinary Council Meeting initiated prosecution for the unauthorised works which was heard at the Courts later the same year. The landowner pleaded guilty to the unlawful development where fines and penalties were awarded to the Shire.



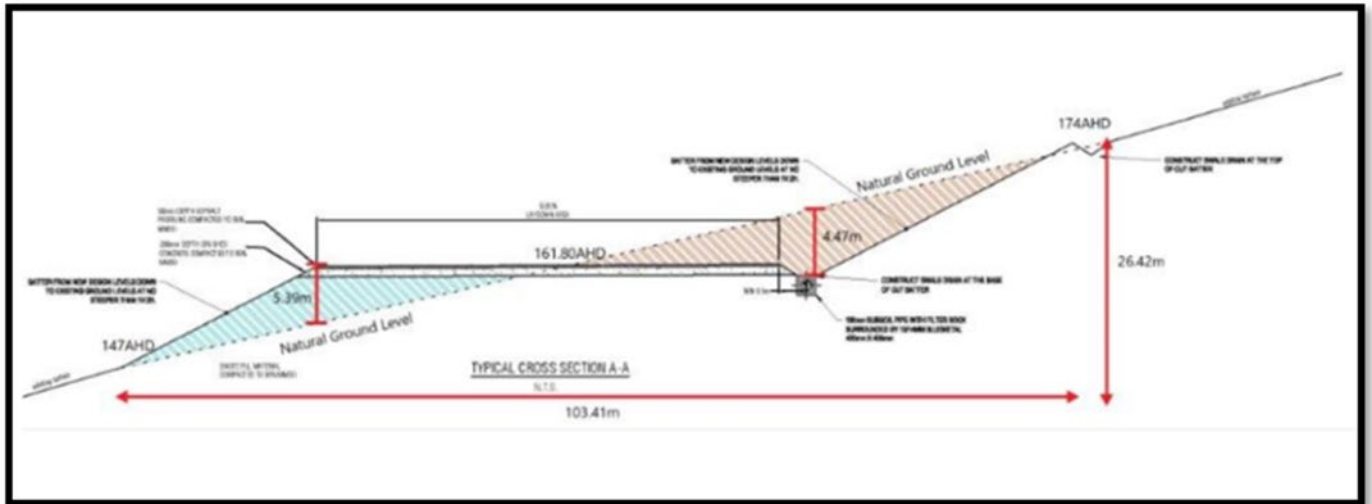
The applicant, since this time, has been working with the Shire to obtain the correct approvals to validate the unlawful works and to complete the full extent of the works.

Proposed Development

The proposed development relates to an area of earthworks covering approximately 7,500m² for the creation of a flat area of approximately 3,726m². The works entail cutting to a maximum depth of 4.47m and filling to a maximum height of 5.39m. The applicant has stated the area is intended to establish a levelled area for the development of a future residence stabilised by way of a batter. The details of the proposed are shown below.



Site Plan



Cross Section of Development

Council should note that the original application initially had a larger area of 9000m² where the earthworks would be occurring and a 3000m² flat area. However, after discussions with Officers relating to the requirements of LPP4.3, the applicant has reduced the overall area of earthworks to 7,600m² and the area designated for the future building pad to 2,500m². The full application can be viewed within **attachment 1**.

Community/Stakeholder Consultation

The proposal was referred to adjoining neighbours, in accordance with Local Planning Policy 1.4 Public Consultation for Planning Matters Policy, for a period of three weeks commencing on 8 February 2021 and concluding on 1 March 2021. At the end of the consultation process, no submissions were received.

Statutory Environment

Legislation

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

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.02;
- Rural Strategy Review 2013;
- Draft Local Planning Scheme No.03;
- Draft Local Planning Strategy; and
- Local Planning Policy 4.3: Landscape Protection.

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. The full assessment against the 'Deemed Provisions' can be viewed within **attachment 2**. For the purpose of this report, discussion is confined to where Council is required to exercise discretion.

Town Planning Scheme No.2

The proposal seeks approval for works, including the earthworks which have been undertaken. The application does not seek approval for an associated land use. Classification and assessment of land use against the objective of the zone and land use table does not arise from this application. It is lawful under the *Planning and Development (Local Planning Schemes) Regulations 2015* to only apply for either works, land use or both. In this instance it is only works.

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 the principles of orderly and proper planning including any proposed Local Planning Scheme.

Under the Shire's Draft Local Planning Scheme No.3, the site is zoned 'Rural' and falls within Special Control Area 2 (SCA2) Darling Scarp Landscape Protection. The SCA2 is a protective overlay to ensure all development within this area respects the natural landscape characteristics of the Darling Scarp and importantly is a trigger for the requirement of planning approval for all developments once draft LPS3 has finally been gazetted. This provides a layer of protection to ensure the visual appearance of the Darling Scarp is not adversely impacted upon.

The relevant development provisions of the SCA 2 are addressed as follows:

Provisions	Officer Comment
Development shall not be approved on ridge lines or spur, bluff or knoll. Escarpments, hill tops or visually exposed areas	While development has been located in a visually exposed area, there is an attempt to balance the cut to fill ratio and locate development in a cleared area on the land. With additional conditions, Officers are confident that the visual exposure can be reduced and made consistent with the infrequent examples of development that can be observed on the west face of the Scarp.
Development shall not be approved in areas having a generalised slope greater than 25%	The proposed earthworks extend for a length of approximately 103.41m, in which the difference in natural ground level is approximately 26.42m. This results in a generalised slope of just over 25%. The intent of this provision is to ensure development is located in areas on a site that will result in an acceptable level of impact by means of the limited extent of site works required. i.e. the lower the slope the less works required and the less impacts on the Darling Scarp. While this application is just on this requirement, additional conditions are recommended to require landscaping and re-contouring to help blend the existing and proposed



Provisions	Officer Comment
	excavation extents with the broader 'Seen Area' of the land.
Development shall only be supported where the local government is satisfied that the landscape value of the area will be protected and the development has been designed and sited to blend with the landscape	The applicant has proposed vegetation screening as depicted within attachment 1 to screen the works and assist in preserving the visual amenity of the Darling Scarp. The vegetation proposed is not insignificant, and Officers consider that with appropriate conditions this can assist in managing the overall impact.

The proposal including the proposed revegetation was also assessed against the objectives of the SCA2 as follows:

- *To preserve the amenity deriving from the scenic value of the Darling Scarp*

The existing earthworks in its current form has provided Officers with an understanding of how the overall works will impact the Darling Scarp. The existing landscape of the Darling Scarp appears natural and undisturbed, with features such as vegetation and grass cover moving through the escarpment covering the rock beneath. It is noted that the applicant has undertaken works in a cleared section on the land, however Officers consider that conditions are necessary to ensure such works do not present a highly modified impact on the landscape.

- *To protect and enhance the landscape, scenic and townscape values*

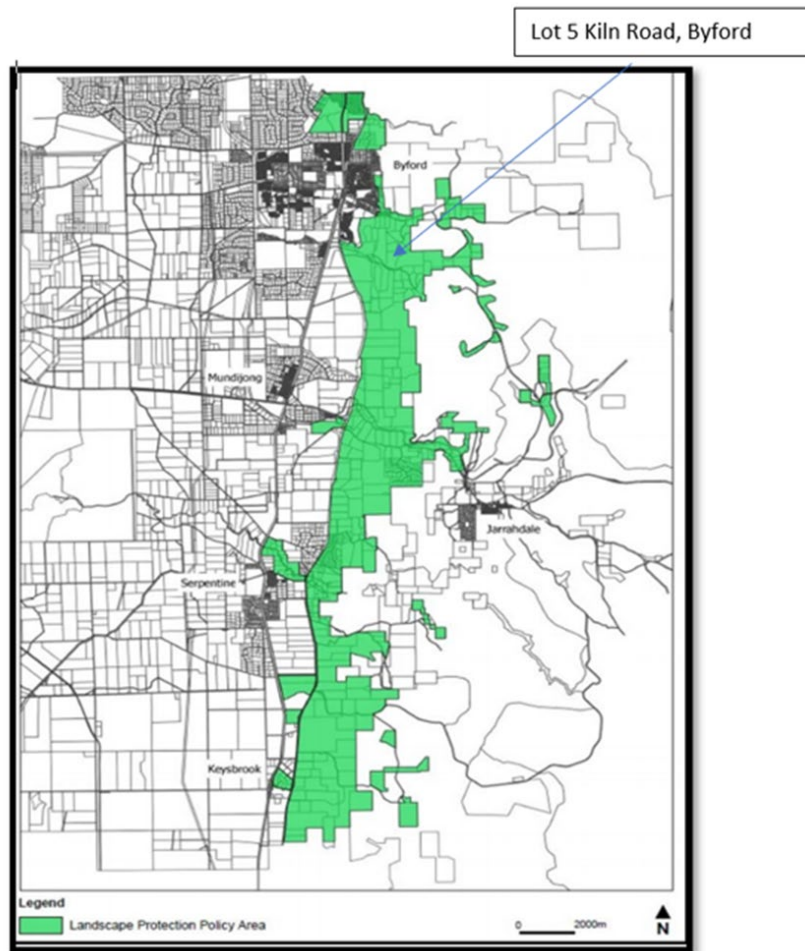
It is acknowledged that the applicant has proposed to go to some lengths to vegetate the site to screen the earthworks, to reduce the impact on the Darling Scarp when viewed. However, Officers consider that due to the prominent location of the site and the scale of the earthworks, additional conditions are necessary to require landscaping and re-contouring to help blend the existing and proposed excavation extents with the broader 'Seen Area' of the land.

- *To maintain the integrity of landscapes in the line of sight corridor along scenic routes in the Shire, including but not limited to South Western Highway, Nettleton Road, Jarrahdale Road, Admirable Road, Kingsbury Drive and both North-South and East-West railway lines and natural water courses*

Provided additional conditions are imposed to address landscaping and re-contouring, Officers consider that the development will maintain the integrity of the landscape along scenic routes as listed within the objective itself.

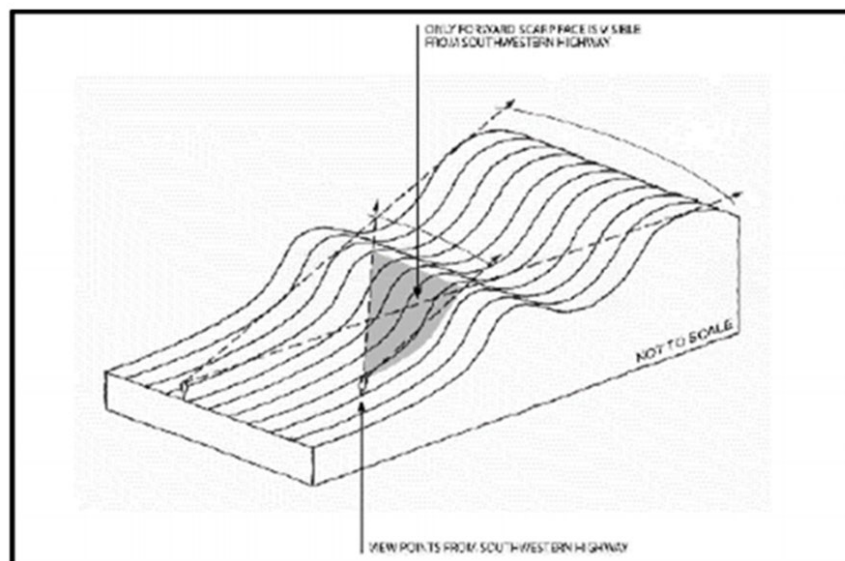
Local Planning Policy 4.3 – Landscape Protection

LPP4.3 guides development on the scarp to ensure that the visual amenity of the Darling Scarp is preserved, and to protect the natural landscape characteristics of the Darling Scarp. It covers a large area of the Darling Scarp identified within the policy as the Landscape Protection Policy Area, between Byford to Keysbrook as reflected below:



Landscape Protection Policy Area

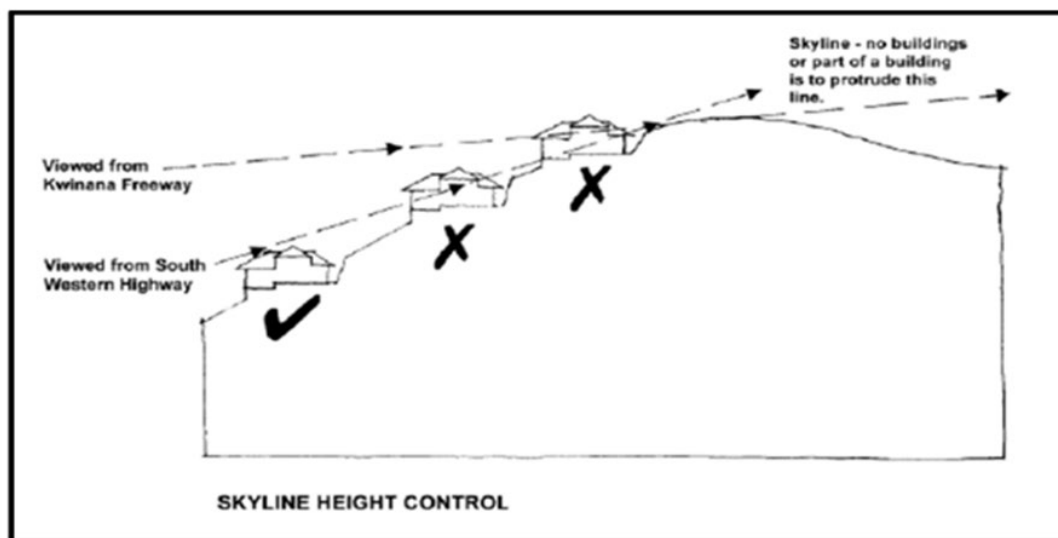
Due to the undulating features of the Darling Scarp, LPP4.3 identifies the 'Seen Area' *"which are areas visible from a public place"*. The LPP4.3 identifies the 'Seen Area' on the Darling Scarp as depicted below:



Established Seen Area of LPP 4.3



Development located within the 'Seen Area' will be visually prominent when viewed from South Western Highway and the immediate locality. Council should note that there is not a general presumption that development within the 'Seen Area' will be refused, however, it is a trigger for more robust measures and consideration of a moderated development to be proposed in this area. For example, smaller more scaled moderated development proposals. Figure 2 of the LPP4.3 also gives further consideration around appropriate location and siting of development as follows to ensure protection of the Skyline when viewed from South Western Highway and Kwinana Freeway.



Skyline Height Control

An assessment against the criteria relating to Skyline Height Control generally only arises from the built form of a development. As this development comprises of only earthworks, an assessment of the proposed development has been undertaken against its impacts upon the 'Seen Area'. An assessment against the specific 'Development Considerations' of the LPP4.3 have been undertaken as follows:

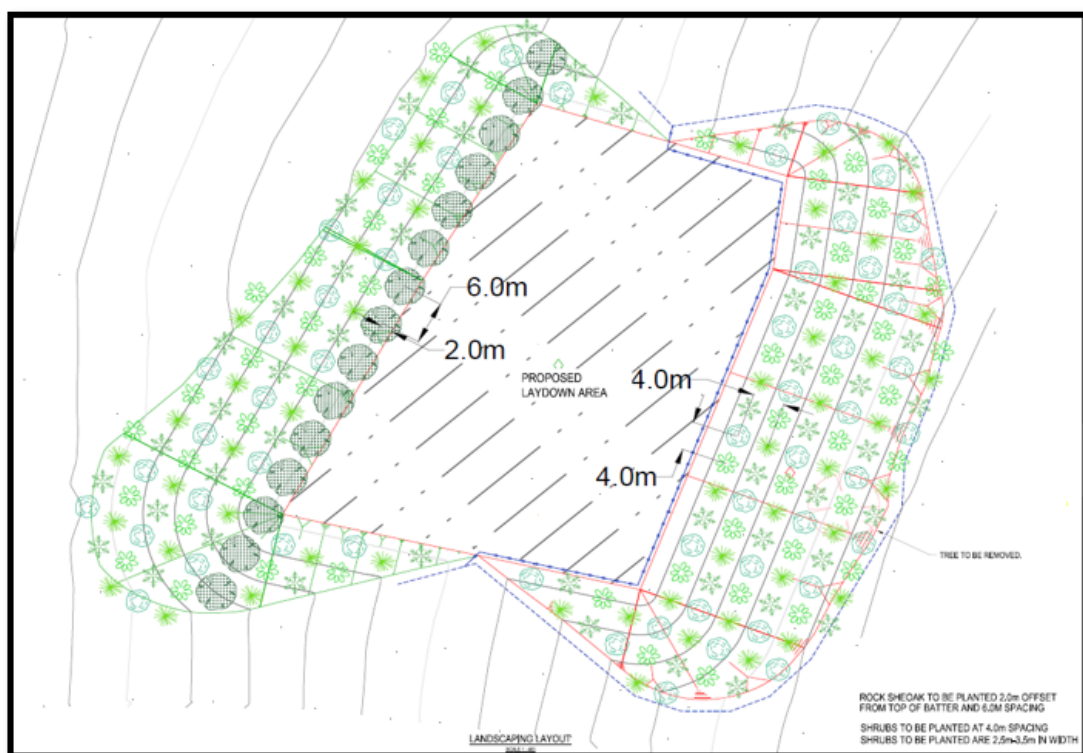
Development Consideration	Comment
1.1.i The 'seen area' of the development from the coastal plain, major roads and tourist routes, and major recreation areas;	The site works benefit from a filtered view as a result of verge trees and vegetation along South Western Highway. It is still however recommended that conditions be imposed to address landscaping and re-contouring, in order to help blend development to the seen area.
1.1.ii The visual intrusiveness of the development within the 'seen area';	
1.1.iii The colour schemes and materials of the proposed development; and	This will be assessed as part of future development of a single dwelling.
1.1.iv The preservation and enhancement of the natural features and vegetation of the area.	The works avoid natural vegetated areas of the land, which is considered to preserve the natural features of the Darling Scarp.



The development was also assessed against the objectives of the LPP4.3 as the applicant had submitted a Landscape Management Plan (which can be viewed below) to demonstrate that the works can be undertaken in a manner which preserves the visual amenity of the Darling Scarp. Furthermore, the applicant has reduced the scale of the works from 9,000m² to 7,600m² acknowledging that the development is located within the 'Seen Area'. The objectives of LPP4.3 are as follows:

- *To protect and enhance the landscape characteristics of the Darling Scarp;*
- *To protect the visual amenity of the Darling Scarp from the coastal Plain.*

While noting the plan, Officers consider that landscaping in association with additional re-contouring should be employed to best blend the works with the surrounding landscape. These form conditions of the Officer recommendation.



Proposed Landscape Management Plan

Option 1

That Council APPROVES the development application for earthworks, including works which have already been undertaken, at Lot 5 Kiln Road, Byford subject to the following:

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

Plans and Specification	Plans P1-P36
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- Prior to works occurring, a Landscape Management and Re-contouring Plan being submitted to and approved by the Shire of Serpentine Jarrahdale. This should demonstrate the western face of the earthworks being shaped and landscaped in a manner that depicts the natural forms of the Darling Range typically found at this elevation. The Landscape Management and Re-contouring Plan are to be implemented as part of



the works and thereafter maintained, to the satisfaction of the Shire of Serpentine Jarrahdale.

- c. Prior to works occurring, a Dust Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale. The Dust Management Plan must be implemented as part of the works and thereafter maintained, to the satisfaction of the Shire of Serpentine Jarrahdale.

Option 2

That Council REFUSES the application for earthworks at Lot 5 Kiln Road, Byford, giving reasons for refusal.

Option 1 is recommended.

Conclusion

The application seeks approval to undertake earthworks and obtain approval for existing works at Lot 5 Kiln Road, Byford. The earthworks have been proposed to establish a finished ground level suitable for the construction of a future dwelling which does not form part of this application.

Officers consider that due to the scale of the earthworks, approval can only be recommended subject to conditions to ensure adequate landscaping and re-contouring occur to help blend the works with the overall surrounding setting.

Attachments (available under separate cover)

- **10.1.3 – attachment 1** – Development Plans (E21/7085)
- **10.1.3 – attachment 2** – Technical Assessment (E21/2673)

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

There are no financial implications resulting from this development.



Risk Implications

Risk has been assessed on the basis of the Officer's 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	
1	There are no major risks associated with this action.						
1	Council refusing the development and the determination is appealed at the State Administrative Tribunal	Planning Framework	Reputation	Possible	Moderate	MODERATE	Ensure proper planning reasons for refusal.

Voting Requirements: Simple Majority

OCM176/07/21

COUNCIL RESOLUTION / Officer Recommendation:

Moved Cr Byas, seconded Cr Denholm

That Council **APPROVES** the development application for earthworks, including works which have already been undertaken, at Lot 5 Kiln Road, Byford subject to the following:

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

Plans and Specification	Plans P1-P36
-------------------------	--------------

- b. Prior to works occurring, a Landscape Management and Re-contouring Plan being submitted to and approved by the Shire of Serpentine Jarrahdale. This should demonstrate the western face of the earthworks being shaped and landscaped in a manner that depicts the natural forms of the Darling Range typically found at this elevation. The Landscape Management and Re-contouring Plan are to be implemented as part of the works and thereafter maintained, to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. Prior to works occurring, a Dust Management Plan being submitted to and approved by the Shire of Serpentine Jarrahdale. The Dust Management Plan must be implemented as part of the works and thereafter maintained, to the satisfaction of the Shire of Serpentine Jarrahdale.

CARRIED UNANIMOUSLY 8/0



10.1.4 – Proposed Child Minding Centre – Lot 29, 38 Paterson Street, Mundijong (PA21/343)	
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 (e.g. 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:	Burgess Design Group
Owner:	Mark and Sheralyn Hughes
Date of Receipt:	8 April 2021
Lot Area:	1,014.06m 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 Child Minding Centre at Lot 29, 38 Paterson Street, Mundijong. The application is presented to Council as the proposal seeks variations to Local Planning Policy 3.4 – Paterson Street Design Guidelines (LPP3.4) and objections were received during the advertising process. Officers do not have delegated authority to determine development applications where policy variations are proposed or where objections cannot be addressed by way of amendments or through the imposition of planning conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

For the reasons outlined in the report, it is recommended 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 1,014.06m² in area and is bound by Paterson Street to the east, an unconstructed laneway to the west, the Mundijong Hair Salon to the south and The Mundijong Pharmacy and Family Medical Practice to the north. The subject site is currently vacant and features sparse remnant vegetation.



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.



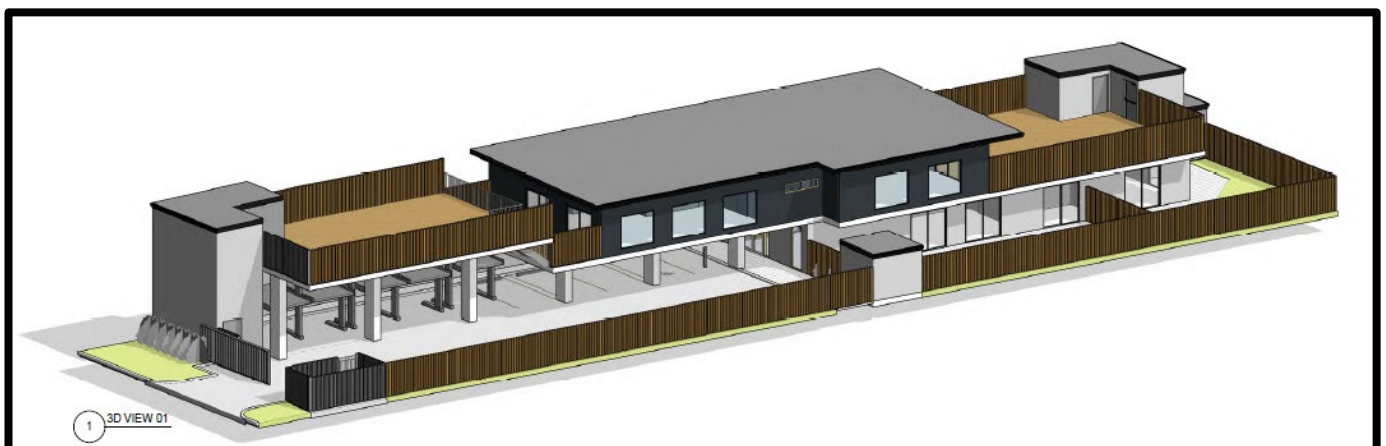
Figure 1: Aerial Photo

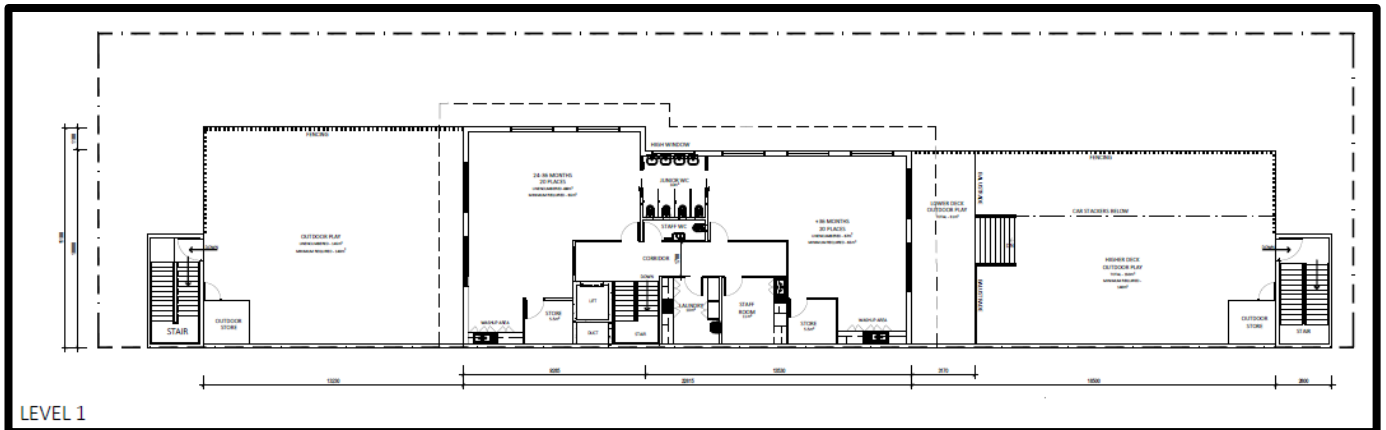
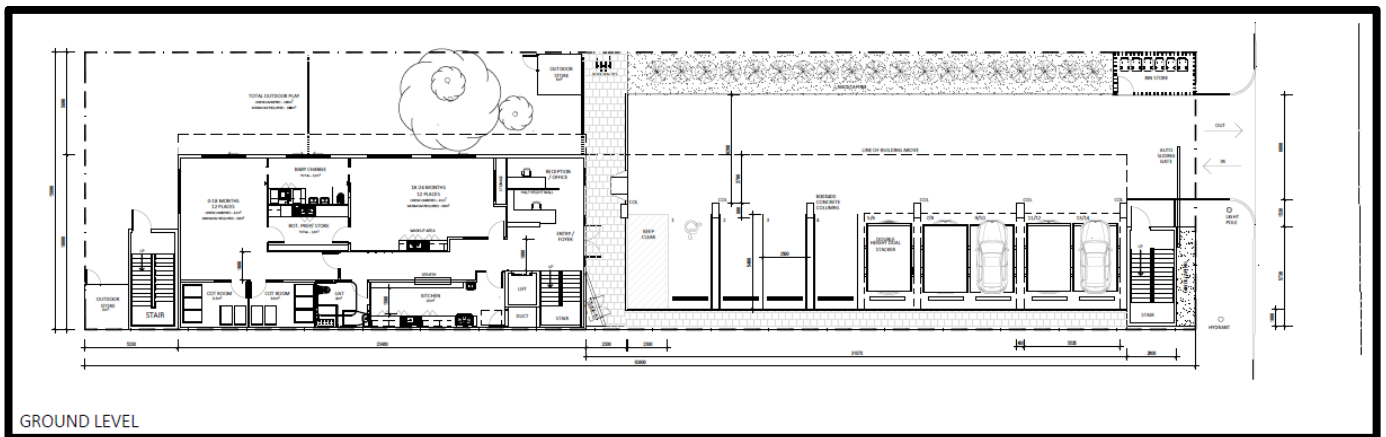
Proposed Development

The application seeks approval for the construction of a Child Minding Centre, with associated car parking and landscaping. The features of the proposed development include:

- A total of 475m² of internal floor area across two levels;
- One ground floor outdoor play area (190m²) and two first floor outdoor play areas (326m²);
- A maximum occupancy of 64 children and 12 staff;
- Proposed hours of operation between 6:30am and 6:30pm Monday to Friday;
- Nine car parking bays and five car stackers, providing a total of 14 car parking spaces; and
- 265m² of soft landscaping, inclusive of 190m² ground floor outdoor play area.

The initial design of the proposed development can be viewed below.





In response to engagement with Officers and to respond to objections received during the consultation period, the application provided amended elevations to address concerns in relation to the proposed design. The amended design subject to this application is now shown below.



The full details of the proposal can be viewed in **attachment 1** and the full suite of amended elevation plans can be viewed in **attachment 2**.

Community / Stakeholder Consultation

The application was advertised to surrounding landowners within a 400m radius of the site for a period of 21 days from 14 May 2021 to 4 June 2021, in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4). During the consultation period, 15 submissions were received, 12 of which objected to the proposal and three of which supported the proposal. The objections in summary are listed below:

- All 12 of the objections raised issue with the proposed design and consistency with the heritage character of Mundijong;
- Two of the objections raised concern in relation to traffic;
- Two of the objections raised concern in relation to parking;
- One of the objections raised concern with the proposed use being inappropriate on the main street; and
- One of the objections raised concern with privacy impacts to surrounding residential properties.



The concerns raised in the objections are addressed under the relevant headings of the report. A full summary of submissions with the applicant's response and Officer comments is contained within **attachment 3**.

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;
- Mundijong District Structure Plan 2020;
- Draft Local Planning Scheme No.3;
- Draft Local Planning Strategy;
- Local Planning Policy 1.4 – Public Consultation for Planning Matters Policy (LPP1.4);
- Local Planning Policy 1.6 – Public Art for Major Developments (LPP1.6);
- Local Planning Policy 2.4 – Water Sensitive Design (LPP2.4);
- Local Planning Policy 3.4 – Paterson Street Design Guidelines (LPP3.4);
- Local Planning Policy 4.11 – Advertising Policy (LPP4.11);
- Local Planning Policy 4.16 – Landscaping and Vegetation Policy (LPP4.16).

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 has been carried out against the applicable matters relevant to this proposal and can be viewed within the Clause 67 Checklist contained within **attachment 3**. For the purpose of this report, the objections resulting in the proposal being presented to Council are discussed as well as where Council is required to exercise discretion.

Land Use:

The proposed development entails providing care to children that are not of school age and falls within the land use of a 'Child Minding Centre' under Town Planning Scheme No.2 (TPS2). A 'Child Minding Centre' is defined under TPS2 as:

'land and buildings used for the daily or occasional care of children in accordance with the Child Welfare (Care Centres) Regulations, 1986 (as amended) but does not include a family day care centre as defined by those Regulations, or an institutional home.'

Officers must also have regard for the seriously entertained Draft Local Planning Scheme No. 3 (LPS3), which includes the land use of 'Child Care Premises'. This means:

'premises where –



- (a) *An education and care service as defined in the Education and Care Services National Law (Western Australia) Section 5(1), other than a family day care service as defined in that section, is provided; or*
- (b) *A child care service as defined in the Child Care Services Act 2007 section 4 is provided.'*

Officers consider the proposed development would most appropriately fall within the above listed land use categories under TPS2 and LPS3.

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 'District Centre' under the current Mundijong District Structure Plan 2020, which relates to the future zoning under LPS3, and stated to continue its function as a 'Neighborhood Centre' under TPS2. Within the 'Neighbourhood Centre' zone under TPS2, a 'Child Minding Centre' land use would be a permitted land use. In this respect, Officers consider the proposed development aligns with the intended development outcome for the Mundijong District Centre in accordance with the Mundijong District Structure Plan 2020.

The subject site is also proposed to be zoned 'Urban Development' under LPS3. A 'Child Care Premises' land use is listed as an 'A' use within the 'Urban Development' zone under LPS3, meaning that the use must be advertised to the local community and is not permitted unless the local government has exercised its discretion by granting development approval after having consideration for any submissions received during the advertising period.

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

Traffic:

A Transport Impact Statement (TIS) was provided with the application, which can be viewed in **attachment 4** 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 on current site traffic generation and modelled traffic growth volume over the next ten years.

The development is expected to have a total trip generation of approximately 54 vehicles in the AM Peak Hour and 48 vehicles in the PM Peak Hour, which falls under the 'moderate impact' category according to WAPC Transport Impact Assessment Guidelines.

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.

Parking:

Table V - Parking Requirements of TPS2 sets out car parking requirements for specific land uses. Under Table V of TPS2, a 'Child Minding Centre' generates a car parking rate of one bay per five children accommodated. Based on the maximum occupancy of 64 children, the development



would generate a requirement for 13 car parking bays. The proposal incorporates nine bays, five of which are proposed to be installed with car parking stackers, which would provide a total of 14 bays and comply with TPS2.

Under LPS3, which is a seriously entertained planning proposal, Schedule 4.3 - Car Parking Requirements states that a 'Child Care Premises' land use requires one car bay per 10 children accommodated under maximum occupancy and one car bay per employee, with a minimum of three bays. Based on a maximum occupancy of 64 children, the proposal would generate a requirement for 7 car parking bays under LPS3. In terms of indicative minimum staffing levels, a further 7 bays (to a total of 14) would be required under LPS3. The proposal meets this requirement. Maximum staffing levels, depending on the age, mix and care needs of the children at the centre, could result in up to a maximum of 12 staff, however this would not be expected across a full day and would not appear to warrant additional dedicated parking to be provided.

Notably also, public parking provision in the surrounding area includes approximately 38 public parking bays within close distance of the subject site. As shown below, there are several areas of public parking within close proximity to the proposed development that could be utilised by patrons of the development.



Public Parking Plan



There is an ample supply of public parking available and an existing pedestrian crossing point located to the south of the subject site, allowing for safe access across Paterson Street. In this regard, Officers are satisfied with the proposed parking arrangement.

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 (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 1,014.06m², which gives a total lot yield of 2.89 lots (the lot area divided by 350m² (the average R25 zoned dwelling size). Under the current draft DCP the contribution value will be circa \$9,666.64 per lot, giving a total contribution due of circa \$27,936.59.

Form of Development:

The application seeks approval for a two-storey building measuring 6.6m in height and with an internal floor area of 475m² and site coverage of 603.18m². The building would be set back 1.11m from the primary street boundary and 5.89m from the northern lot boundary, with a nil boundary setback to the southern lot boundary and the rear lot boundary.

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”*. LPP 3.4 also 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 10m laneway width being constructed in the future, compared to the current 5m width. Officers recommend imposition of a condition that requires 2.5m of land across the full length of the subject site to allow for the future construction of the laneway and amended plans to reflect the laneway ceding.

In terms of the design requirements of LPP3.4, the table below sets out the requirements of the policy and Officer comments in relation to the compliance of the proposal with the policy provisions.

Guideline Statement	Proposal/Officer Comment
Primary Street setbacks should be to the greater	Figure 6 shows a 2m minimum setback from the primary street. The proposal seeks a 1.11m setback to the street boundary, which does not comply.



Guideline Statement	Proposal/Officer Comment
dimension as per figure 6 of the LPP	<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 reduced setback to 1.11m applies to a small portion of the overall building and is considered to be complimentary to the nil street boundary setback of the adjacent Mundijong Hair Salon and Mundijong Pharmacy. Given the setback is consistent with the existing streetscape and expectations for a Neighbourhood Centre, Officers support this variation.</p>
Forecourts or Squares are encouraged for those locations notated as "Nominated Squares" in Figure 7 of these Guidelines	The subject site is not identified as a forecourt or square under the policy.
<p>The minimum side setback shall be 8m.</p> <p>A side setback may be relaxed to nil where:</p> <ul style="list-style-type: none"> i) the subject development is proposed on those lots nominated to have a minimum front setback of 2.0 metres (on Figure 6), 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>The development proposes a nil setback to the southern side lot boundary, which is a variation to the 8m requirement established under the policy.</p> <p>The provisions of the policy allow a nil boundary setback; however, this allowance only applies to shop, restaurant, café or office proposals. Given the subject lot has a frontage of only 15.8m, the imposition of an 8m side boundary setback is considered to be onerous. Given the lot meets all the requirements to qualify for a nil boundary setback, with the exception of the use, and the impacts of the built form would be no greater or lesser if the use were compliant with the policy, Officers consider the proposed nil boundary setback is acceptable.</p>
<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 	<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 driveway and</p>



Guideline Statement	Proposal/Officer Comment
<p>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,</p> <p>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,</p> <p>c) where the proponent creates a town square or forecourt, compliant with the requirements of Guideline statement 1.2.3, or</p> <p>d) combinations of the above to a total value of ten percent of the englobo land value of the site.</p>	<p>behind the car parking area. 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 proposed development is not of a type that typically generates a requirement for on-site loading areas, given the primary function is the delivery of care services rather than any retail sale or use of products such that loading areas would be necessary.</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>The proposal incorporates front, side and rear boundary fencing. The proposed fencing is 1.8m in height and of a feature timber panel material, that allows visibility. This is considered to comply with the requirements of the policy.</p>
<p>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</p>	<p>Whilst new buildings should not be required to replicate the architectural design of older buildings, the design should incorporate elements such as the form and use of materials to ensure the character of an area is maintained. A contemporary design using features of an older architectural</p>



Guideline Statement	Proposal/Officer Comment
closely sympathetic to the architectural style of the key 19th and 20th Century buildings in the Precinct.	<p>style generally compliments the visual appearance of a streetscape in the transitioning of old to new.</p> <p>The proposed development, as viewed from Paterson Street, is simple in form with a pitched roof reflecting the style of the older buildings existing within the streetscape.</p> <p>The use of timber material incorporated into the design is also a reflection of the architectural style of Mundijong whilst having a modern appearance.</p> <p>It is considered that the external appearance of the building is cotemporary in design whilst in keeping with the architectural style intended for the area, consistent with the policy.</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.	<p>The proposal presents a façade to the street that incorporates almost no windows or glazing at street level. The façade contains some ground level and first floor glazing elements; however, these are setback between 20m and 30m from the street and have a severely diminished impact on the presentation of the façade design from the streetscape.</p> <p>The design; however, features large areas of open outdoor space at first floor level that provides a similar function in terms of passive surveillance and interaction with the streetscape. As such, Officers consider the intent of the provisions has been achieved and support the proposed variation.</p>

State Planning Policy 3.7 – Planning in Bushfire Prone Areas:

SPP3.7 provides the requirements and guidelines for development within areas identified as bushfire prone. The subject site is located within a designated bushfire prone area in accordance with the Department of Fire and Emergency Services (DFES) Map of Bushfire Prone Areas. SPP3.7 seeks to ensure the risk of bushfire to developments is considered and mitigated through the development assessment process. This primarily entails determining the Bushfire Attack Level applicable to the development, which should achieve a risk rating below BAL-40, and consideration of the four elements of the bushfire protection criteria: location, siting and design, vehicular access and water.

Pursuant to the provisions of SPP3.7, the application included a Bushfire Management Plan (BMP) for the subject site. The BMP identified a risk rating of BAL-29 for the development and outlined compliance with the four elements of the bushfire protection criteria.

As a Child Minding Centre is a vulnerable land use, the application requires referral to DFES for assessment, who identified some further additions in the report to be rectified. Officers are satisfied that the additions would have no material impact on the outcomes and recommendations of the BMP and have recommended a condition of approval requiring the BMP be amended to



include the additions identified. The measures contained within the BMP and considered to be acceptable and Officers consider the proposal complies with the requirements of SPP3.7.

Local Planning Policy 1.6 – Public Art for Major Developments:

The objective of LPP1.6 is to facilitate public art to enhance public enjoyment, engagement and understanding of places through the integration of public art. The policy sets out the requirements for physical and financial contributions for public art for any development valued at \$1 million or greater. If the application were to be approved, a contribution towards art is considered capable of being dealt with by way of a condition, consistent with the policy requirements. The Officer recommendation includes a condition of approval for the provision of, or contribution towards, public realm facing art.

Local Planning Policy 2.4 – Water Sensitive Design:

LPP2.4 aims to maximise water efficiency by encouraging best practice urban water management methods. The policy aims to ensure water sensitive design best management practices are implemented for new developments with the Shire.

A Stormwater Management Plan will be required, submission of a Stormwater Management Plan has been recommended as a condition of approval. This plan will demonstrate how the stormwater incident to the site is managed in accordance with LPP2.4 as part of the detailed design for the development.

Local Planning Policy 4.11 – Advertising Policy:

LPP4.11 sets out development standards and requirements for advertisements. The plans as submitted have identified nominal wall signage integrated into the street fronting façade of the development. Officers have recommended a condition of approval requiring a signage strategy be submitted prior to occupation to account for any signage proposed and allow the detailed design of the signage to be lodged at a later date.

Amenity:

Clause 67 of the Deemed Provisions, namely clause (n) requires the Local Government to consider the amenity impacts of a development. In this case, the primary potential impact generated from the development would be noise. The application was submitted with an accompanying Noise Impact Assessment (NIA). The NIA models noise generation from child play, mechanical plant and car doors closing. It demonstrates that noise levels would be compliant with *Environmental Protection (Noise) Regulations 1997* as received from nearby surrounding sensitive premises. Notwithstanding, the NIA also recommends that best practice noise management measures be put in place, specifically for child play, which include the following:

- The behaviour and 'style of play' of children should be monitored to prevent particularly loud activity e.g. loud banging/crashing of objects, 'group' shouts/yelling;
- Favour soft finishes in the outdoor play area to minimise impact noise (e.g. soft grass, sand pit(s), rubber mats) over timber or plastic;
- Favour soft balls and rubber wheeled toys;
- Crying children should be taken inside to be comforted;
- No amplified music to be played outside;
- External doors and windows to be closed during indoor activity / play; and



- Any music played within the internal activity areas to be 'light' music with no significant bass content and played at a relatively low level.

Officers are satisfied that the recommendations of the NIA would be adequate to ensure the noise generated by the proposed development would not exceed the minimum requirements or impact the amenity of the surrounding area. A condition has been recommended to require the recommendations of the NIA be implemented and maintained as part of the approval.

Options and Implications

Option1

That Council APPROVES the development application for the construction of a 'Child Minding Centre' as contained within **attachment 1** and **attachment 2** at Lot 29, 38 Paterson Street, Mundijong subject to the following conditions:

- 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	Amended Development Plans received at the Shire Offices on 14 June 2021; Transport Impact Statement received at the Shire Offices on 8 April 2021; Bushfire Management Plan received at the Shire's Offices on 15 April 2021; and Noise Impact Assessment received at the Shire's Offices on 8 April 2021.
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- Operating hours are to be restricted to between 6:30am – 6:30pm Monday to Friday, unless otherwise approved by the Shire of Serpentine Jarrahdale.
- Prior to issue of a Building Permit, a Stormwater Management Plan (SMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the SMP shall be implemented in full and maintained thereafter.
- Prior to issue 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 Signs. Once approved, signage shall be displayed and maintained in accordance with the strategy.
- Prior to occupation, the provision of art being provided in accordance with Local Planning Policy 1.6 – Public Art for Major Developments to the satisfaction of the Shire of Serpentine Jarrahdale. The artwork concept must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- Prior to occupation of the development, all vehicle parking areas accessways and crossovers shall be designed, constructed, sealed, kerbed, drained, line marked in accordance with the approved plans and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. Detailed design plans must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- Prior to the issue of a Building Permit for the development, a Landscape Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The Landscape Plan



must show all areas of retained vegetation as well as proposed planting. Once approved, the Landscape Plan shall be implemented in its entirety and maintained thereafter.

- h. 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.
- i. Prior to the issue of a Building Permit, a 2.5m width of land along the rear of the site 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. Amended plans depicting the area to be ceded and any other changes as a result of this to be submitted to the Shire for approval.
- j. Prior to the issue of a Building Permit, an amended Bushfire Management Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The amendments shall address comments made by the Department of Fire and Emergency Services in their submission dated 21 June 2021.

Option 2

As per option 1, but with operating hours of 7am to 6pm instead of 6:30am to 6:30pm.

Option 3

That Council REFUSES the application providing appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for the construction of a new Child Minding Centre. The proposal is considered to generally align with the planning framework and otherwise be consistent with existing development in the area. Officers are satisfied that the amended elevation designs are more closely in line with the current and expected character of Mundijong and recommend the application be approved.

Attachments (available under separate cover)

- **10.1.4 – attachment 1** – Application Details (E21/4112)
- **10.1.4 – attachment 2** – Revised Elevations (E21/6996)
- **10.1.4 – attachment 3** – Summary of Submissions (E21/5673)
- **10.1.4 – attachment 4** – Transport Impact Statement (E21/7001)
- **10.1.4 – attachment 5** – Noise Impact Assessment (E21/7002)
- **10.1.4 – attachment 6** – Bushfire Management Plan (E21/6997)
- **10.1.4 – attachment 7** – Bushfire Emergency Plan (E21/6998)



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	There are no significant risks associated with this option.						
2	That Council approves the development application without a restriction on operating hours	Noise Regulations would need to be relied upon to manage any impacts resulting from extended operating hours.	Reputation	Unlikely	Moderate	MODERATE	Accept Officer recommendation
3	That Council refuse the development and the decision is appealed to the SAT.	Local Planning Policy 3.4 – Paterson Street Design Guidelines	Financial	Possible	Minor	MODERATE	Council provide detailed valid planning reasons for its decision.



Voting Requirements: Simple Majority

OCM177/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strange, seconded Cr McConkey

That Council **APPROVES** the development application for the construction of a 'Child Minding Centre' as contained within attachment 1 and attachment 2 at Lot 29, 38 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	Amended Development Plans received at the Shire Offices on 14 June 2021; Transport Impact Statement received at the Shire Offices on 8 April 2021; Bushfire Management Plan received at the Shire's Offices on 15 April 2021; and Noise Impact Assessment received at the Shire's Offices on 8 April 2021.
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- b. Operating hours are to be restricted to between 6:30am – 6:30pm Monday to Friday, unless otherwise approved by the Shire of Serpentine Jarrahdale.
- c. Prior to issue of a Building Permit, a Stormwater Management Plan (SMP) shall be submitted to and approved by the Shire of Serpentine Jarrahdale. Once approved, the SMP shall be implemented in full and maintained thereafter.
- d. Prior to issue 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 Signs. Once approved, signage shall be displayed and maintained in accordance with the strategy.
- e. Prior to occupation, the provision of art being provided in accordance with Local Planning Policy 1.6 – Public Art for Major Developments to the satisfaction of the Shire of Serpentine Jarrahdale. The artwork concept must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- f. Prior to occupation of the development, all vehicle parking areas accessways and crossovers shall be designed, constructed, sealed, kerbed, drained, line marked in accordance with the approved plans and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale. Detailed design plans must be submitted to and approved by the Shire of Serpentine Jarrahdale prior to the issue of Building Permit.
- g. Prior to the issue of a Building Permit for the development, a Landscape Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The Landscape Plan must show all areas of retained vegetation as well as proposed planting. Once approved, the Landscape Plan shall be implemented in its entirety and maintained thereafter.



- h. 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.**
- i. Prior to the issue of a Building Permit, a 2.5m width of land along the rear of the site 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. Amended plans depicting the area to be ceded and any other changes as a result of this to be submitted to the Shire for approval.**
- j. Prior to the issue of a Building Permit, an amended Bushfire Management Plan is to be submitted to and approved by the Shire of Serpentine Jarrahdale. The amendments shall address comments made by the Department of Fire and Emergency Services in their submission dated 21 June 2021.**

CARRIED UNANIMOUSLY 8/0



10.1.5 - PA21/192 - Proposed Change of Use of Single House to Ancillary Dwelling and Construction of Single House - Lot 55, 70 Barge Drive, Byford	
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 (e.g. 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:	Daniel Cassettai Design
Owner:	JT and K C Crossley
Date of Receipt:	2 March 2021
Lot Area:	15.85ha
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 change of use of an existing 'Single House' to an 'Ancillary Dwelling' and construction of a new 'Single House' at Lot 55, 70 Barge Drive, Byford. The proposed Ancillary Dwelling seeks variations to Local Planning Policy 4.1 – Ancillary Dwellings (LPP4.1) by way of siting and construction of an existing crossover.

The proposal is presented to Council as Officers do not have delegated authority to determine development applications which vary Local Planning Policies in accordance with Delegated Authority – 12.1.1 – Determination of Development Applications.

It is considered that, notwithstanding the minor variations, the proposal is consistent with the objectives of LPP4.1 and the broader planning framework and therefore the application is recommended for approval.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

BackgroundExisting Development

The subject site lies within a predominately rural area between Byford and Karrakup. The site is currently developed with a Single House, outbuilding and water tanks.

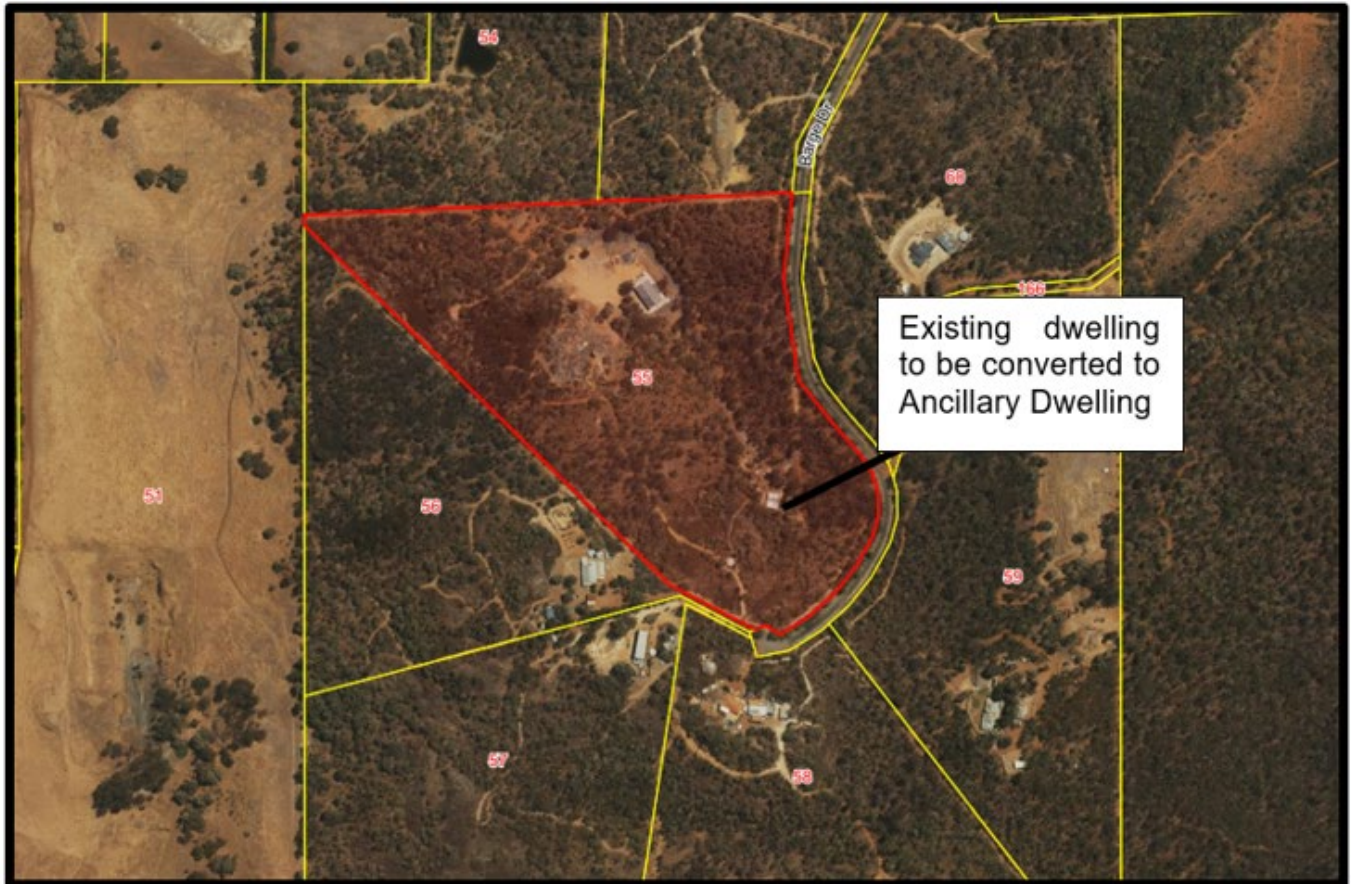
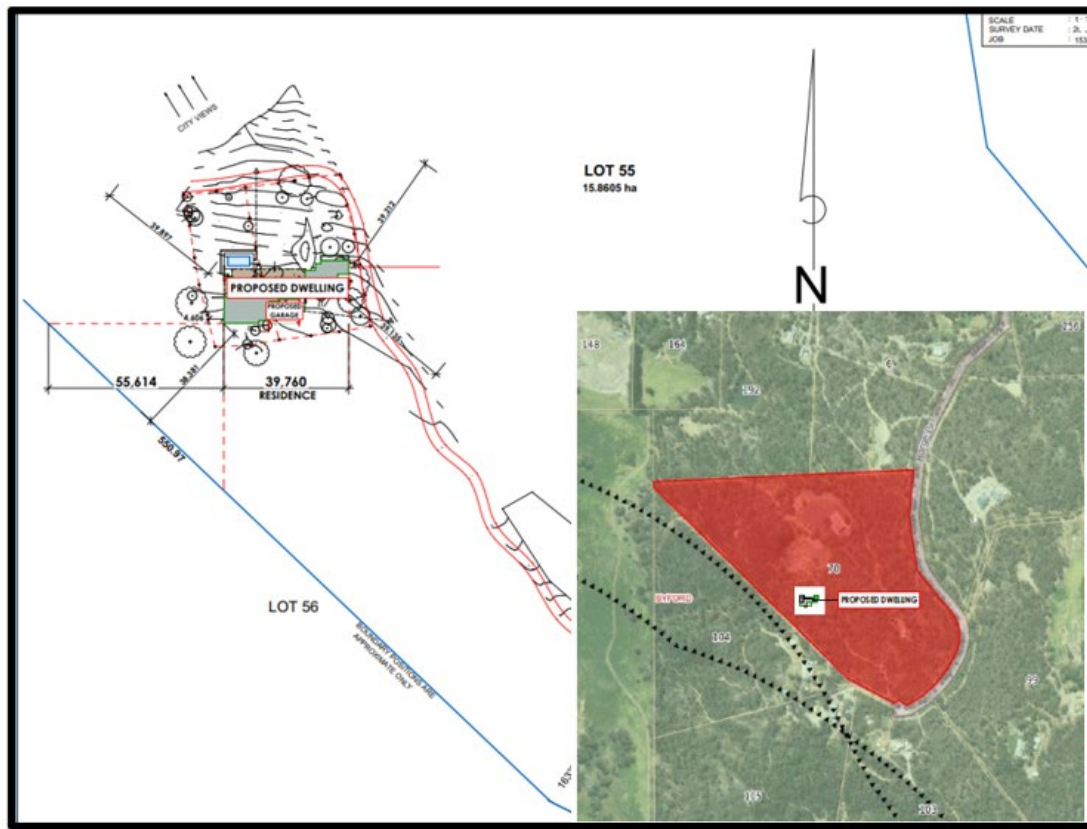


Figure 1: Aerial Image

Proposed Development

The application seeks approval to change the use of the existing dwelling on site to an 'Ancillary Dwelling' and the construction of a new 'Single House'. Full details of the proposal are contained within **attachment 1**. The new Single House is compliant with the deemed to comply requirements of the R-Codes and would be set back 55.6m from the closest lot boundary to the west. Development approval is however required as there is already an existing dwelling on site and the new dwelling results in a Bushfire Attack Level (BAL) rating of Flame Zone which is also a trigger for the requirement to obtain development approval.

**Site Plan: Single House**

The proposed 'Ancillary Dwelling' is an existing structure located towards the south east of the lot, as depicted in Figure 1. This existing dwelling is setback approximately 100m from the closest lot boundary to the east. It is also compliant with the deemed to comply requirements of the R-Codes except for the plot ratio (77.76m² in lieu of 70m²). It is also currently within BAL Flame Zone, such is the risk with this part of the landscape.

Community / Stakeholder Consultation

Given the siting of the proposed development and the land use permissibility under TPS2, advertising was not required to be undertaken in accordance with LPP1.4.

Statutory Environment

Legislation

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

State Government Policies

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

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Shire of Serpentine Jarrahdale Local Planning Scheme No.3
- Local Planning Policy 4.1 – Ancillary Dwellings (LPPP4.1)
- Local Planning Policy 1.4 – Consultation for Planning Matters



Planning Assessment

The planning assessment has been undertaken in accordance with clause 67 of the Deemed Provisions and can be viewed within **attachment 2**. For the purpose of this report, discussion is confined to the variations under the R-Codes, LPP4.1 and where Council is required to exercise discretion.

Land Use:

The subject site is zoned 'Rural' under the Shire's TPS2 where a 'Residential – Single House' land use is permitted and an 'Ancillary Dwelling' is an 'AA' use, meaning Council has discretion to approve the use and there is no requirement for advertising.

Form of Development and Amenity

The development of Single Houses and Ancillary Dwellings are guided by the R-Codes and further guidance for Ancillary Dwelling is contained within LPP4.1. As detailed in the Technical Assessment, all aspects of the Single House are compliant with the deemed-to-comply requirements of the R-Codes and the trigger for requiring development approval is that the Bushfire Attack Level (BAL) Assessment identifies a rating of Flame Zone. This is discussed later in the report.

The 'Ancillary Dwelling' is also compliant with the deemed-to-comply requirements of the R-Codes except for plot ratio which is proposed to be 77.76m² in lieu of 70m². This plot ratio is varied for lots with an R-Code of R2 under LPP4.1, to 100m² subject to compliance with specific design requirements, as addressed below:

Element	Design Requirements	Compliant
a) Siting	An Ancillary Dwelling is to be located behind the building line of the primary dwelling.	No
b) Scale	An Ancillary Dwelling shall have no more than two (2) bedrooms.	Yes
	An Ancillary Dwelling shall appear subservient in scale to the primary dwelling.	Yes
c) Access/ Parking	A maximum of one (1) covered car parking space shall be provided in addition to those required for the primary dwelling.	Yes
	No additional crossovers will be permitted. Vehicle access shall be shared with that of the primary dwelling.	No
d) External Appearance	Incorporates habitable design elements such as awnings, verandahs, patios. An Ancillary Dwelling is to be finished with a material of similar colour to the primary dwelling.	Yes

The Ancillary Dwelling would be located forward of the building line of the proposed Single House and would utilise the existing driveway/crossover. The Single House is proposed to have its own access track and crossover onto Barge Drive as to avoid removing existing vegetation.



Where a proposal seeks variations to policy provisions, approval is capable where it is consistent with the relevant objectives. The proposal has been assessed against the objectives of the R-Codes and LPP4.1 below:

R-Codes:

Objective	Proposal
<i>Ancillary dwelling for people who live either independently or semi-dependently to the residents of the single house, sharing some site facilities and services and without compromising the amenity of surrounding properties</i>	<p>The proposal is for a self-contained Ancillary Dwelling which would allow for people to live independently from the main house but share utilities.</p> <p>Due to the scale of the development and its location, it is considered that the proposal would not compromise the amenity of the surrounding area, consistent with the R-Code design principle.</p>

LPP4.1:

Objective	Proposal
Ensure that Ancillary Dwellings are designed and located to appear visually related with the primary dwelling and minimise impact on the amenity of the locality.	The proposed Ancillary Dwelling would be located in excess of 150m from the proposed Single House. Whilst the two dwellings may not appear visually related, given the siting of both dwellings, the presence of existing vegetation onsite and the context, it is considered that the proposal would not adversely impact on the amenity of the locality. The proposal would not give rise to the sense of a second dwelling on the land, insofar that the ancillary dwelling would appear diminutive in comparison to the main single dwelling once constructed.
Ensure that Ancillary Dwellings are subservient to the primary dwelling.	The Ancillary Dwelling would have a plot ratio of 77.76m ² and contain two bedrooms. The single house is a substantially sized family home with five bedrooms, multiple communal areas, three bathrooms and a triple garage. The Ancillary dwelling is subservient in scale to the Single House.
Protect against increase in residential density and ad hoc fragmentation of land by ensuring	The site is currently zoned 'Rural' under TPS2 where the minimum lot size is 40ha. Mathematically, the site could not be



Objective	Proposal
that development does not encourage future subdivision.	supported for subdivision without having been rezoned. The site is also proposed to remain zoned 'Rural' under LPS3, as such it is considered that the presence of a Single House and an Ancillary Dwelling would not result in the potential for subdivision.

The proposal is considered consistent with the objectives of LPP4.1 due to its siting and minimal impact on the amenity of the locality. The Ancillary Dwelling only seeks a minor plot ratio variation of 7.76m².

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The subject site is identified as being in a bushfire prone area and therefore the provisions of SPP3.7 apply. 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.'*

SPP3.7.

Clause 6.7 of SPP3.7 states development applications which will, *"have an extreme BHL and/or BAL-40 or BAL-FZ will not be supported"* unless they are considered 'minor development' or 'unavoidable development'. As previously stated the trigger for development approval for the works is due to the BAL rating of Flame zone. SPP3.7 states that development should only be supported where a BAL rating of BAL-29 or lower can be achieved.

A Bushfire Attack Level report has been provided with the application together with a Bushfire Management Statement (BMS). The BMS demonstrates that by providing an Asset Protection Zone, the BAL rating can be reduced to BAL-19, consistent with SPP3.7 as depicted below:





While the APZ would require the removal of vegetation, given the canopy cover existing on the site it is considered that this would not adversely impact on the rural character of the area or the environment.

By conditioning this requirement, the single house results in a safer outcome compared to the current rating. It is also recommended that a similar APZ be conditioned as required around the ancillary dwelling.

Options and Implications

Option1

That Council APPROVES the development application for the Change of Use of Single House to Ancillary Dwelling and Construction of Single House at Lot 55, 70 Barge Drive, 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 – P11 received at the Shire Offices on 2 March 2021 and 3 June 2021 and Bushfire Attack Level Assessment and Bushfire Management Statement
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- 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. Asset Protection Zones are to be maintained around both the future single dwelling and the current ancillary dwelling, in order to maintain a BAL rating of BAL-19, at all times to the satisfaction of the Shire of Serpentine Jarrahdale.

Option 2

That Council REFUSES the development application for the Change of Use of Single House to Ancillary Dwelling and Construction of Single House at Lot 55, 70 Barge Drive, Byford, stating reasons for refusal.

Option 1 is recommended.

Conclusion

The application seeks approval for the change of use of an existing Single House to an Ancillary Dwelling and Construction of Single House. The proposal requires development approval due to the BAL rating of the Single House and the plot ratio variation of the Ancillary Dwelling. The proposal is considered to be consistent with the objectives of the policy and therefore recommended for approval.

Attachments (available under separate cover)

- **10.1.5 – attachment 1** - Development application details (E21/7081)
- **10.1.5 – attachment 2** - Technical Assessment (OC21/10484)

**Alignment with our Strategic Community Plan**

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

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 application	There are no risks considered associated with this option					
2	Should Council resolve to refuse the application	Planning framework	Reputation	Possible	Minor	MODERATE	Council to provide sound planning reasons for refusal



Voting Requirements: Simple Majority

OCM178/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Byas

That Council **APPROVES** the development application for the change of use of Single House to Ancillary Dwelling and Construction of Single house, as contained within attachment 1, at Lot 55, 70 Barge Drive, 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 – P11 received at the Shire Offices on 2 March 2021 and 3 June 2021 and Bushfire Attack Level Assessment and Bushfire Management Statement
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- 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. Asset Protection Zones are to be maintained around both the future single dwelling and the current ancillary dwelling, in order to maintain a BAL rating of BAL-19, at all times to the satisfaction of the Shire of Serpentine Jarrahdale.

CARRIED UNANIMOUSLY 8/0

**Councillor Strautins declared an Impartiality Interest in item 10.1.2.**

10.1.6 – Proposed Vehicle Repair, Warehouse, Light Industry and Showroom – Lot 128 South Western Highway, Byford	
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 (e.g. 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:	Urbanism
Owner:	Byford Project 2018 Pty Ltd
Date of Receipt:	22 February 2021
Lot Area:	3.76ha
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 Vehicle Repair, Warehouse, Light Industry and Showroom development at Lot 128 South Western Highway, Byford. The application is presented to Council for determination due to objections received during the consultation period. In accordance with Delegated Authority 12.1.1 – Determination of Development Applications, Officers do not have delegation to determine applications where objections have been received that cannot be addressed through amendments to the proposal or conditions of approval.

Officers support the proposed development and recommend Council approve the application subject to appropriate conditions.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 17 February 2020 – OCM010/02/20 - COUNCIL RESOLUTION – extract

That Council:

1. *APPROVES the development application for a 'Warehouse (self-storage)' at Lot 128 South Western Highway, Byford, as contained within attachment 1 in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 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.*

<i>Plans and Specifications</i>	<i>P1 (Development Plans) received at the Shire's Offices on 28 November 2019; and P2 (Bushfire Management Plan) Received at the Shire's Offices on 29 May 2019.</i>
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- b. *Revised plans being submitted to and approved by the Council of the Shire of Serpentine Jarrahdale, prior to the issue of a Building Permit. These revised plans are to demonstrate the following design changes to the satisfaction of Council:*
- i. The south east and north east corners of Building A being replaced with pre cast concrete panels, with such panel cast to provide an angular modern edge which is intermixed with stone, wood and/or recycled brick finishes. This is to wrap at least 10m around the corners of the building;*
 - ii. The eastern elevation of Building A being provided with a vertical element of articulation at maximum intervals of 7m. These vertical elements are to be a width of at least 2m, project out from the edge of the building in order to create building depth variation and extend at least 2m above the roof height of the building;*
 - iii. The southern elevation of Building B being replaced with pre cast concrete panels, with such panel cast to provide an angular modern edge which is intermixed with stone, wood and/or recycled brick finishes;*
 - iv. Signage being integrated with the revised design of the building, and appropriately framed to represent a further design feature for the elevations of both Building A and B.*
 - v. Artwork as required by Condition 1(f) and consistent with Local Planning Policy 1.6 (Public Art for Major Developments) being integrated in to the external design of the building*
- c. *Prior to commencement of works, detailed engineering drawings shall be submitted to and approved by the Shire for the construction of the northern access road and Robertson Road as shown on the approved plans. Robertson Road must be constructed to an appropriate urban standard for the full frontage of the land (including an appropriate fully built temporary cul de sac head at the southern extent of the site), to the satisfaction of the Shire. Once approved, the works shall be undertaken in accordance with the approved plans prior to occupation, to the satisfaction of the Shire of Serpentine Jarrahdale.*
- d. *Prior to commencement of works, a Stormwater Management Plan shall be submitted to and approved by the Shire. Once approved, the Stormwater Management Plan shall be implemented in its entirety.*
- e. *Prior to commencement of works, a Landscape Management Plan must be prepared and shall include the following detail to the satisfaction of the Council of the Shire of Serpentine Jarrahdale, prior to commencement of site works:*
- i. The location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;*
 - ii. Any lawns to be established;*
 - iii. Any natural landscape areas to be retained;*
 - iv. Those areas to be reticulated or irrigated;*



v. *Verge treatment;*

vi. *Placement within the 2m landscape strip which exist around the boundaries of the property, advanced tree plantings spaced at a maximum distance of 5m, and a minimum advanced height of 2.5m.*

The landscaping must be completed prior to the occupation of the development, and must be maintained at all times to the satisfaction of the Shire of Serpentine Jarrahdale. The landscape plan to be submitted and approved by the Council, prior to the issue of a Building Permit.

- f. *Prior to occupation, a monetary contribution shall be paid to the Shire for the establishment of public art or, alternatively, the provision of public art shall be provided on-site in accordance with Local Planning Policy 1.6 - Public Art for Major Developments to the satisfaction of the Shire of Serpentine Jarrahdale.*
- g. *A Dust Management Plan must be prepared in accordance with the Department of Environment and Conservation's guideline for the development and implementation of a dust management program, to the satisfaction of the Shire, prior to commencement of works. All works must be carried out in accordance with the Dust Management Plan, for the duration of the construction period.*
- h. *The access road must be accessible at all times by customers, through an appropriate access system in order to prevent car parking issues affecting Robertson Road (once built). Details to be submitted with the Building Permit application.*
- i. *A minimum of four (4) short-term bicycle parking facilities must be designed in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities, prior to commencement of works. The bicycle parking spaces must be constructed prior to the occupation of the development, and must be retained and maintained in good condition at all times.*
- j. *The sale by wholesale and distribution of goods from the site is not permitted. The internal use of the warehouse must be for self-storage only, and at all times, to the satisfaction of the Shire.*
- k. *All illumination must be confined to the land in accordance with the requirements of Australian Standard AS 4282—1997, Control of the obtrusive effects of outdoor lighting, at all times, for the duration of the development.*
- l. *The carpark must:*
 - i. *be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval;*
 - ii. *include five (5) 90 degree car parking bays, and a minimum of 30 parallel bays, all of which are appropriately signed and marked to show their intended use;*
 - iii. *include one (1) car parking space dedicated to people with disability designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;*
 - iv. *be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;*
 - v. *have lighting installed, prior to the occupation of the development.*



The car park must comply with the above requirements for the duration of the development.

Background

Existing Development

The proposed development would be the second within the subject Local Structure Plan (LSP) area. This LSP extends north from Cardup Siding Road to the existing 'Reserved' bushland area and from South Western Highway on the eastern side to the railway corridor on the western side. Figure 1 below shows the location of the development in the context of its surroundings.



Figure 1: Aerial Photograph

The subject site is currently developed for use as a self-storage warehouse and features the current construction of that facility, located to the northern aspect of the site. There is an existing subdivision approval in place over the land for the creation of two lots and a road reserve. The road reserve runs along the northern boundary, as shown in Figure 2 following, between South Western Highway and the Robertson Road Reserve.

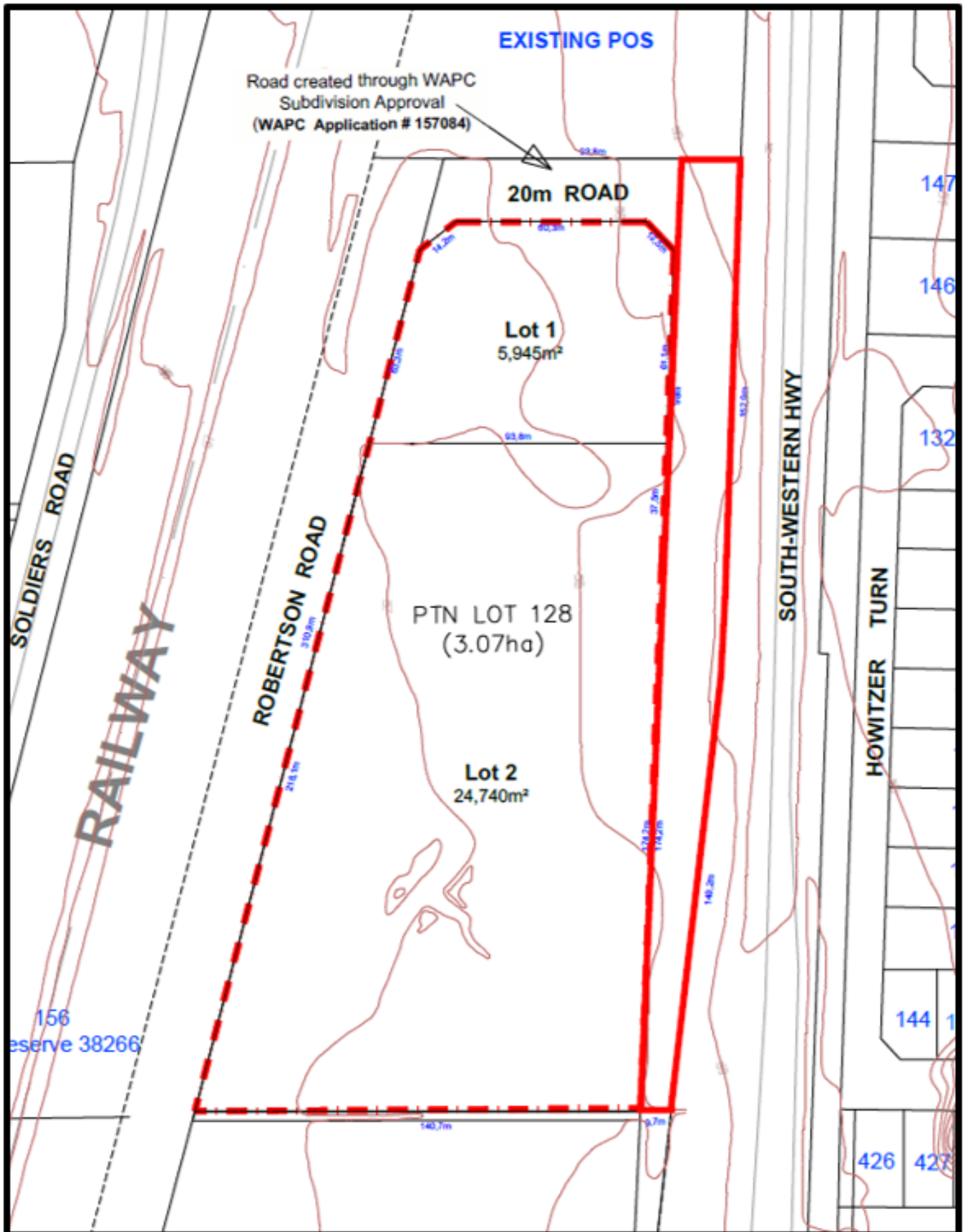


Figure 2: Approved Subdivision Plan



The land is also subject to an application for further subdivision, seeking to split approved lot 2 into three new lots. The Shire has provided a recommendation to the Western Australian Planning Commission recommending the subdivision be approved subject to conditions, the proposed subdivision layout is shown in Figure 3 below.

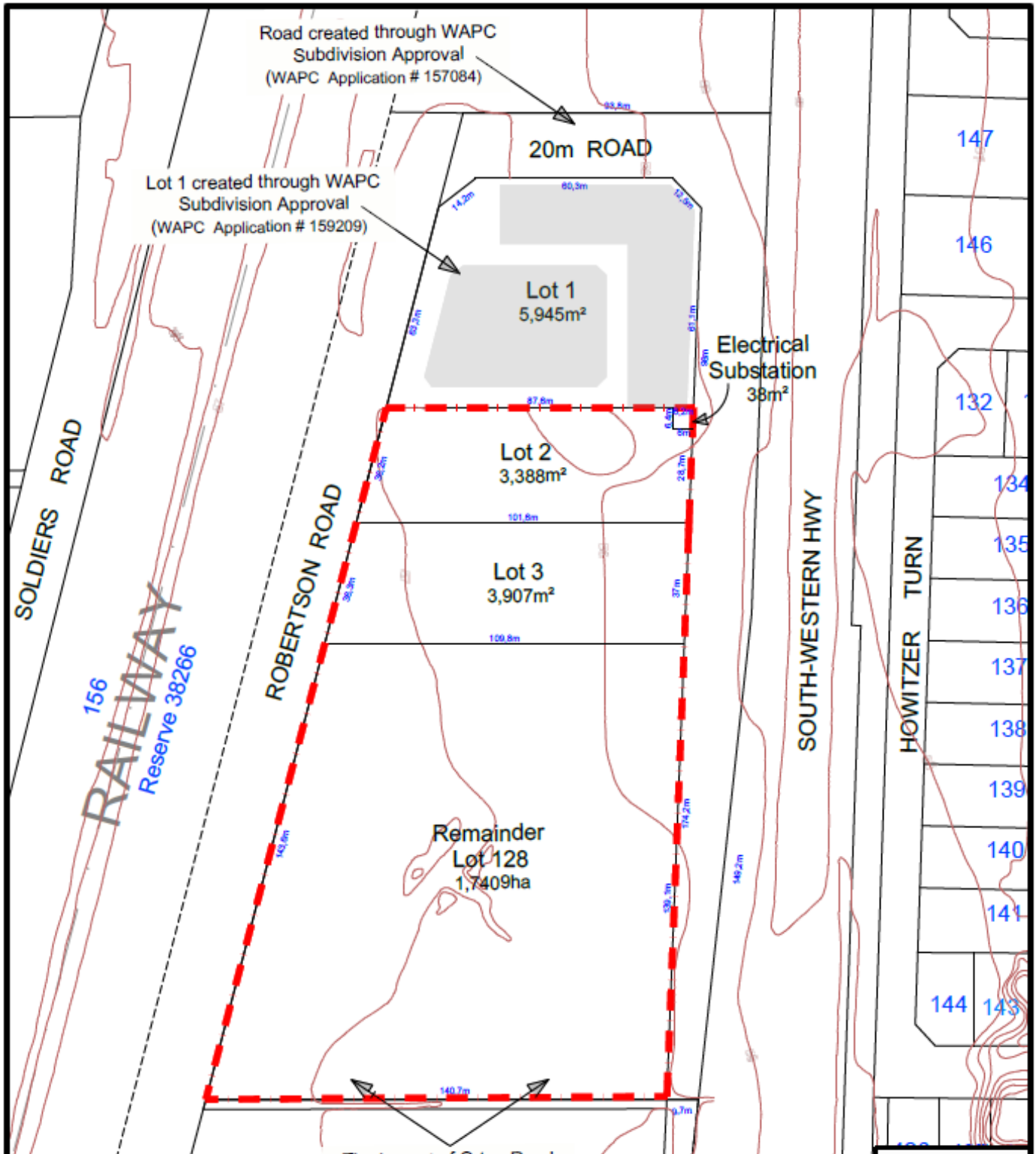


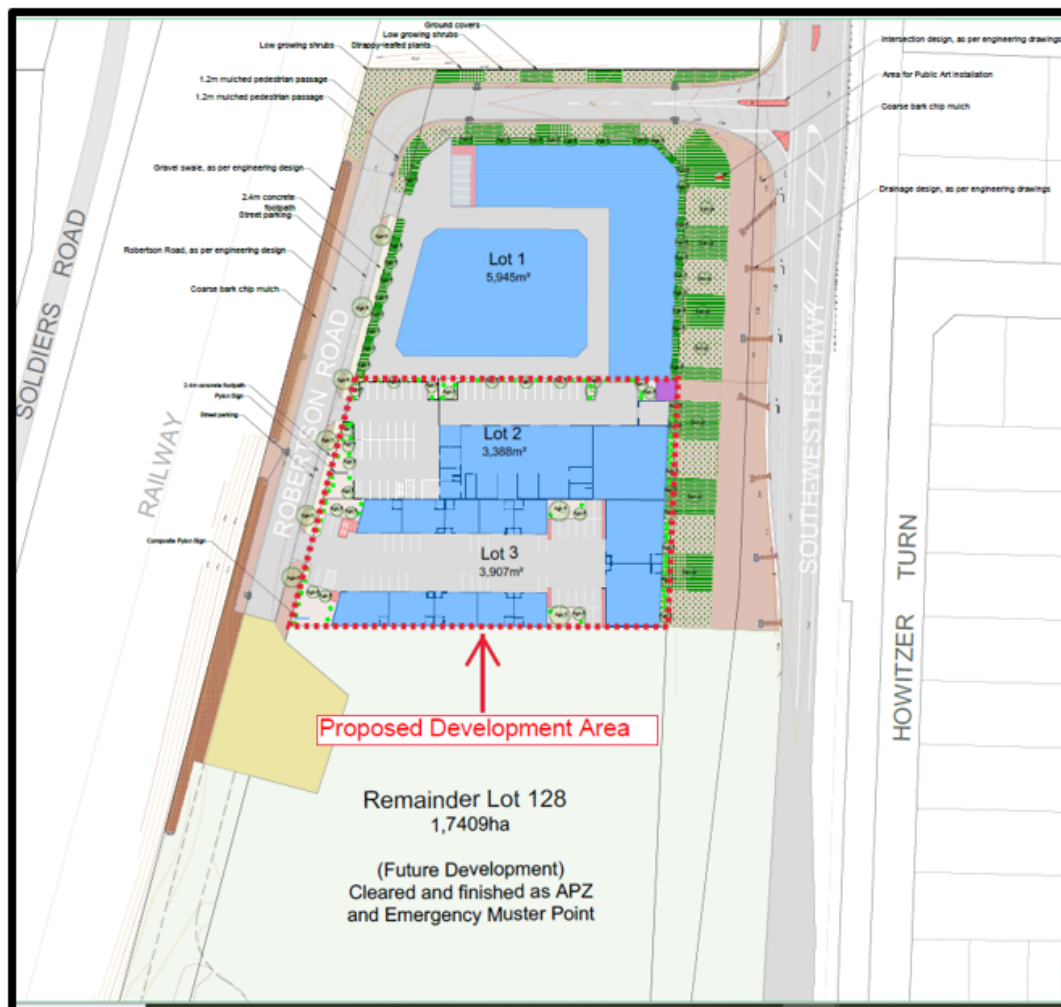
Figure 3: Proposed Subdivision Layout



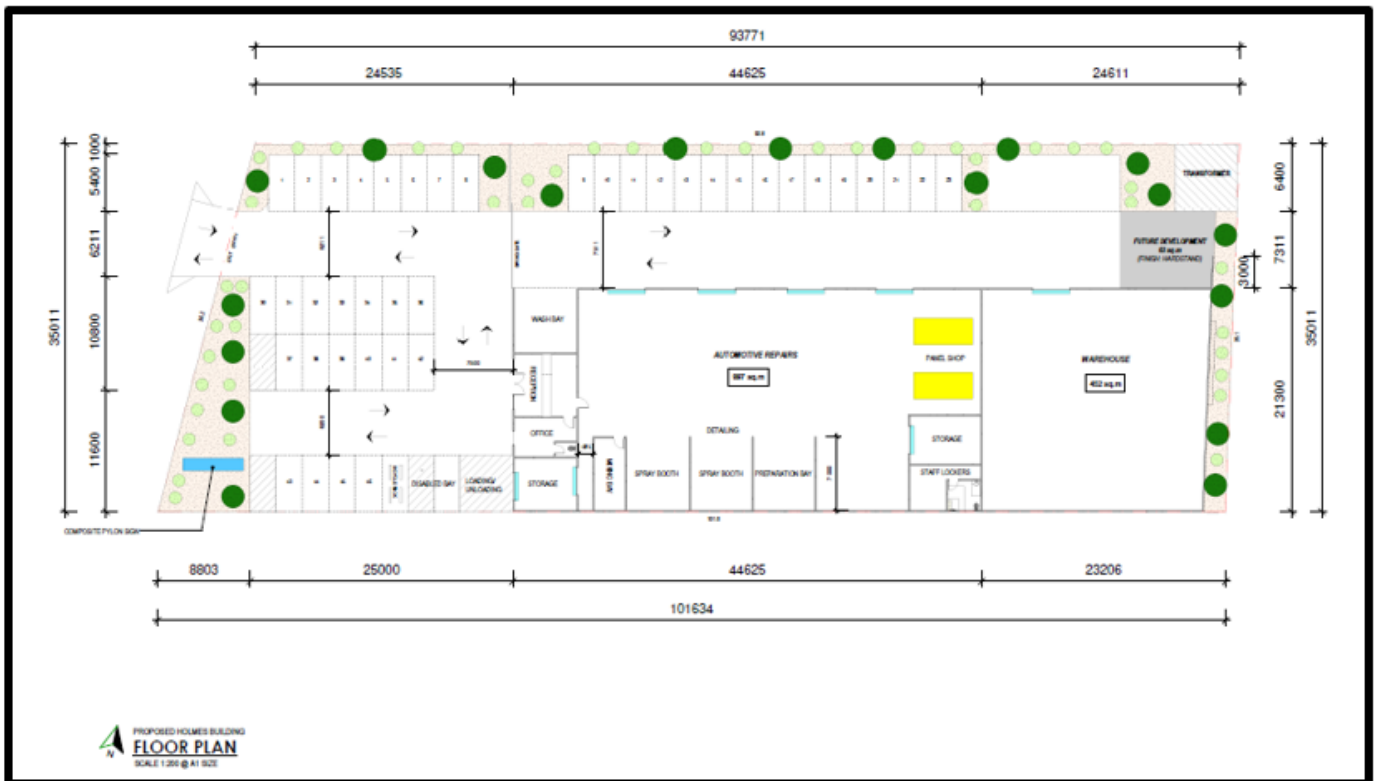
Proposed Development:

The proposed development consists of the extension of Robertson Road along the eastern boundary and the erection of four buildings intended to provide a range of land uses. Key features of the proposal are detailed below:

- Construction of four buildings across two allotments totaling 3,070m² in area and comprising the following:
 - One Automotive Repairs (897m²)
 - Six Warehouses (between 114m² and 452m² each)
 - Five Light Industries (between 88m² and 97m² each)
 - Two Showrooms (286m² and 298m²)
- 78 car parking bays
- 792.68m² of soft landscaping
- Construction of Robertson road along the full length of the eastern boundary of the development area
- Two crossovers onto the Robertson Road Reserve



Site Plan



Site/Floor Plan of 'Lot 2'



Site/Floor Plan of 'Lot 3'

The full details of the proposed development can be viewed within **attachment 1**.



Community / Stakeholder Consultation

The application was advertised to surrounding properties within a 500m radius and details of the proposal uploaded onto Your Say SJ seeking comments within a period of 21 days, in accordance with Local planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4).

During this period, three submissions were received including two objections and one support. The concerns raised relate to the following issues:

- The appropriateness of the land uses
- Traffic implications from the development
- Noise generated from the development
- Aesthetic of the proposed built form
- Air pollution implications from the development

The application was also referred to Main Roads WA (MRWA) due to the location of the development adjacent to a Primary Regional Road Reserve (South Western Highway) and the Department of Water and Environment Regulation (DWER) due to the potential odour, noise and air emission impacts of the development.

A submission was received from Main Roads in support of the proposed development, subject to standard conditions in relation to restricting direct access from South Western Highway, signage and remediation works for any damage incurred to the road reserve during construction. Officers are satisfied with the proposed conditions and have recommended these conditions be imposed.

A submission was received from DWER, raising no concerns in relation to the proposal, but recommending a Stormwater Management Plan be prepared for the proposal and providing technical advice in relation to the standards the Stormwater Management Plan is expected to meet. This advice has been forwarded to the applicant and stormwater management discussed in further detail under the planning assessment section of this report.

The issues raised through the consultation period have been addressed in detail further in this report. A summary of the submissions with Officer comments can be viewed within **attachment 2**.

Statutory Environment

Legislation

- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Metropolitan Region Scheme*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2*
- *Environmental Protection (Noise) Regulations 1997*

State Government Policies

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7)
- Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses

Local Planning Framework

- Draft Local Planning Scheme No.3



- Draft Local Planning Strategy
- Lots 1, 3 & 128 South Western Highway Local Structure Plan
- Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4)
- Local Planning Policy 1.6 – Public Art for Major Developments (LPP1.6)
- Local Planning Policy 2.4 – Water Sensitive Design (LPP2.4)
- Local Planning Policy 4.15 – Bicycle Facilities Policy (LPP4.15)
- Local Planning Policy 4.16 – Landscape and Vegetation Policy (LPP4.16)

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 Clause 67 Checklist contained within **attachment 3**. For the purpose of this report, the objections resulting in the proposal being presented to Council are discussed as well as where Council is required to exercise discretion.

Land Use

The proposed development entails a mix of proposed land uses, which are considered to best fit within the land use definitions of 'Automotive Repairs', 'Warehouse', 'Light Industry' and 'Showroom', defined under Town Planning Scheme No.2 (TPS2) as:

'Automotive Repairs - means the repair and overhaul of motor vehicles.'

'Warehouse - means land and buildings wherein goods are stored and may be offered for sale by wholesale.'

'Industry Light - means an industry:

- (a) in which the processes carried on, the machinery used, and the goods and commodities carried to and from the premises will not cause any injury to, or will not adversely affect the amenity of the locality by reason of the emission of light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water or other waste products; and
- (b) the establishment of which will not or the conduct of which does not impose an undue load on any existing or projected service for the supply or provision of water, gas, electricity, sewerage facilities, or any like services.'

'Showroom - means land and buildings wherein goods are displayed and may be offered for sale by wholesale and/or by retail excluding the sale by retail of: foodstuffs, liquor or beverages, items of clothing or apparel, magazines, newspapers, books or paper products, medical or pharmaceutical products, china, glassware or domestic hardware, and items of personal adornment.'

The application has provided generic information on the intended operations for each tenancy, with exception of the 'Automotive Repairs' tenancy which is specific to this use.

The use of the other tenancies would be restricted by the land uses approved. In terms of the 'Automotive Repairs' tenancy, the proposed operator would provide services including panel beating, spray painting and vehicle repairs.



While the land is zoned 'Urban Development,' the LSP designation must be given due regard and, in this respect, provides a zoning designation of 'Mixed Business'. Within the 'Mixed Business' zone under TPS2 an 'Automotive Repairs' land use would be an 'AA' use and the 'Warehouse', 'Industry Light' and 'Showroom' land uses would be 'P' uses. As such, Officers consider the proposed land uses are consistent with the intended use of land within the LSP. It reflects the Shire's intended land use outcome for the site.

In terms of Draft Local Planning Scheme No.3 (LPS3), the land uses proposed are considered to best fit within the land use definitions of 'Industry Light', 'Warehouse' and 'Bulky Goods Showroom', defined under LPS3 as:

'Industry Light' - means premises used for an industry where impacts on the amenity of the area in which the premises is located can be mitigated, avoided or managed.

'Bulky Goods Showroom' - means premises -

(a) *used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes -*

- (i) *automotive parts and accessories;*
- (ii) *camping, outdoor and recreation goods;*
- (iii) *electric light fittings;*
- (iv) *animal supplies including equestrian and pet goods;*
- (v) *floor and window coverings;*
- (vi) *furniture, bedding, furnishings, fabrics, manchester and homewares;*
- (vii) *household appliances, electrical goods and home entertainment goods;*
- (viii) *party supplies;*
- (ix) *office equipment and supplies;*
- (x) *babies' and children's goods, including play equipment and accessories;*
- (xi) *sporting, cycling, leisure, fitness goods and accessories;*
- (xii) *swimming pools.*

or

(b) *used to sell goods and accessories by retail if –*

- (i) *a large area is required for the handling, display or storage of the goods; or*
- (ii) *vehicular access is required to the premises for the purpose of collection of purchased goods.'*

'Warehouse/Storage' - means premises including indoor or outdoor facilities used for

- (a) *the storage of goods, equipment, plant or materials; or*
- (b) *the display or the sale by wholesale of goods.'*

Under LPS3 the land use definition for 'Mechanical Repairs' explicitly excludes panel beating and spray painting and could not be applied to the proposal. Accordingly, the use would then best fit within the 'Industry Light' land use. The subject site is proposed to be zoned 'Service Commercial' under LPS3, within which a 'Industry Light' land use would be an 'A' use and the 'Bulky Goods



Showroom' and 'Warehouse/Storage' land uses would be 'P' uses. As such, Officers consider the proposed land uses are also consistent with the intended use of the land under LPS3.

Lots 1, 3 & 128 South Western Highway Local Structure Plan

The subject lot falls within the Lots 1, 3 & 123 South Western Highway Local Structure Plan. The Structure Plan designates the site as 'Mixed Business' and provides requirements for the development of the area covered. The Structure Plan sets out requirements for Bushfire Management, Design Guidelines, Water Management, and Landscape Management Plans prior to development application. This range of issues are addressed through the following analysis of the proposed development.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas

SPP3.7 provides the requirements and guidelines for development within areas identified as bushfire prone. The subject site is located within a designated bushfire prone area in accordance with the Department of Fire and Emergency Services (DFES) Map of Bushfire Prone Areas. SPP3.7 seeks to ensure the risk of bushfire to developments is considered and mitigated through the development assessment process. This primarily entails determining the Bushfire Attack Level applicable to the development, which should achieve a risk rating below BAL-40, and consideration of the four elements of the bushfire protection criteria: location, siting and design, vehicular access and water.

The Bushfire Management Plan submitted with the application indicates the development would have a Bushfire Attack Level (BAL) of BAL-19, consistent with SPP3.7. The Bushfire Management Plan also adequately addresses the four elements of the Guidelines and should be imposed as a condition of approval.

Local Planning Policy 4.11 – Advertising Policy

The proposed development features branding signage that addresses South Western Highway and an internal road. This type of signage is subject to assessment under LPP4.11. Consideration has been given as part of this assessment for the Structure Plan designation as 'Mixed Business'. The application has provided some indicative details on the intended location and dimension of signage, but the details of the signage to be installed has not been provided, with the exception of the Automotive Vehicle Repair tenancy, and will likely not be provide until such time as tenants have been selected for each tenancy. Officers have recommended a condition of approval requiring a Signage Strategy for the development to ensure the full details of signage can be provided and assessed in a coordinated manner. This will allow a consistent approach to signage for the development and prevent the ad-hoc installation of signage, which can be detrimental to visual presentation of the development.

Local Planning Policy 4.16 – Landscape and Vegetation Policy

The proposed development requires the provision of landscaping at the Robertson Road frontage, South Western Highway frontage and within the car parking area in accordance with TPS2. The proposed plans have shown indicative landscaping across the site, which is typical to demonstrate the proposal is capable of complying with relevant requirements. Officers consider a condition for a Landscaping Management Plan, being submitted and approved prior to commencement of works, would be sufficient to address the requirements of LPP4.16 and ensure high quality landscaping is provided and maintained for the duration of the development.



Local Planning Policy 4.15 – Bicycle Facilities Policy

LPP4.16 sets out those land uses that require the provision of bicycle parking facilities and provides a rate in which bicycle parking facilities are to be provided for each use, split between long term spaces (enclosed and secure spaces) and short term spaces (generic bike racks and the like). The policy provisions identify bicycle parking requirements for 'Industry Light' and 'Showroom' land uses but excludes 'Automotive Repairs' and 'Warehouse' land uses.

The proposal includes the provision of 10 bicycle racks catering for a maximum of 20 bicycles. Given the context of the site, accessible only from South Western Highway, and nature of uses proposed, Officers consider the proposed bicycle parking facilities to be acceptable.

Form of Development:

A key aspect of the development assessment of this proposal is the design outcome, and especially the external presentation of development to its local setting. Both the State and Local Planning Frameworks seek to elevate specific focus on achieving good design outcomes, which is important in a context like Byford where rapid change in the built environment is occurring. Such change needs to be guided in a way which reinforces place based values, especially in the design of external edges and the choices of building materials so that development underpins an intended rural and natural character for Byford.

In respect of the State Planning Framework, State Planning Policy 7.0 (SPP7.0) has been prepared as a State wide planning policy, that exists to elevate the importance of design quality across the whole built environment. Forms of commercial and industrial development, given their location as either integral parts to, or on the edge of, town centres particularly contribute to setting a design keynote that is an important determinant of place. SPP7.0 contains provisions that relate specifically to achieving effective design as follows:

- *New development should integrate into its landscape/townscape setting, reinforcing local distinctiveness and responding sympathetically to local building forms and patterns of development. Building materials, construction techniques and details should, where appropriate, enhance local distinctiveness.*
- *The orientation, proportion, composition, and articulation of built form elements should deliver an outcome that is suited to the purpose, defines the public domain, contributes to the character of adjacent streetscapes and parks, and provides good amenity for people at ground level.*
- *A well-conceived design addresses all scales, from the articulation of building form through to the selection and detailing of materials and building elements, enabling sophisticated, integrated responses to the character of the place.*
- *In assessing design quality, consideration of aesthetics should not be limited to style and appearance; the coherence of the design concept and the cultural relevance of the proposal should also be taken into account.*

These are in turn supported in the Local Planning Framework, where under Clause 67 of the Deemed Provisions of the Scheme, the development assessment is required to have due regard to the following matters:

- *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;*



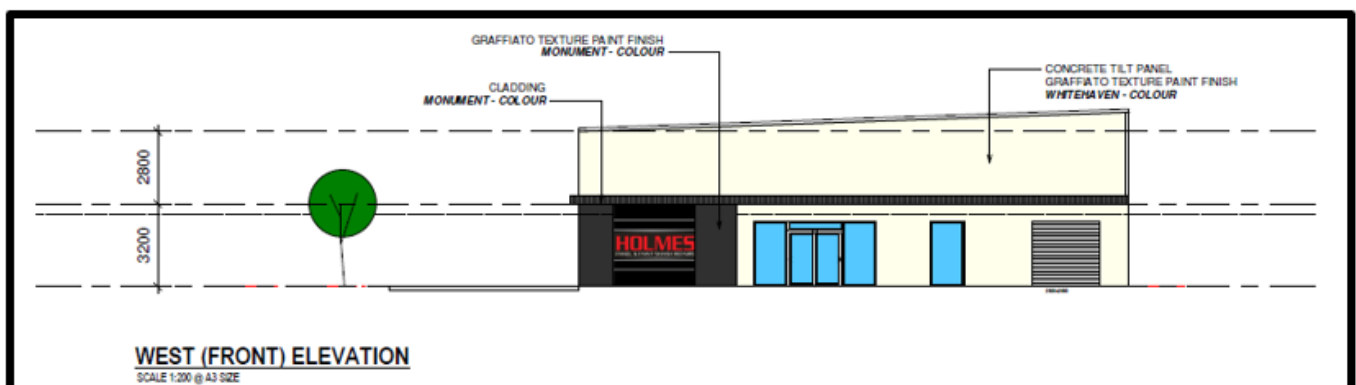
- the amenity of the locality including the following -
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;

This provides a strong grounding to consider how the design of the development contributes to an effective built form outcome.

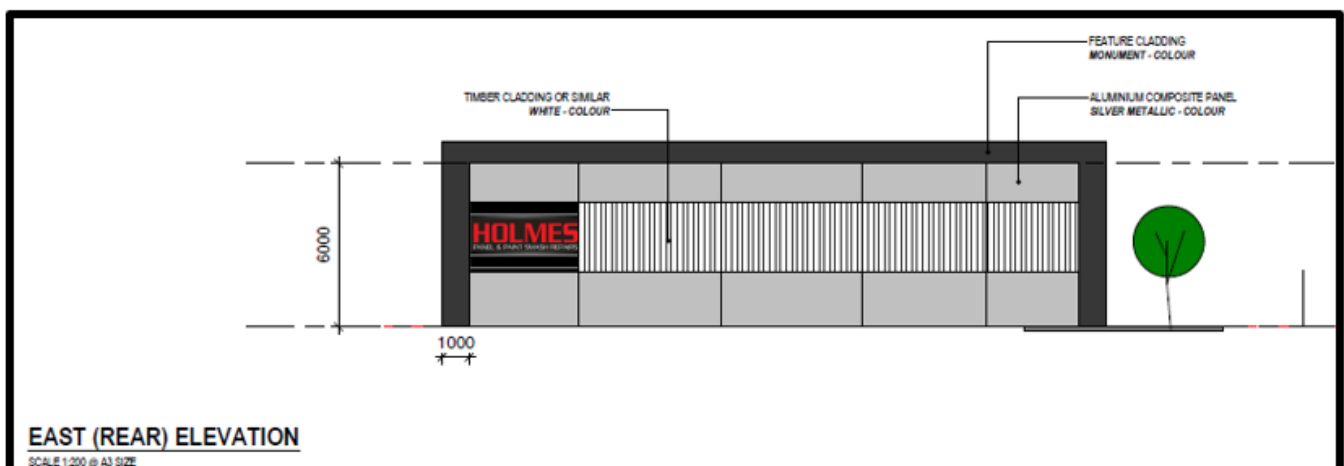
The proposed design for both 'Lot 2' and 'Lot 3' has been prepared with a focus on addressing the primary frontages, being Robertson Road and South Western Highway. The northern and southern aspects will front onto existing and future development and would not be visible from surrounding street frontages in the future. The proposed 'Lot 2' façade facing Robertson Road is fairly typical design expected of a Mixed Business estate. The building presents a clearly defined pedestrian entry point and incorporates vertical and horizontal framing elements to break-up the visual impact of bulk of the building.

The interface with South Western Highway incorporates more detailed design elements as this interface presents more directly to adjacent residential development on the eastern side of South Western Highway. The inclusion of framing elements, use of timber cladding presents a design that more strongly represents the elements of local rural character and builds on the high standard of design required by the National Storage building adjoining on the northern boundary.

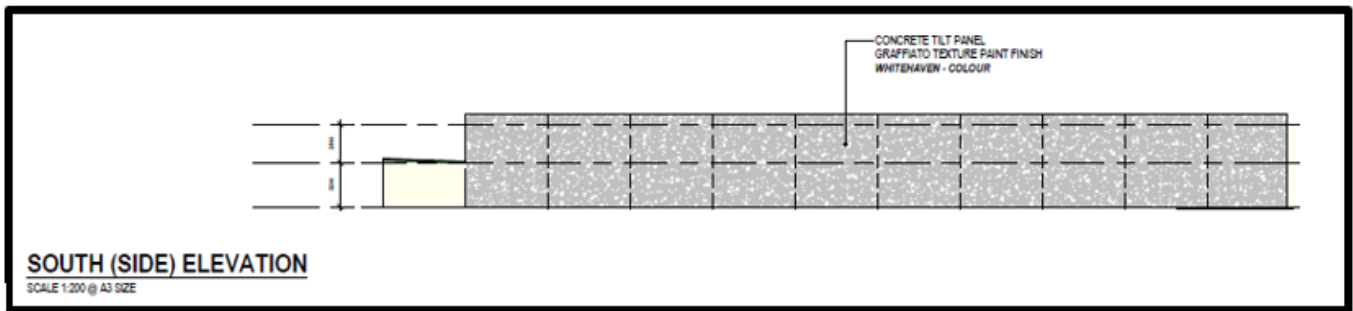
The elevation plans for 'Lot 2' are shown below.



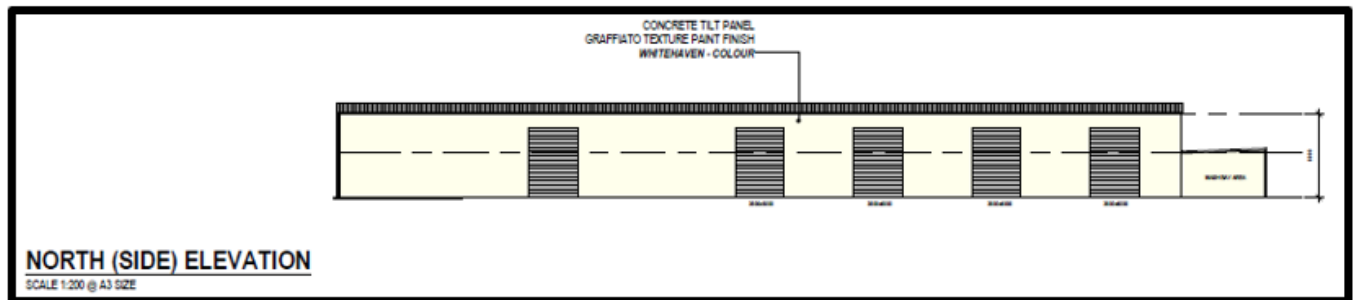
Robertson Road Elevation



South Western Highway Elevation



Southern Elevation (Facing 'Lot 3')



Northern Elevation (Facing National Storage)

In terms of the Lot 2 interface to South Western Highway, the frame of the building can be extended slightly out to offer a more prominent contrast to the face of the building. This is similar to the following image. This will help create an aesthetic edge to the Highway, through enrichment of an essential frame component of the building, which Officers consider provides a reassuring sense of good design aesthetic for this important gateway into Byford. This design change is relatively minor and can be conditioned.

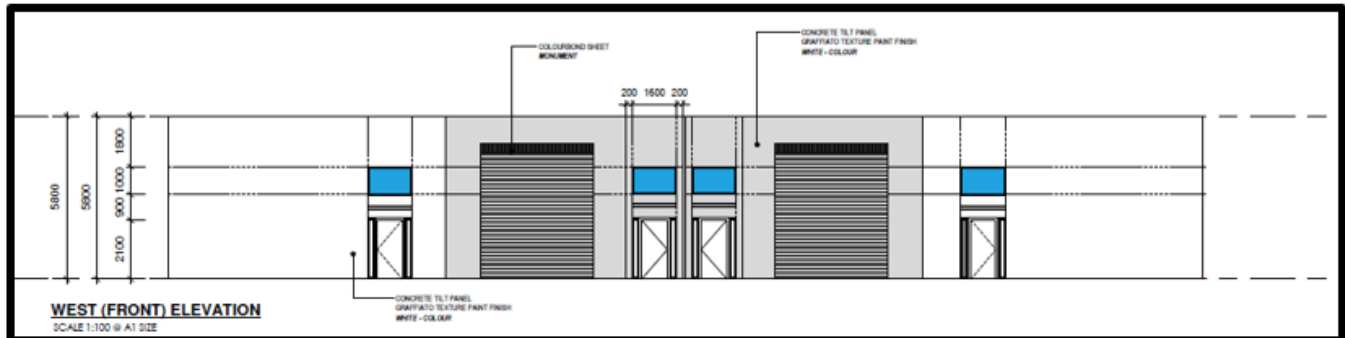


The proposed design for 'Lot 3' presents a much more industrial presentation to the Robertson Road frontage. The building is dominated by blank walls and roller doors, with minimal windows and interaction to the streetscape. Officers have recommended a condition of approval seeking modification to Robertson Road façade for 'Lot 3' to reduce the building bulk of the development from the streetscape.

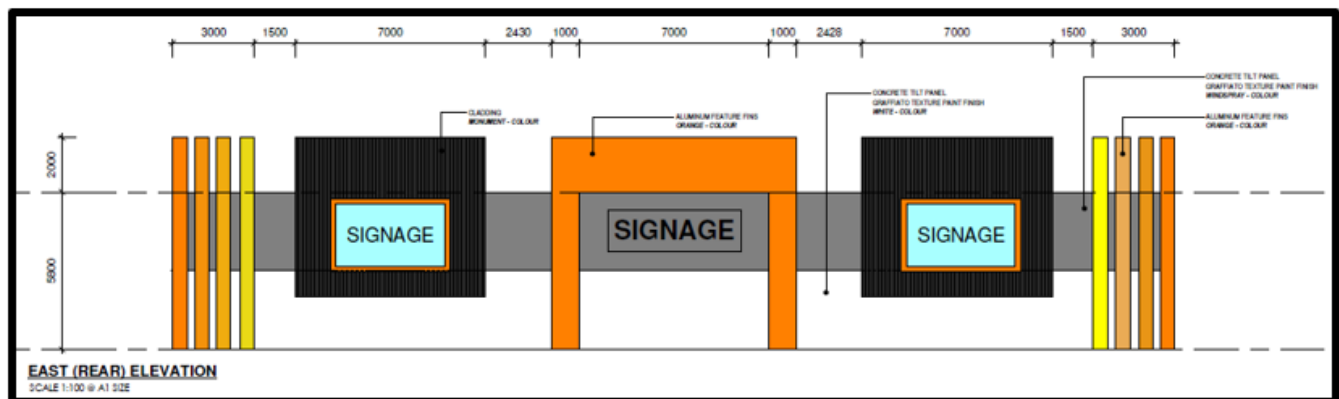


The building presentation to South Western Highway features a significantly higher quality in design and incorporates strong vertical elements, a diversity in colour and materials and the use of projection to break up the visual bulk and appearance of the building.

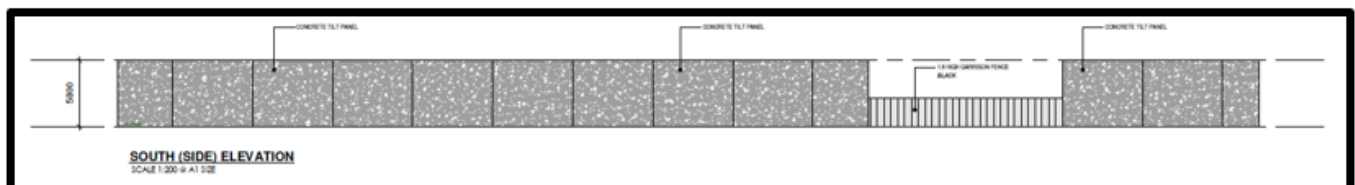
The elevation plans for 'Lot 3' are shown below.



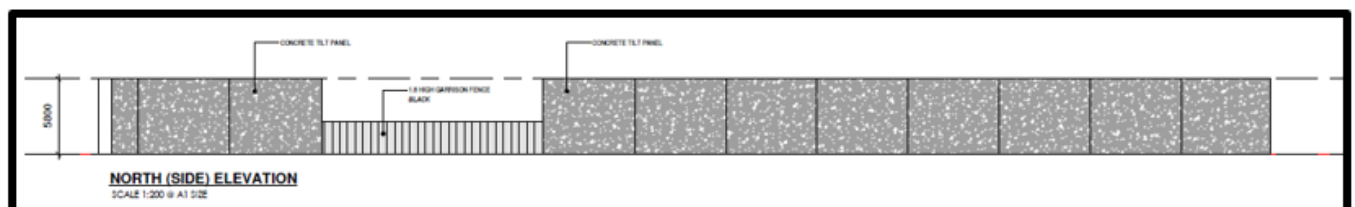
Robertson Road Elevation



South Western Highway Elevation

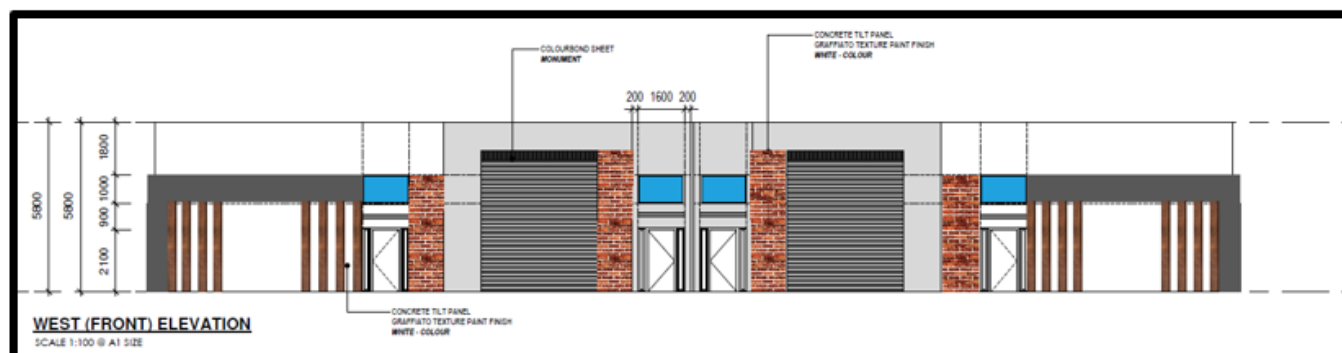


Southern Elevation



Northern Elevation (Facing 'Lot 2')

In terms of the recommended condition for design amendments to the Roberson Street façade, Officers have provided a sketch of possible design amendments below. Notably, the mockup includes a mix of materials that reflect rural character such as recycled brick and timber and includes both vertical and horizontal elements to break up the visual bulk of the building.



Concept Design for 'Lot 3' Façade to Robertson Road

Overall, Officers are satisfied with the design and presentation of the proposed buildings, subject to:

1. The South Western Highway elevation of the Lot 2 building including a prominent extension to the surrounding frame component to help enrich this feature and create a more aesthetically interesting design;
2. Some minor improvements to the Robertson Road façade of 'Lot 3' building to include a mix of materials that reflect rural character such as recycled brick and timber to both vertical and horizontal elements.

Car Parking

Table V of TPS2 sets out the parking requirements for specific land uses. The car parking requirements for each use and number of car parking bays proposed have been summarised in the table below.

Land use	TPS2 requirement	LPS3 requirement	Proposed	Compliance
Automotive Repairs	No requirements	N/A	31 bays	N/A
Industry Light	10 bays 1 space per 50 square metres Gross Leasable Area	No requirements	7 bays	TPS2: No LPS3: Yes
Showroom (TPS2) Bulky Good Showroom (LPS3)	10 bays 1 space per 60 square metres Gross Leasable Area	15 bays 1 bay per 40m ² of NLA	12 bays	TPS2: Yes LPS3: No
Warehouse (TPS2) Warehouse/Storage (LPS3)	11 bays 1 space per 100 square metres gross leasable area	14 bays 1 bay per 80m ² of NLA	29 bays	TPS2: Yes LPS3: Yes
Totals	31 bays	29 bays	78 bays	TPS2: 47 bay surplus LPS3: 49 bay surplus



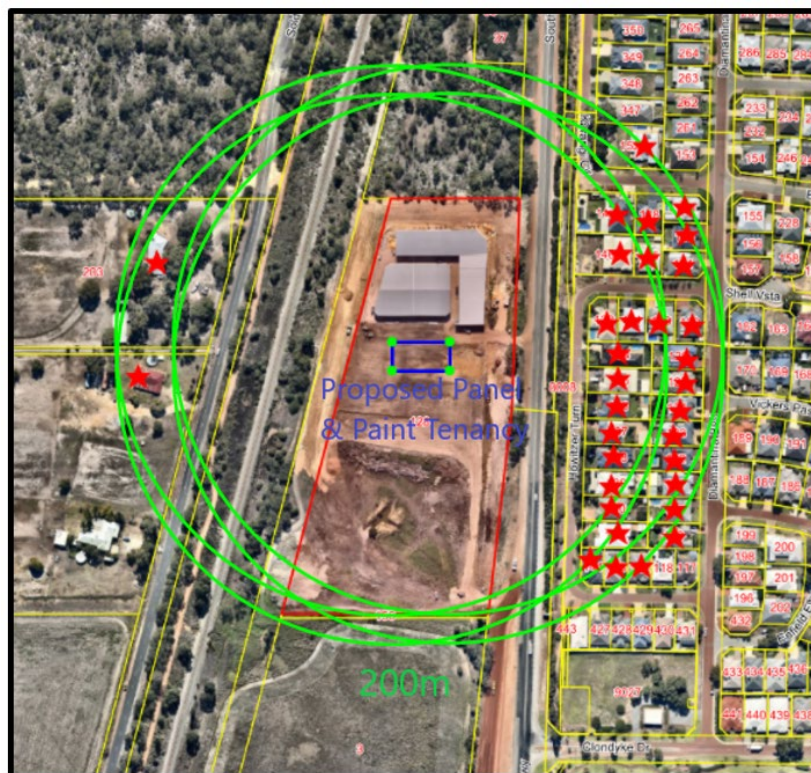
While the calculations would indicate a shortfall in parking provision for the 'Industry Light' use under TPS2 and 'Bulky Goods Showroom' use under LPS3, the proposal is designed to allow shared use of parking facilities. Given the overall surplus in parking bays it is unlikely that parking availability for any individual use or tenancy will be an issue.

Traffic and Access

The application was accompanied with a Transport Impact Statement (TIS) to account for traffic impacts resulting from the development. The TIS builds on the Traffic Assessment undertaken as part of a previous stage of development, accounting for additional traffic volumes, site access and maneuvering within the site. The TIS estimates the proposed development would result in an additional 342 vehicular trips per day, 42 of which would occur during the peak hour periods, being between 8:00am – 9:00am and 4:00pm – 5:00pm. These volumes align with the anticipated traffic volumes for the overall estate by 2031, being 1,592 vehicle trips per day, 273 occurring across the peak hour periods. Officers consider the TIS demonstrates the proposed development aligns with the Traffic Assessment undertaken as part of earlier stages of development and will not place undue stress on the surrounding local and regional road network.

Amenity

The proposed development entails a tenancy intended to provide automotive vehicle repair services, as well as panel beating and spray painting, which poses the potential for amenity impacts by means of noise, odour and air quality impacts. The Environmental Protection Authority Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses, provides recommendation for a 200m separation distance between both automotive spray painting and motor body works operations, and sensitive land uses. The proposed development only achieves a separation distance of approximately 86m from the nearest sensitive land use, being residential dwellings on the eastern side of South Western Highway, as shown below.



Separation Distance to Sensitive Receptors



There are 33 sensitive receptors located within the recommended 200m buffer setback, which may increase in the future as the land on the western side of the railway corridor is intended for future residential development.

Notwithstanding the number of sensitive receptors within the recommended buffer, the guideline provides for a reduction to the buffer on a case-by-case basis dependant on expert reports being prepared to demonstrate the impacts will not exceed acceptable levels. The applicant has provided the Shire with Acoustic advice and an Environmental and Air Quality Assessment to demonstrate the proposal, with a reduced separation distance to sensitive receptors, would not result in an undue impact on the health and amenity of those sensitive receptors within the 200m buffer area. In order to achieve this, the Acoustic advice makes some recommendations, namely the construction of a noise wall along the South Western Highway boundary, to a height of 2.9m, and a Noise Management Plan being required as a condition of approval. Officers have recommended a condition of approval requiring a Noise Management Plan being prepared and approved prior to a building permit being lodged. The assessment of noise undertaken by the acoustic consultant is extracted following, and Officers recommend conditions to capture these requirements:

Assessment of Noise Levels

The nearest carparking bays are located approximately 80 metres from the closest residential building. Based on this distance, the noise associated with car doors closing is predicted to be approximately 46dB(A) at the nearest residential premises. This complies with the daytime assigned noise levels from Table 1 but exceeds the evening and night-time levels.

Noise associated with the automotive repair workshop inside the building is likely to be in the order of approximately 80dB(A). Extrapolating this level to the nearby residential premises with the inclusion of distance attenuation, reverberant field to free field attenuation and directivity, the resultant noise level is approximately 50dB(A) with doors open, without the application of tonality correction. This noise level would significantly reduce with the main roller doors closed.

It is recommended that the site operations be required to be restricted to 7am to 7pm Monday to Saturday to ensure compliance with the daytime assigned noise levels. In addition, closing the roller doors adjacent to the paint shop will provide additional attenuation to the automotive repair workshop. These would represent immediate management options for the operations, to address noise. However, it is also recommended that a Noise Management Plan be conditioned to be undertaken prior to finalising construction plans. The noise management plan will be required to investigate the following additional treatment measures:

- The requirement of any acoustic shielding around roof and wall mounted exhaust extraction systems including heights, and locations to ensure compliance with the assigned noise levels;
- The construction of an acoustic wall of minimum height of 2.9m being constructed of recycled facebrick materials, in the area shown in 'red' below which will also tie in to the facebrick elevation of the northern adjoining development. The NMP will provide details as to the attenuation provided by this wall;



- that the factory units be required to contain all noise impacts at all times, so as to ensure such impacts do not extend beyond the property boundaries of the land. This being a requirement of the definition of Light Industry under the Scheme;
- that the factory units will only be permitted to be tenanted for light industry use, which by definition does not allow any uses with external offsite impacts (noise or any other impact);

In terms of air emissions, the applicant submitted an Air Emissions Assessment undertaken by EAQ Consulting which identified that air emissions would most likely be generated from spray painting activities associated with the Automotive Repairs' land use proposed to occur onsite. The emissions would comprise of atomised paints and solvents that are applied to the vehicles.

This spray painting is proposed to occur within a purpose built spray booth constructed to Australian Standard AS/NZS 4114.2: Spray Painting Booths. The booth will be kept under negative pressure to ensure that the internal aerosols are trapped and cannot escape through fugitive leaks.

The contained aerosol atoms are then passed through spray booth exhaust filtering systems which remove nuisance particles before the cleaned aerosols are ejected from the spray booth through a roof top stack. The emissions that are released have been identified within the assessment as being free of liquid paint (overspray) and particles, leaving only a small amount of residual paint fume odour.

The assessment concludes that based on the location of the sensitive receptors, the metrology of the area and the exhaust filtering systems of the spray booth, the likelihood of air emissions being released through the stack causing adverse amenity impacts to the surrounding locality is 'Rare'. Notwithstanding this, Officers have recommended an updated Air Emissions Assessment be submitted within six months of occupation of the development which includes real time monitoring data of the development over this time to demonstrate that the development has not impacted upon the air quality of the nearby sensitive receptors causing adverse impacts.

Local Planning Policy 2.4 - Water Sensitive Design

LPP2.4 aims to maximise water efficiency by encouraging best practice urban water management methods. The policy aims to ensure water sensitive design best management practices are implemented for new developments with the Shire.



A Stormwater Management Plan will be required, demonstrating how the stormwater incident to the site is managed, having regard for the principles of water sensitive design under LPP2.4, as well as advice received from the DWER. This has been recommended to be provided before lodgement of a building permit, as a condition of approval.

Options and Implications

Option1

That Council APPROVES the development application for a Vehicle Repair, Warehouse, Light Industry and Showroom development at Lot 128 South Western Highway, Byford, as contained within **attachment 1** in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* 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 (Development Plans) received at the Shire's Offices on 22 February 2021; P2 (Transport Impact Statement) received at the Shire's Offices on 22 April 2021; P3 (Acoustic Advice) received at the Shire's Offices on 23 June 2021; P4 (Air Emission Assessment) received at the Shire's Offices on 5 May 2021; P5 (Stormwater Management Plan) received at the Shire's Offices on 5 May 2021; P6 (Waste Management Plan) received at the Shire's Offices on 5 May 2021; and P7 (Bushfire Management Plan) received at the Shire's Offices on 22 February 2021.
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- b. Prior to issue of a Building Permit, engineering drawings shall be submitted to and approved by the Shire for the extension of Robertson Road as shown on the approved plans. Robertson Road must be constructed to an appropriate urban standard for the full frontage of the land (including an appropriate fully built temporary cul-de-sac head at the southern extent of the site), to the satisfaction of the Shire. Once approved, the works shall be undertaken in accordance with the approved plans prior to occupation, to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. Prior to issue of a Building Permit, a Landscape Management Plan shall be submitted to and approved by the Shire. The Landscape Management Plan shall include the following detail to the satisfaction of the Shire:
- The location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - Any lawns to be established;
 - Any natural landscape areas to be retained;
 - Those areas to be reticulated or irrigated; and



v. Verge treatments.

The landscaping must be completed prior to the occupation of the development and must be maintained at all times to the satisfaction of the Shire of Serpentine Jarrahdale.

- d. Prior to issue of a Building Permit, details are to be submitted setting out how the provision of per cent for art will be undertaken on-site, in accordance with Local Planning Policy 1.6 - Public Art for Major Developments, to the satisfaction of the Shire of Serpentine Jarrahdale.
- e. Prior to issue of a Building Permit, a Dust Management Plan shall be submitted to and approved by the Shire. The Dust Management Plan must be prepared in accordance with the DWER's guideline for the development and implementation of a dust management program, to the satisfaction of the Shire. All works must be carried out in accordance with the Dust Management Plan, for the duration of the construction period.
- f. Plans submitted for a Building Permit are to demonstrate a minimum of 10 short-term bicycle parking facilities being designed and provided in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities. The bicycle parking spaces must be constructed prior to the occupation of the development, and must be thereafter maintained to the satisfaction of the Shire.
- g. All illumination must be confined to the land in accordance with the requirements of Australian Standard AS 4282—1997, Control of the obtrusive effects of outdoor lighting, at all times, for the duration of the development.
- h. The carpark must:
 - i. be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval;
 - ii. include 78 bays, all of which are appropriately signed and marked to show their intended use;
 - iii. include two car parking space dedicated to people with disability designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
 - iv. be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;
 - v. have lighting installed, prior to the occupation of the development.

The car park must comply with the above requirements for the duration of the development.

- i. Prior to the lodgement of a building permit application, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Noise Management Plan must address the following requirements as per the acoustic assessment submitted with the original application:
 - The requirement of any acoustic shielding around roof and wall mounted exhaust extraction systems including heights, and locations to ensure compliance with the assigned noise levels;
 - The construction of an acoustic wall of minimum height of 2.9m being constructed of recycled facebrick;



- The factory units being designed to contain all noise impacts at all times, so as to ensure such impacts do not extend beyond the property boundaries of the land;
- The factory units only being permitted to be tenanted for light industry use.

The NMP must also demonstrate how noise generated from the Automotive Repairs, Spray Painting and Panel Beating activities will be mitigated to an acceptable level at all times, to the satisfaction of the Shire of Serpentine Jarrahdale.

- j. Within six months of commencement of spray painting activities associated with the 'Vehicle Repair' land use, an updated Air Emission Assessment shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The updated Air Emissions Assessment is required to assess emissions generated from the development across the first six months of operations and demonstrate that it has not impacted upon pre-development air quality levels, to the satisfaction of the Shire. The updated Air Emissions Assessment must include mitigation recommendations in the instance emissions have impacted upon the existing level of air quality.
- k. Prior to issue of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Signs and include information to demonstrate:
 - i. Signage shall not be electronic / digital format;
 - ii. Any proposed illumination of signage must not exceed 300cd.m² (candela per square metre) between sunset and sunrise;
 - iii. The proposed signage must not flash, pulsate or chase; and
 - iv. The device must not contain fluorescent, reflective or retro reflective colours or materials.Once approved, signage shall be displayed and maintained in accordance with the strategy.
- l. Prior to occupation of the buildings, the intersection of Robertson Road and South Western Highway must be designed and constructed at the applicant's cost. All vehicular access shall be via Robertson Road.
- m. No development and/or improvements shall be permitted on the land as shown required for future road purposes on Main Roads Land Protection Plan 201232-0008 and 201232-0009.
- n. The future Orton Road as nominated on any plans shall not form part of this approval.
- o. Any vehicle crossover(s) or gates to South Western Highway are to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or to the specifications of the local government.
- p. Bushfire Management Plan section 5.1.2.2 shall be amended to refer to 'local roads', rather than 'public roads'.
- q. The landowner/applicant shall make good any damage to the existing verge within the South Western Highway road reserve. No earthworks shall encroach onto the South Western Highway road reserve. Stormwater discharge shall not exceed pre-development discharge to the South Western Highway road reserve.
- r. Prior to issue of a Building Permit application, revised elevation plans being submitted to and approval by the Shire demonstrating the following design changes to the satisfaction of the Shire:



- The South Western Highway elevation of the Lot 2 building including a prominent extension to the surrounding frame component to help enrich this feature and create a more aesthetically interesting design;
- In respect of the Robertson Road façade of 'Lot 3' building, the addition of a mix of materials that reflect rural character such as recycled brick and timber to both vertical and horizontal elements.
- s. Prior to the lodgement of a Building Permit application, a Colours and Materials schedule must be submitted to the Shire of Serpentine Jarrahdale for approval. The Colours and Materials Schedule must incorporate the rural tones and characteristics of the Shire and be sympathetic to nearby residential development to the east.
- t. The operation times of the Vehicle Repair use are to be restricted to only between 7am to 7pm Monday to Friday, and between 7am to 5pm on Saturday, to the satisfaction of the Shire of Serpentine Jarrahdale.

Option 2

That Council APPROVES the development as per Option 1, however with a modified condition t. which limits operation times on Monday to Friday to match that on Saturday (7am to 5pm instead of 7am to 7pm).

Option 3

That Council REFUSES the proposed development and provides reasons for the decision.

Option 1 is recommended.

Conclusion

The proposed development seeks approval for development (Vehicle Repair, Warehouse, Light Industry and Showroom) to be located within an area designated as 'Mixed Business within the approved LSP for the site. The proposed development subject to specific conditions to address issues in respect to noise, design and traffic (as requested by Main Roads WA) are considered appropriate by Officers and approval is recommended.

Attachments (available under separate cover)

- **10.1.6 – attachment 1** – Development Plans (E21/5372)
- **10.1.6 – attachment 2** – Summary of Submissions (E21/3851)
- **10.1.6 – attachment 3** – Clause 67 Checklist (E21/2718)
- **10.1.6 – attachment 4** – Transport Impact Statement (IN21/10960)
- **10.1.6 – attachment 5** – Air Emissions Assessment (E21/5370)
- **10.1.6 – attachment 6** – Bushfire Management Plan (E21/5371)
- **10.1.6 – attachment 7** – Acoustic Advice (E21/7399)



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	This option does not raise any significant risks that haven't otherwise been addressed through conditions.						
2	Council imposes a more restrictive set of operating hours than that recommended by the planning assessment and the submitted acoustic report.	Planning Framework.	Reputation	Possible	Minor	MODERATE	Ensure that reasons for a more restrictive set of operating hours are based upon valid planning reasons
3	That Council refuses the development application which results in a SAT request for written review by the applicant.	Reasons for refusal reflecting valid planning matters	Reputation	Possible	Minor	MODERATE	Ensure that reasons for refusal are based on valid planning reasons

**Voting Requirements:** Simple Majority**OCM179/07/21****COUNCIL RESOLUTION / Officer Recommendation****Moved Cr Strautins, seconded Cr McConkey**

That Council **APPROVES** the development application for a Vehicle Repair, Warehouse, Light Industry and Showroom development at Lot 128 South Western Highway, Byford, as contained within attachment 1 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* 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 (Development Plans) received at the Shire's Offices on 22 February 2021; P2 (Transport Impact Statement) received at the Shire's Offices on 22 April 2021; P3 (Acoustic Advice) received at the Shire's Offices on 23 June 2021; P4 (Air Emission Assessment) received at the Shire's Offices on 5 May 2021; P5 (Stormwater Management Plan) received at the Shire's Offices on 5 May 2021; P6 (Waste Management Plan) received at the Shire's Offices on 5 May 2021; and P7 (Bushfire Management Plan) received at the Shire's Offices on 22 February 2021.
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- b. Prior to issue of a Building Permit, engineering drawings shall be submitted to and approved by the Shire for the extension of Robertson Road as shown on the approved plans. Robertson Road must be constructed to an appropriate urban standard for the full frontage of the land (including an appropriate fully built temporary cul-de-sac head at the southern extent of the site), to the satisfaction of the Shire. Once approved, the works shall be undertaken in accordance with the approved plans prior to occupation, to the satisfaction of the Shire of Serpentine Jarrahdale.
- c. Prior to issue of a Building Permit, a Landscape Management Plan shall be submitted to and approved by the Shire. The Landscape Management Plan shall include the following detail to the satisfaction of the Shire:
- The location, number and type of existing and proposed trees and shrubs, including calculations for the landscaping area;
 - Any lawns to be established;
 - Any natural landscape areas to be retained;
 - Those areas to be reticulated or irrigated; and
 - Verge treatments.



The landscaping must be completed prior to the occupation of the development and must be maintained at all times to the satisfaction of the Shire of Serpentine Jarrahdale.

- d. Prior to issue of a Building Permit, details are to be submitted setting out how the provision of per cent for art will be undertaken on-site, in accordance with Local Planning Policy 1.6 - Public Art for Major Developments, to the satisfaction of the Shire of Serpentine Jarrahdale.
- e. Prior to issue of a Building Permit, a Dust Management Plan shall be submitted to and approved by the Shire. The Dust Management Plan must be prepared in accordance with the DWER's guideline for the development and implementation of a dust management program, to the satisfaction of the Shire. All works must be carried out in accordance with the Dust Management Plan, for the duration of the construction period.
- f. Plans submitted for a Building Permit are to demonstrate a minimum of 10 short-term bicycle parking facilities being designed and provided in accordance with AS2890.3—1993, Parking facilities, Part 3: Bicycle parking facilities. The bicycle parking spaces must be constructed prior to the occupation of the development, and must be thereafter maintained to the satisfaction of the Shire.
- g. All illumination must be confined to the land in accordance with the requirements of Australian Standard AS 4282—1997, Control of the obtrusive effects of outdoor lighting, at all times, for the duration of the development.
- h. The carpark must:
 - i. be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004, Parking facilities, Part 1: Off-street car parking unless otherwise specified by this approval;
 - ii. include 78 bays, all of which are appropriately signed and marked to show their intended use;
 - iii. include two car parking space dedicated to people with disability designed in accordance with Australian/New Zealand Standard AS/NZS 2890.6:2009, Parking facilities, Part 6: Off-street parking for people with disabilities, linked to the main entrance of the development by a continuous accessible path of travel designed in accordance with Australian Standard AS 1428.1—2009, Design for access and mobility, Part 1: General Requirements for access—New building work;
 - iv. be constructed, sealed, kerbed, drained and marked prior to the development being occupied and maintained thereafter;
 - v. have lighting installed, prior to the occupation of the development.

The car park must comply with the above requirements for the duration of the development.

- i. Prior to the lodgement of a building permit application, a Noise Management Plan shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The Noise Management Plan must address the following requirements as per the acoustic assessment submitted with the original application:
 - The requirement of any acoustic shielding around roof and wall mounted exhaust extraction systems including heights, and locations to ensure compliance with the assigned noise levels;
 - The construction of an acoustic wall of minimum height of 2.9m being constructed of recycled facebrick;



- The factory units being designed to contain all noise impacts at all times, so as to ensure such impacts do not extend beyond the property boundaries of the land;
- The factory units only being permitted to be tenanted for light industry use.

The NMP must also demonstrate how noise generated from the Automotive Repairs, Spray Painting and Panel Beating activities will be mitigated to an acceptable level at all times, to the satisfaction of the Shire of Serpentine Jarrahdale.

- j. Within six months of commencement of spray painting activities associated with the 'Vehicle Repair' land use, an updated Air Emission Assessment shall be submitted to and approved by the Shire of Serpentine Jarrahdale. The updated Air Emissions Assessment is required to assess emissions generated from the development across the first six months of operations and demonstrate that it has not impacted upon pre-development air quality levels, to the satisfaction of the Shire. The updated Air Emissions Assessment must include mitigation recommendations in the instance emissions have impacted upon the existing level of air quality.
- k. Prior to issue of a Building Permit, a Signage Strategy must be submitted to and approved by the Shire of Serpentine Jarrahdale in consultation with Main Roads. The Strategy shall demonstrate compliance with Local Planning Policy 4.11 - Advertising Signs and include information to demonstrate:
 - i. Signage shall not be electronic / digital format;
 - ii. Any proposed illumination of signage must not exceed 300cd.m² (candela per square metre) between sunset and sunrise;
 - iii. The proposed signage must not flash, pulsate or chase; and
 - iv. The device must not contain fluorescent, reflective or retro reflective colours or materials.Once approved, signage shall be displayed and maintained in accordance with the strategy.
- l. Prior to occupation of the buildings, the intersection of Robertson Road and South Western Highway must be designed and constructed at the applicant's cost. All vehicular access shall be via Robertson Road.
- m. No development and/or improvements shall be permitted on the land as shown required for future road purposes on Main Roads Land Protection Plan 201232-0008 and 201232-0009.
- n. The future Orton Road as nominated on any plans shall not form part of this approval.
- o. Any vehicle crossover(s) or gates to South Western Highway are to be removed and the kerbing, verge, and footpath (where relevant) reinstated with grass or to the specifications of the local government.
- p. Bushfire Management Plan section 5.1.2.2 shall be amended to refer to 'local roads', rather than 'public roads'.
- q. The landowner/applicant shall make good any damage to the existing verge within the South Western Highway road reserve. No earthworks shall encroach onto the South Western Highway road reserve. Stormwater discharge shall not exceed pre-development discharge to the South Western Highway road reserve.



- r. Prior to issue of a Building Permit application, revised elevation plans being submitted to and approval by the Shire demonstrating the following design changes to the satisfaction of the Shire:**
 - The South Western Highway elevation of the Lot 2 building including a prominent extension to the surrounding frame component to help enrich this feature and create a more aesthetically interesting design;**
 - In respect of the Robertson Road façade of 'Lot 3' building, the addition of a mix of materials that reflect rural character such as recycled brick and timber to both vertical and horizontal elements.**
- s. Prior to the lodgement of a Building Permit application, a Colours and Materials schedule must be submitted to the Shire of Serpentine Jarrahdale for approval. The Colours and Materials Schedule must incorporate the rural tones and characteristics of the Shire and be sympathetic to nearby residential development to the east.**
- t. The operation times of the Vehicle Repair use are to be restricted to only between 7am to 7pm Monday to Friday, and between 7am to 5pm on Saturday, to the satisfaction of the Shire of Serpentine Jarrahdale.**

CARRIED UNANIMOUSLY 8/0



10.1.7 – Proposed Privacy Screen - Lot 3, 1098 Orton Road, Cardup (PA21/344)	
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 (e.g. 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:	Susan O'Grady
Owner:	Susan O'Grady
Date of Receipt:	22 April 2021
Lot Area:	2.033 hectares
Town Planning Scheme No 2 Zoning:	'Special Rural'
Metropolitan Region Scheme Zoning:	'Rural'

Report Purpose

The purpose of this report is for Council to consider a development application for a proposed 2.1m high hessian and bamboo privacy screen at Lot 3, 1098 Orton Road, Cardup. A portion of the proposed 55m privacy screen, approximately 35m, has already been constructed.

The application is presented to Council as an objection was received during the advertising process relating to the materials associated with the privacy screen and its impact on bushfire. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or through the imposition of planning conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

For the reasons outlined in the report, it is recommended that Council approve the development application subject to conditions as the development is not considered to adversely impact upon the rural amenity of the area or result in an unacceptable bushfire risk.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this application.

BackgroundExisting Development

The subject lot is located within a rural residential area of Cardup. The site is currently developed for the purpose of rural residential living and equine related uses, typical of the broader Cardup area. A post and rail boundary fence runs the full extent of the west and east shared boundaries.



An existing privacy screen has been constructed on the property, as highlighted in Image 1 below. The privacy screen is approximately 35m in length and 2.1m in height. It is constructed of a standard metal frame, combined with a layer of hessian material and bamboo sheeting. The existing privacy screen has been measured by Officers as being set back 3.3m from the western lot boundary (as opposed to 4.5m depicted on the submitted site plan). The existing privacy screen can be viewed within Image 2:



Image 1: The existing extent of fence (yellow) and proposed section (blue)



Image 2: An existing section of the fence showing the metal frame, hessian material and bamboo sheeting



Proposed Development

The application seeks approval for a 55m privacy screen of which 35m has already been constructed. The privacy screen will be 2.1m in height from natural ground level, comprise of a metal frame and a combination of bamboo sheets and hessian material. The privacy screen will be located behind the existing post and rail dividing fence.

The existing portion of the privacy screen is set back 3.3m from the boundary and the additional portion not yet constructed has been proposed at a setback of 5.5m the full details of the proposal are contained within **attachment 1**.

The privacy screen will provide an additional layer of privacy for the landowner when undertaking activities on the property.

Community / Stakeholder Consultation

The application was advertised to adjacent landowners for a period of 21 days from 22 April 2021 to 13 May 2021, in accordance with Local Planning Policy 1.4 – Public Consultation for Planning Matters (LPP1.4). During the consultation period, one submission was received objecting to the proposal. The objection relates to concerns in relation to increased fire risk due to the length and use of materials and the setback of existing fence depicted within the proposed site plan.

The concerns raised in the objection are addressed under the relevant headings of the report. The full submission with the applicant's comment and Officer response is contained within **attachment 2**.

Statutory Environment

Legislation

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

State Government Policies

- State Planning Policy 7.3: Residential Design Codes Volume 1
- SPP3.7 – Planning in Bushfire Prone Areas

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)
- Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3)
- Rural Strategy Review 2013
- Shire of Serpentine Jarrahdale Fences Local Law
- Shire of Serpentine Jarrahdale Firebreak Control Notice Booklet 2020/2021

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 2**. 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 proposal is incidental to the existing 'Residential – Single House' land use. The subject site is zoned 'Special Rural' in accordance with TPS2 where the 'Residential – Single House' land use is a permitted land use.

TPS2

Clause 5.9.1 of TPS2 states *"The purpose and intent of the Special Rural Zone is to depict places within the rural area wherein closer subdivision will be permitted to provide for such uses as hobby farm, horse training and breeding, rural residential retreats and intensive horticulture, and also to make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of the selected areas."*

The subject site, as previously stated, has been developed for residential purposes and equine activity. The proposal is considered incidental to these existing uses and in turn consistent with the objective of the zone.

Form of Development and Amenity

Schedule 2, Part 9, Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, m) and n) require that consideration be given to the consistency of the built form within the locality and consideration for any adverse impacts to amenity.

The site has a density coding of R2 as prescribed under TPS2. An R2 density coding under the R-Codes requires a 10m lot boundary setback for all buildings associated with residential development. Proposals which typically vary this are required to be assessed against the deemed-to-comply requirements and design principles of the R-Codes.

The privacy screen however, is not considered a building under the definitions of the R-Codes and therefore the deemed-to-comply and the design principles of the R-Codes don't specifically apply or considered relevant given the different impacts of a building and the proposal. Therefore, the proposal will need to be assessed on its merits to ensure compatibility of the development with its surrounding as per the 'Deemed Provisions'.

In determining the compatibility of the development, consideration needs to be given to the expected and existing level of amenity afforded to the occupants of the adjoining property and the impacts, if any, the development may have upon this. In this regard, although the development falls outside the specific provisions the R-Codes, it still sets the desired expectation of the form of development, which includes setbacks from lot boundaries. A 10m setback under the R2 provisions within rural areas provides for an expected level of amenity that comprises of openness, space and privacy.

Officers consider as the development is not considered a 'building' under the R-Codes and as it does not have the form (scale, height, bulk) of a typical building, the proposed development is less likely to impact upon the expected level of amenity of the area. Therefore, providing a high degree of acceptability that the proposal, set back at 3.3m - 5.5m from the boundary would not result in adverse visual amenity impacts upon the adjoining property by way of 'bulk' of a visual perception of overbearing.

In terms of existing level of amenity, the area of the neighbouring property directly adjoining the development, contains a large outbuilding, sea containers, water tank and a fire break which runs the length of the boundary. A dwelling is located further east of these structures. It appears that these structures and buildings already obstruct the property's views to the east. This area is not considered as an outdoor area directly associated with the use of the existing dwelling onsite.



The track located on this shared boundary is commonly used as a track to access the equine activities occurring to the rear of the site. Officers consider that the area has a diminished level of visual amenity in contrast to the site more broadly.



Figure 3: Neighbour's development offers screening to the majority of the fence structure and the dwelling is not oriented towards the fence

Furthermore, Council should note, the privacy screen would be located within the neighbouring property's side view. The existing dwelling on the property is orientated in an east-west direction, with open unfiltered views from the dwelling's direct outdoor area and habitable rooms to the north and south (refer to above image). Side views are typically not given significant weight when assessing impacts upon the visual amenity of an area resulting from a proposed development.

In terms of the materials of the privacy screen, it comprises of both bamboo and a brown hessian material. Officers consider that the material and colours visually are compatible with the surrounding environment, as it is reflective of the earthy tones of the rural area. The privacy screen would be made of metal frame, however, this would be screen by the bamboo and hessian materials. Officers consider the materials of the privacy screen are acceptable.

An objection, however, was received relating to the privacy screen and the potential for the materials of the fence to increase the risk of fire. In this regard, Officers note that the hessian material proposed is a material that would burn in the event of a fire, however, is not considered to increase ignition risk. In terms of the broader planning framework, *State Planning Policy 3.7: Planning in Bushfire Prone Areas* typically looks at managing the risk of bushfire through managing vegetation to reduce the likelihood of ember attacks. The policy is applied using a risk based approach and requires for bushfire risk to be addressed when proposals include habitable buildings, vulnerable land uses, or high risk development. In this case, the proposal does not fall within either of these categories to require the submission of further information to address bushfire. It is worth noting that such a screen, if placed on the boundary, would be exempt from any development approval requirements as it would be defined as a boundary fence. Whilst it is acknowledged that the use of materials are more likely to burn in the event of a bushfire, there are no provisions under the planning framework that prevent such a development.



Using a risk-based approach, it is considered that the hessian material ultimately does not increase the risk of bushfire to such an extent that warrants refusal of the application. Furthermore, the privacy screen will not impact upon the maintenance of firebreaks as required by the Shire. Therefore, Officers consider the development poses no greater risk to the occupants of the area than the existing vegetation on the property or another screening type such as lattice or vegetation screening.

In terms of the setback depicted on the submitted site plan, Officers had measured the distance of the existing privacy screen from the western shared boundary and noted that the distance is 3.3 metres. A condition requiring an updated site plan reflecting this has been recommended to address the concern raised.

Officers consider the proposed privacy screen appropriate in the proposed location as it will not visually impact upon the amenity of the immediate property to the west and will importantly provide a layer of screening for both properties to ensure the site can be used to its full extent.

Options and Implications

Option 1

That Council APPROVES the development application for a privacy screen at Lot 3, 1098 Orton Road, Cardup 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	Development Plans (P1-P2) received at the Shire Offices on 8 April 2021.
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- b) Within 30 days of commencement of the development, an updated site plan must be submitted to the Shire of Serpentine Jarrahdale for approval depicting the setback of the existing privacy screen to the western shared boundary at 3.3m.

Option 2

That Council determines the development application in accordance with Option 1, with the addition of the following condition:

- a) The fence shall only be constructed of the metal frame and bamboo sheeting, with no hessian material permitted.

Option 3

That Council REFUSES the development application for a privacy screen fence at Lot 3, 1098 Orton Road, Cardup subject to appropriate reasons.

Option 1 is recommended.

Conclusion

The application seeks approval for a privacy screen to be constructed of a metal frame, bamboo sheeting and hessian material. A neighbour objection was received to the proposal, raising concern that there would be an increase to bushfire risk. Notwithstanding this, Officers consider that the location of the fence would not result in a direct increase to bushfire risk to the locality



and the form of the development would not impact upon the amenity of the locality. Officers therefore recommend the development for approval.

Attachments

- **10.1.7 – attachment 1** – Development Plans (E21/7382)
- **10.1.7 – attachment 2** – Schedule of Submissions (E21/7386)
- **10.1.7 – attachment 3** – Technical Assessment (E21/7381)

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

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	There are no risks associated with Option 1.						
2	There are no risks associated with Option 2.						
3	That Council refuses the application and an appeal is lodged with the State Administrative Tribunal.	Reasons for refusal reflecting valid planning concerns or variations.	Reputation	Possible	Minor	MODERATE	Ensure that reasons for refusal are based on valid planning reasons.

**Voting Requirements:** Simple Majority

Officer Recommendation

That Council APPROVES the development application for a privacy screen at Lot 3, 1098 Orton Road, Cardup 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	Development Plans (P1-P2) received at the Shire Offices on 8 April 2021.
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- b) Within 30 days of commencement of the development, an updated site plan must be submitted to the Shire of Serpentine Jarrahdale for approval depicting the setback of the existing privacy screen to the western shared boundary at 3.3m.

OCM180/07/21**COUNCIL RESOLUTION**

Moved Cr Rich, seconded Cr Denholm,

That Council APPROVES the development application for a privacy screen at Lot 3, 1098 Orton Road, Cardup 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	Development Plans (P1-P2) received at the Shire Offices on 8 April 2021.
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- b) Within 30 days of commencement of the development, an updated site plan must be submitted to the Shire of Serpentine Jarrahdale for approval depicting the setback of the existing privacy screen to the western shared boundary at 3.3m.
- c) The privacy screen materials are to only comprise the bamboo sheeting on both sides of the metal framed structure to the satisfaction of the Shire.
- d) The existing side boundary fence on the western side of the property to be returned to a sufficient post and wire rural fence within 90 days.

CARRIED UNANIMOUSLY 8/0

Reason for difference to Officer recommendation

To meet the needs of both the neighbours concerns with the item.

**10.1.8 – Final approval of Shared Use Agreement – Shire of Serpentine Jarrahdale and the Roman Catholic Archbishop of Perth representing Salvado Catholic College (SJ1393-03)**

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 to present to Council the Final Shared Use Agreement with Salvado Catholic College.

This report is presented to Council, consistent with the resolution of Council made at its February 2021 meeting which was as follows:

That Council:

1. *AGREES the key terms shared use agreement document as contained within attachment 1, to form the basis of a shared use agreement to be developed by the Shire's Solicitors, at the cost of the landowner;*
2. *REQUESTS the final shared use agreement document, once drafted by the Shire's Solicitors, be presented back to Council for final adoption.*

The Final Shared Use Agreement Document is contained as **attachment 1**, and it is recommended that this be adopted by Council. As part of this adoption, it is recommended that Council authorise the Chief Executive Officer and Shire President to sign the document and affix the common seal.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 15 February 2021 – OCM021/02/21 - Council Resolution / Officer Recommendation

That Council:

1. *AGREES the key terms shared use agreement document as contained within attachment 1, to form the basis of a shared use agreement to be developed by the Shire's Solicitors, at the cost of the landowner;*
2. *REQUESTS the final shared use agreement document, once drafted by the Shire's Solicitors, be presented back to Council for final adoption.*



Background

Salvado Catholic College, Lot 102, 115 Abernethy Road, Byford is bound by Abernethy Road to the north, Warrington Road to the west, and Mead Street to the south. The eastern boundary adjoins the Byford Secondary College site. The land to the south is the Shire's district recreation facility Briggs Park, and the adjoining Bush Forever site.

The school has completed the administration block and primary school development components, and the first stage of the secondary school component to enable transition to educate for secondary schooling from 2021 onwards. In accordance with the master plan, the school will ultimately provide a K to year 12 learning experience.

Development to date has been in three main stages:

2015 - Administration Block, Teaching Block, Classroom Block and Covered Assembly Area.

2017 - Provision of 2 further teaching blocks, one multi-use resource block, covered walkways.

2020 - Secondary school teaching block, being the first stage of the secondary school component.

Discussions with the Shire in respect of developer contribution arrangements date back to 2012, and evidently should have been concluded upon prior to development of the school commencing. Previous discussions have focussed on both parties pursuing the cost contribution option that reflects a shared use agreement for district open space on the school grounds. This would enable community access for sporting purposes on a shared arrangement with the school, accessing an agreed district level oval delivered by the school on its land.

This is now to be affected by the Shared Use Agreement Document.

Community / Stakeholder Consultation

The Shire has been in discussions dating back to 2012 with the landowner and Catholic Education on the issue of the cost contribution requirements. In lead up to the February 2020 Special Council Meeting, Officers had been meeting with the School Principal, representatives of Catholic Education and the School Board to explain the importance of addressing the issue of the intended/preferred approach to addressing current and future cost contribution liabilities. Council's resolution of 3 February 2020 resolved that Shire Officers and the landowner work collaboratively to progress draft key terms of a potential shared use agreement, and good faith collaborations and engagement occurred over the following 12 months in accordance with Council's decision. Council then resolved at the February 2021 meeting to adopt key terms, and to have the final document presented back to Council. This is the purpose of this report.

Statutory Environment

The most important elements of the planning framework in this regard are:

- State Planning Policy 3.6 Development contributions for infrastructure.
- Shire of Serpentine Jarrahdale Town Planning Scheme No. 2.

Comment

The key terms were resolved at the February 2021 OCM, and have been adequately incorporated into the final document as contained in **attachment 1**. These encapsulate the key terms as resolved by Council. In order to conclude this matter, it is recommended that Council adopt the final document, and authorises the Chief Executive Officer and Shire President to sign the document and affix the common seal.



Options and Implications

Option 1

That Council **ADOPTS** the Final Shared Use Agreement with Salvado Catholic College as contained in **attachment 1**, and **AUTHORISES** the Chief Executive Officer and Shire President to sign the document and affix the common seal.

Option 2

That Council:

1. **ADOPTS** the Final Shared Use Agreement as contained within **attachment 1** subject to further amendments as specified;
2. Once amended, **AUTHORISES** the Chief Executive Officer and Shire President to sign the document and affix the common seal.

Option 3

That Council **DOES NOT ADOPT** the Final Shared Use Agreement with Salvado Catholic College as contained in **attachment 1**.

Option 1 is recommended.

Conclusion

The landowner is subject to DCA1 under the Scheme. The cost contribution amount depends on whether the Shire chooses to enter a shared use agreement to its satisfaction, to enable community access to the future district open space oval on the College site. Officers consider the current and emerging sporting needs of our community to drive a preferred option as a shared use agreement for the future oval. Officers working collaboratively with Salvado Catholic College arrived at a set of key terms, which Council adopted at its February 2021 OCM. In accordance with the resolution at the February 2021 OCM, this report presents back to Council the Final Document for consideration.

Attachments (available under separate cover)

- **10.1.8 – attachment 1 – Shared Use Agreement (E21/7422)**

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
Strategy 1.1.2	Provide a healthy community environment
Outcome 2.1	A diverse, well planned built environment
Strategy 2.2.1	Develop, maintain and implement plans for the management and maintenance of Shire controlled parks, reserves, and natural assets
Strategy 2.2.2	Seek to minimise resource usage and continue to maximise reuse opportunities



Financial Implications

Nil.

There is a demonstrable difference in the concessional vs non-concessional rate. The underlying rationale for this difference in calculation is important to define. It is noted that the landowner / College benefits from, and places a load upon, the infrastructure provided for by the Development Contribution Plan within DCA 1. However, the Scheme recognises that it is also fair and equitable to allow the College to off-set the value of its provision of facilities for public use in so far as they can be seen to contribute, in effect, to the provision of district open space that would otherwise need to be provided elsewhere.

As the final shared use agreement is the mechanism associated with the landowner's cost contribution liability under the Scheme, all costs involved in its preparation have been met by the landowner.

As agreed by Council in respect of the key terms, once the district oval is established, there will be a minor contribution towards maintenance based on formal organised junior sport only. The final agreement prescribes the formula to calculate this, as by computing the expected use of the oval for intermittent junior organised sport, annual maintenance would not exceed \$5,000. This cost however could be lower, and in some quarterly periods would be likely zero due to anticipated limited use during winter periods.

Risk Implications

Risk has been assessed on the basis of the Officer's 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	
1	There is no significant risk associated with Option 1.						
2	That Council adopts Final Shared Use Agreement subject to further amendments which are not reflected of the good faith negotiations and key terms already agreed.	Planning Framework	Social / Community Outcomes	Possible	Moderate	MODERATE	Clearly state the further amendments that Council seeks and why these should be added.



3	That Council does not adopt the Final Shared Use Agreement which does not resolve the outstanding developer contribution issue	Planning Framework	Social / Community Outcomes	Possible	Moderate	MODERATE	Clearly state reasons why adoption does not occur.
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Voting Requirements: Simple Majority

Officer Recommendation

That Council ADOPTS the Final Shared Use Agreement with Salvado Catholic College as contained in attachment 1, and AUTHORISES the Chief Executive Officer and Shire President to sign the document and affix the common seal.

OCM181/07/21

COUNCIL RESOLUTION

Moved Cr Dagostino, seconded Cr Denholm

That Agenda item 10.1.8 be DEFERRED to the August Ordinary Council Meeting to seek further legal clarification on the following issues:

Pagination issues to be rectified;

Clause 11 to be reviewed by the Shire's insurance provider;

Clause 12 to be reviewed by the Shire's lawyer to confirm there is no exposure to the Shire in relation to invitees; and

Clause 16, the assignment provision to be reviewed to confirm there is no exposure to the Shire in relation to future assignees not having financial substance.

CARRIED UNANIMOUSLY 8/0

Reason for difference to Officer recommendation

To protect the Shire's legal position.

**10.1.9 – Proposed Thomas Road Bridge Design, Access Agreement and associated Metropolitan Region Scheme Development Application (PA21/386)**

Responsible Officer:	Manager Statutory Planning and Compliance / Manager Design
Senior Officer:	Director Development Services / 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

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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.
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Report Purpose

The purpose of this report is for Council to consider:

1. The Proposed Thomas Road Bridge over rail project design;
2. The Thomas Road access agreement for construction of the said infrastructure;
3. The Metropolitan Region Scheme (MRS) development application for portion of works associated with the said infrastructure which extend slightly southwards outside the MRS other regional road reservation into the southern adjoining crown land.

It is recommended that Council approve the design and the access agreement, and recommend approval of the MRS application to the WAPC.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 21 June 2021 - CM134/06/21 - COUNCIL RESOLUTION

That Council:

1. *REQUEST the Chief Executive Officer to present a report to the July 2021 Ordinary Council Meeting to consider the final proposed design plans for the bridge, and the legal mechanism to enable an entity to construct infrastructure within the local government road reserve.*
2. *REQUESTS the Chief Executive Officer to request Metronet to attend with Main Roads WA to attend the Council briefing scheduled for 28 June 2021.*

Background

The State Government is currently undertaking the Thomas Road Bridge Project, which will see a bridge constructed in order to allow Thomas Road to grade separate over the current rail corridor used by the daily Perth to Australind train service. This is being undertaken as a direct piece of early infrastructure work to enable the extension of metropolitan passenger rail services from Armadale to Byford.



In June 2020, the State Government's Metronet Project Team advised that it was considering early works that could occur in advance of physical rail construction commencing. Consistent with the 2021 State Election Priorities adopted by Council at the July 2020 OCM, it was identified that one potential option for early delivery was the necessary station access roads, being those necessary structural roads of:

1. George Street completion from Evans Road to Larsen Road
2. Clara Street (West) extension, from its new intersection with George Street, across the rail corridor and connecting through to Sansimeon Boulevard; and
3. Completion of the Sansimeon Boulevard link to Abernethy Road.

This was advocacy item No. 14 as follows:

14	Byford Metronet – pre-works	✓	✓	✓	✓	<p>Preference is for an Elevated Train Station in Byford. However, if this cannot be achieved, then request the following:</p> <ul style="list-style-type: none"> Construction a Western Extension of Clara Street from South West Highway through to a newly constructed road (extension of San Simeon Boulevard). Construction of San Simeon Boulevard Grade separated crossing at Larsen Road Grade separated crossing at Thomas Road Police presence at Train Station
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This also included the grade separated crossing at Thomas Road. While advocating for this strongly, the State Government decided to deliver the Thomas Road over rail bridge project. The section of Thomas Road where the bridge over rail is being built, is currently under the care, control and management of the Shire. The Shire has, however, also been seeking to have the remaining section of Thomas Road (being that section from South Western Highway to Tonkin Highway) transferred in respect of its care, control and management to Main Roads WA.

This however is yet to occur, and until such time that it does, there will be a process for Council to consider the final design plans of the bridge. This ongoing advocacy formed item No. 2 of the adopted State Election Priorities:

2	Upgrade Shire roads to cope with hyper-growth	✓	✓		✓	Funding for the Shire's Hyper-growth Road Upgrades Plan to improve the safety and standard of 129km of the Shire's local road network.	\$79 million – 10 year staged delivery, \$8 million per annum
		✓	✓		✓	Funding for Thomas Road to be dual carriage way between South Western Highway and Kwinana Freeway, as well as for Main Roads WA to take over control of the remaining section of Thomas Road (Tonkin Highway and South Western Highway).	\$80 million



Officers have raised with the State Government important safety and design issues that need to be considered as part of the bridge infrastructure project. The final concept design is provided in **attachment 1**.

Officers have also requested that an appropriate mechanism be secured, to formalise how an entity is building a piece of infrastructure within a current local government road reserve, ahead of that road reserve being re-vested to that entity. Main Roads WA have provided a draft Construction Access Deed, which Officers have obtained legal advice on. The version of the Construction Access Deed as contained in **attachment 2** incorporates changes recommended by the Shire's legal advice.

Community / Stakeholder Consultation

Policy Concept Forum

In accordance with Council's motion passed at the June 2021 meeting, Metronet and Main Roads briefed Council on the design at the 28 June 2021 briefing session.

Main Roads has also been undertaking its own community and stakeholder engagement since beginning the project. This has included the following:

- Online information sessions;
- Drop-in sessions;
- Stakeholder meetings;
- Door knocks of residents interfacing with the project;
- General project and construction updates;
- Responding to community enquiries;
- Pre-construction property surveys;
- Website and social media information.

At the 7 December 2020 Council Briefing, Main Roads advised that early community feedback had identified the following priorities:

- Visual amenity;
- Environmental impacts and approvals;
- Traffic flow;
- Connectivity – Butcher Road, Hay Road, Vlasich Road;
- Construction impacts (noise, dust and vibrations).

Community engagement will remain ongoing as part of the project.

Statutory Environment

Legislation

- *Land Administration Act 1995*
- *Planning and Development Act 2005*
- *Metropolitan Region Scheme*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No. 2*



State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;
- State Planning Policy 5.4 - Road and rail noise

Report comment

Main Roads has submitted the final concept design plans, and these are provided in **attachment 1**.

The design is presented as the optimised design outcome for the project, its setting, and the opportunities and constraints it faces. Main Roads WA provides the following design justification:

“Through the 15% design process, community consultation for the project was commenced by members of the Alliance team. During this process, community members voiced significant concerns around the proposed concept alignment which would also require the taking of land already proposed to be taken under the MRS.

Whilst the land is proposed to be taken under the MRS, to determine if it was completely necessary, it was agreed by the Alliance due diligence should be undertaken to assess a number of options which could potentially mitigate the need to take land from private property and instead utilise existing government controlled land (such as Western Power, Shire of Serpentine-Jarrahdale etc.).

Two alignments, a northern alignment impacting properties to the north and a southern alignment impacting properties to the south including the Western Power substation, were considered as part of this process.

Northern Alignment

Key Points

- *Bridge can be constructed full width with traffic diverted to the south;*
- *Minimal impact to Western Power substation site, with only modifications required to the alignment of the existing overhead transmission line heading west from the substation site allowing works to progress in parallel to the works to modify this asset;*
- *Land take required in accordance with the MRS;*
- *Utilities except for street lighting cables can be located outside of the bridge structure and retained area improving accessibility by asset owners; and*
- *Existing open drainage servicing surrounding areas can be maintained in its current form reducing the impact of existing overland flow paths and the issues which can be caused by this.*

Benefits

- *Constructability is improved for bridge which can be constructed full width mitigating the need for a construction joint in the insitu concrete bridge abutments which eliminates the differential settlement between what would be two halves of the abutment and minimizes extents of temporary works;*
- *There is sufficient scope to allow for the relocation of the existing 630mm Diameter Water Distribution main outside of the retained road alignment. The relocation will improve the accessibility for Water Corporation workers to perform maintenance works. Also, it will no longer be required to protect the main under the retained section of Thomas road;*



- *The construction program is reduced when compared to the southern alignment which minimises the impact on the community utilising the road network in the area;*

Negatives

- *Owner of existing rural property to the north west impact by the proposed land take;*
- *While not identified as a specific impact by Main Roads, Shire Officers note the impact on a residual equine trail which is discussed further.*

Southern Alignment

Key Points

- *This alignment is located on the WP boundary and would require land to be taken from the substation site including modifications to the substation arrangement. To achieve this would increase construction costs and construction program;*
- *Part of this option would require running services in the retained verge and through the bridge which has its own set of challenges due to the MSE retaining wall straps, future access and bridge structural depth requirements;*
- *Would require a reconfiguration of existing overland drainage flow paths, whilst possible, is not ideal for maintaining flows to existing levels;*
- *The north western side would have limited verge between MSE retaining walls and property boundaries, whilst possible, is not ideal and limits accessibility and use for future services.*

Benefits

- *Structure and road pavements would sit wholly outside of Western Power and Private property boundaries (if walls are built at the minimum width), land would only be required to be taken from Western Power for drainage and Water Corporation purposes;*
- *No land would be taken from the owner of the north western property.*

Negatives

- *Construction of the northern MSE wall along the western section will still result the loss of circa 80m worth of trees sited on private property (either through direct impact on the branches or loss of roots through foundation construction);*
- *Entire road alignment would need to be constructed in two halves increasing construction program, scope of temporary works, as no ability to provide temporary diversion of Thomas Road around the work site;*
- *Alignment has no provision for services to pass through the pinch point area (located between the north western property and the northern MSE wall. The following would be required to mitigate this:*
 - o *All comms services relocated away from foundations in the first instance and buried within the wall earthworks. Under-bore required for each comms service under the railway in this temporary case. Provision would then be included for the comms under the shared path and a second diversion into these conduits once a complete end to end pathway is constructed;*
 - o *630mm water supply would need to stay under the structure rather than divert in front of Western Power substation and then under Butcher Road bridge as currently planned. Water Corp have stated that in this situation they want physical access to the main over*



its length for inspection/repair as necessary. This would require a culvert underpass for the pipe to sit within, adding significant cost and complexity to the project.

- *Existing open drains running in an east west direction on both sides of the rail corridor will require major relocation works; and*
- *Proximity of alignment to Western Power boundary will still require changing of Thomas Road feeder to underground cables. Bare conductors will be 7m from MSE wall; minimum requirement is 6m plus potential cable swing distance.*

Recommendation

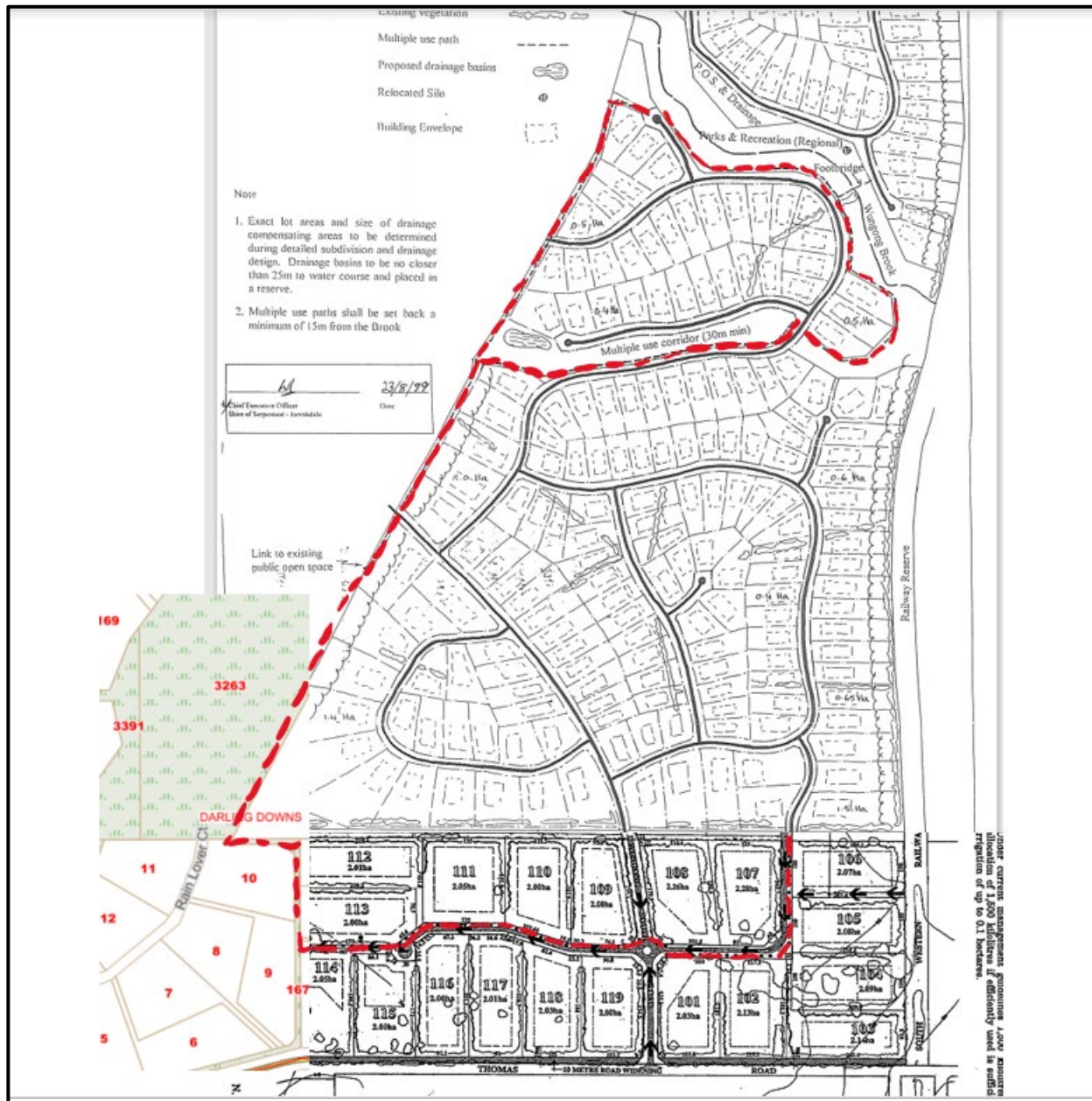
Following the completion of the due diligence process for 15%, the northern alignment has been chosen to be progressed from a design and planning perspective as it is the most appropriate solution, considering all design and construction constraints.”

As the project has evolved through the 85% design, and now this final 100% design, the northern alignment has been presented to the Shire as the most optimal.

However, Officers note that an equine trail exists immediately west of the existing rail corridor, on the northern side of Thomas Road. This is shown as follows:



This is a 450m section of trail, which has been used to access the rail access track which extends north of where the trail meets the rail corridor. The rail access track will no longer be available as part of the Metronet extension to Byford, though a principal shared path will be built for pedestrians and cyclist used. The image below includes the adopted Subdivision Guide Plans for the areas of land north of Thomas Road and west of the rail. Shown in red is the highlighted equine trail network:



The Shire is currently developing a Shire of Serpentine Jarrahdale Equine Trails Masterplan, mapping existing bridle trails and opportunities for future bridle trails development and linkages. The document is in development phase, however initial works suggest the following:

1. Crossing of Thomas road should be achieved further west to link trails from the south to the Oakford Bridle Trail network in the North, and;
2. Crossing further north on South Western Highway to link trails in the Darling Downs Bridle Trail Network to the Wungong Valley Bridle Trail network.

At the time of writing this report a meeting had been arranged for Thursday 8 July 2021, to be attended by representatives from the Shire, Tredwell Management Services who have been engaged by the Shire to develop the Equine Trails Masterplan and Armadale Access Alliance, to discuss the best location for crossing of Thomas Road and the rail and South Western Highway. The recommendations from this meeting are due to be discussed with the Shire's Equine Advisory Group on the same evening.



Based on this information, it is considered that a northern alignment can be adopted as the preferred project design. Council may wish to consider requiring an equivalent trail upgrade to replace the 450m section that will be impacted by the project. This should be based upon the adopted subdivision guide plans and also advice from the Equine Advisory Group. Additionally, Council may also wish to seek replacement mature trees to offset those that will be lost as part of the project. An offset location could be chosen close to the project area, such as Abernethy Road.

In terms of the Construction Access Deed, this is provided as **attachment 2** and it is recommended that Council authorise the Chief Executive Officer and Shire President to sign this. It has been checked by the Shire's legal representatives and a number of modifications made to protect the Shire's interest and to also indicate clearly that Thomas Road in its entirety needs to be taken over by the Commissioner of Main Roads WA.

Finally, provided Council are satisfied with the northern design alignment, it is recommended that Council support the development application for works extending outside of the MRS reservation on the following Crown Allotments:

Lot #	Address	Certificate of Title	Plan	Total lot Area (m ²)	Required land area (m ²)
8009	Not Street Address Information Available	LR3164/622	75739	3516	3516
8006	Not Street Address Information Available	LR3147/625	53293	275	275
8005	Not Street Address Information Available	LR3147/624	53293	3785	3785
8004	Lot 8004 Thomas Road, Byford	LR3140/774	52147	4488	2552

This is visually shown as follows:





Options and Implications

Option 1

That Council:

1. APPROVES the Proposed Thomas Road Bridge over rail project design as contain in **attachment 1**;
2. AUTHORISES the Chief Executive Officer to sign the Construction Access Deed as provided in **attachment 2**;
3. SUPPORTS the Metropolitan Region Scheme (MRS) development application as contained in **attachment 3** for portion of works associated with the Thomas Road bridge project extending southwards outside the MRS over lots 8004 to 8006 and 8009 Thomas Road;
4. REQUESTS the Chief Executive Officer to negotiate with Main Roads to locate a nearby equine trail that can be upgraded to compensate the 450m section of equine trail being impacted by the project, consistent with the adopted Subdivision Guide Plans on advice from the Equine Advisory Group.
5. REQUESTS the Chief Executive Officer to negotiate with Main Roads to locate a nearby area to have replacement mature trees planted to offset the loss associated with the project.

Option 2

As per Option 1, but not require any equine trail upgrade offset or tree offset (essentially deleting part 4 and 5).

Options 3

That Council DOES NOT support the design and DOES NOT authorise the Chief Executive Officer and Shire President to enter into the Construction Access Deed.

Option 1 is recommended.

Conclusion

This report presents the Thomas Road bridge project and Construction Access Deed and associated MRS Development Application for Council's consideration.

Attachments

- **10.1.9 – attachment 1** – Final Design Plans (E21/7495)
- **10.1.9 – attachment 2** – Construction Access Deed (E21/7496)
- **10.1.9 – attachment 3** – MRS DA Plans (E21/7497)

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	There are no material risks associated with option 1						
2	If the equine trail upgrade offset does not occur, trail access may be impacted overall.	Local Government Act 1996	Reputational	Possible	Moderate	MODERATE	Explain why offset isn't necessary.
2	This would appear to delay the project causing significant impact to the community.	Local Government Act 1995	Reputation	Possible	Major	SIGNIFICANT	Nil



Voting Requirements: Simple Majority

OCM182/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Byas

That Council:

- 1. APPROVES the Proposed Thomas Road Bridge over rail project design as contain in attachment 1;**
- 2. AUTHORISES the Chief Executive Officer to sign the Construction Access Deed as provided in attachment 2;**
- 3. SUPPORTS the Metropolitan Region Scheme (MRS) development application as contained in attachment 3 for portion of works associated with the Thomas Road bridge project extending southwards outside the MRS over lots 8004 to 8006 and 8009 Thomas Road;**
- 4. REQUESTS the Chief Executive Officer to negotiate with Main Roads WA to locate a nearby equine trail that can be upgraded to compensate the 450m section of equine trail being impacted by the project, consistent with the adopted Subdivision Guide Plans on advice from the Equine Advisory Group.**
- 5. REQUESTS the Chief Executive Officer to negotiate with Main Roads to locate a nearby area to have replacement mature trees planted to offset the loss associated with the project.**

CARRIED UNANIMOUSLY 8/0



10.1.10 – Legal Deed of Agreement: Transfer of Development Contribution Credits (E21/4748)	
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 to enable Council to consider approving the Shire President and Chief Executive Officer to execute and affix the common seal to a legal deed of agreement and for a credit transfer matter under Development Contribution Area No. 1 (DCA1). The basis of the agreement is to address a request from a landowner regarding how to manage a credit transfer.

That landowner will generate a large DCA credit when they vest two reserve areas to the Crown (to be managed by the Shire). The landowner has requested that the credit run with part of their land when they ultimately sell that part of their land. A legal deed of agreement is required to document this in a formal and transparent way.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 17 August 2020 OCM252/08/20 – COUNCIL RESOLUTION / Alternative Officer Recommendation

That Council:

1. *NOTES Coles' position that it is not prepared to enter into a draft Heads of Agreement at this time;*
2. *AGREES IN-PRINCIPLE to accepting the public open space (community purpose site) in an unimproved form, to provide the maximum flexibility in undertaking the future master planning and community engagement process, to determine the final layout, configuration and delivery of the various uses for the community purpose site;*
3. *NOTES that the current subdivision application (WAPC Reference No. 159458) will be presented to the September meeting of Council for consideration;*
4. *NOTES Coles' conditional offer to submit a further follower subdivision to create the public open space (community purpose site) from the further subdivision of Proposed Lot 9001;*
5. *SUPPORTS IN-PRINCIPLE the conditions specified in Coles' offer as follows:*
 - a. *Meet all costs associated with the preparation, lodgement and progression to WAPC conditional approval of the further follower subdivision application;*
 - b. *Meet all costs associated with the creation and transfer of the community purpose site, including subdivision works (if any) and all necessary fees and costs.*

Background

Coles Group Property Developments Ltd are the current owners of Lot 2 Abernethy Road. An application for subdivision has been approved for this site which proposes three lots on the site, plus two reserve lots to be ceded to the Shire; one being for Public Open Space and one being for a Community Purpose Site. Reserves generate a credit under the Development Contribution Plan for DCA1.

Community / Stakeholder Consultation

Not applicable.

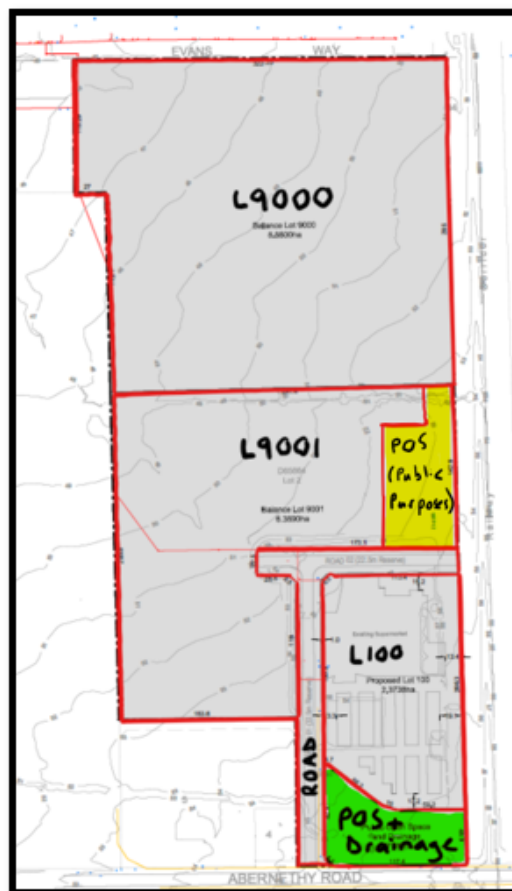
Statutory Environment

- *Planning and Development Act 2005*
- State Planning Policy 3.6 Infrastructure Contributions

The Deed of Agreement provides the statutory mechanism in order to protect the interests of the Shire and all parties which are subject to Development Contribution Area No. 1.

Comment

Clearances have occurred for the subdivisions (see **attachment 1** and **attachment 2**), to affect two new reserves being created within the Byford Town Centre. These are shown following in the yellow and green:



Plan of lots and reserves



The Development Contribution Plan contributions and credits have been calculated at the date of the clearance request, and it is confirmed that, subject to final clearance by the Western Australian Planning Commission, the Coles DCP Account for DCA1 will be in credit by \$860,443.44.

This is made up of the following components:

LIABILITY for Lot 100	=	+\$633,012.81
CREDIT for POS and Drainage	=	-\$742,706.25
CREDIT for POS (Public Purposes)	=	-\$750,750.00
NET (+credit or -liability)	=	+\$860,443.44

Rather than requesting payout of this credit, the landowner seeks the credit to run with a particular future lot (being Lot 9001) that they will create through the approved subdivisions.

Lot 9001 will in itself be required to pay developer contributions and will also generate some credits by virtue of certain infrastructure items being delivered as part of its future subdivision and development. This future liability will be offset by the transferred credit amount of \$860,443.44, plus any credits generated through development (for example the value of public open space land ceded in Lot 9001).

A deed of legal agreement is necessary to document this in an open and transparent way to ensure all parties agree to how the credits are applied in accordance with the requirements of the Scheme. A draft copy of the proposed legal deed of agreement is referred to at **attachment 3**.

Options and Implications

Option 1

That Council APPROVES the Shire President and Chief Executive Officer to execute and affix the common seal to the legal deed of agreement and all associated documents for Development Contribution Area No. 1 (DCA1), as contained within **attachment 3**.

Option 2

That Council DOES NOT AUTHORISE this.

Option 1 is recommended.

Conclusion

A legal deed of agreement ensures that the interests of the DCP are protected, whilst facilitating future development and subdivision.

Attachments (available under separate cover)

- **10.1.10 – attachment 1** – Deposited Plan 414922 (E21/3625)
- **10.1.10 – attachment 2** – Deposited Plan 414923 (E21/3624)
- **10.1.10 – attachment 3** – draft Legal Deed of Agreement (E21/4773)



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

The transfer of a credit enables the Shire to maintain balance funds within its DCP.

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 APPROVES the Shire President and Chief Executive Officer to execute and affix the common seal to the legal deed of agreement and all associated documents for Development Contribution Area No. 1 (DCA1), as contained within attachment 1.	No risk is perceived					
2	Council does not authorise this.	Local Government Act 1995	Financial	Possible	Moderate	MODERATE	Accept Officer recommendation



Voting Requirements: Simple Majority

OCM183/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Byas

That Council APPROVES the Shire President and Chief Executive Officer to execute and affix the common seal to the legal deed of agreement and all associated documents for Development Contribution Area No. 1 (DCA1), as contained within attachment 3.

CARRIED UNANIMOUSLY 8/0



The Chief Executive Officer, Mr Paul Martin noted that an error was contained in the Officer's report related to this item, in that Councillor Byas and Councillor Strautins were not present for the Policy Concept Forum discussion on 5 July 2021. Mr Martin advised that this error will be corrected in these Minutes.

10.1.11 – Consideration of Submission on Western Australian Planning Reform Phase 2 (SJ1369-13)	
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

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.
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Report Purpose

A process of planning reform has been underway within Western Australia, with a focus aimed at improving transparency and consistency across the planning system, and to reduce unnecessary red tape. A second phase of reform is planned which covers new proposals and is currently open for consultation. As a hypergrowth local government, planning reform has an even more profound affect given the range, complexity and number of applications that the Shire commonly deals with.

The purpose of this report is for Council to provide their view on Phase 2 of Planning Reform in Western Australia.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this matter.

Background

A program of major legislative, regulatory and policy changes to reform Western Australia's planning system is being implemented. Major changes have already been made with the aim to improve transparency and consistency across the system and reduce unnecessary red tape. A second phase of reform is planned which covers new proposals and is open for consultation. Feedback received on these proposals will help inform new legislative and regulatory reforms that support the goals and initiatives of the Action Plan for Planning Reform.

The proposed reforms aim to remove barriers to enable development, create and protect jobs and support business. The stated aim of the reforms is to create a planning system that is:

1. more consistent across the State, yet maintains flexibility where required
2. consistent and efficient, through greater coordination across Government and improved approvals processes
3. easier to understand and navigate, making clearer information more easily available
4. supports the opportunities presented through METRONET, city-changing and major infrastructure projects



5. creates great places for people, with new guidelines for medium density development and livable neighbourhoods.

Council has the ability to consider the proposed reforms and provide a submission to the Western Australian Planning Commission in this regard.

Community / Stakeholder Consultation

Policy Concept Forum

Meeting Date	5 July 2021
Councillors in Attendance	Cr Rich, Cr Atwell, Cr Coales, Cr Dagostino, Cr Denholm, Cr McConkey, Cr Strange

Statutory Environment

- *Planning and Development Act 2005*
- *Local Government Act 1995*

Comment

The Government of Western Australia have embarked on a range of planning reforms (Summary as **attachment 1**). The list of changes that have been implemented at this stage includes:

- Expanding the scope of developer contributions to include community infrastructure;
- A new State planning policy and a fairer system for infrastructure contributions;
- New guidelines for development around precincts including METRONET stations;
- Appointing a Director, Road Access and Planning within Main Roads WA;
- Online publication of applications and planning documents;
- New consultation requirements for complex development applications, including sign-on-site, advertising and notification to nearby landowners and residents;
- Increasing the consultation period for structure plans to 42 days;
- Requiring Western Australian Planning Commission (WAPC) approval for local planning policy changes that vary the R Codes;
- Exemptions from planning approval for certain land uses;
- New provisions for car parking and cash in lieu;
- Trial of pre-lodgement in a temporary assessment pathway for significant development proposals;
- Removing the option for continual extensions of time for referred applications;
- Reducing the number of Development Assessment Panels (DAP) from nine to five;
- Publishing WAPC agendas and minutes, improving transparency.

The State government is currently investigating the following further changes (Summary as **attachment 2**):

- Government led structure planning for key locations with fragmented land ownership;



-
- Better balance in land use, transport and road planning outcomes for key urban roads and highways;
 - A more coordinated approach to Government land acquisition for schools, hospitals and transport infrastructure;
 - Reduced duplication and conflict in decision making across State and local Government;
 - New State planning policy to guide medium density development;
 - Greater focus on local planning strategies so all local governments have a clear development vision for their communities;
 - Introduction of a new Planning Engagement Toolkit;
 - New requirements for a plain English, one-page summary of planning scheme amendments;
 - Online portal to track planning applications;
 - Clear and consistent guidance for structure plans, planning schemes and scheme amendments;
 - A new, streamlined model for pre-lodgement of development applications;
 - Defined timeframes and a consistent approach for driveway crossovers;
 - Reduction in assessment and decision-making red tape;
 - A review of advertising timeframes for schemes and local planning strategies;
 - Reducing the number of DAP to three;
 - A new Special Matters DAP to deal with development proposals of State significance;
 - Reframing the WAPC as a more flexible and independent board;
 - Investigate a central referral process across State Government agencies to improve consistency in consideration of related development matters such as heritage, environment and traffic.

Further detail with regard to the proposed reforms is provided in the following attachments provided by the Department of Planning, Lands & Heritage:

- One Planning System (**attachment 3**)
- More Red Tape Reduction (**attachment 4**)
- Better Consistency (**attachment 5**)
- Development Assessment Panel Reform (**attachment 6**)

A significant aspect of the Planning Reform is the move towards centralisation of some elements of planning decision making that have traditionally rested with local government. While the standardisation of processes, procedures and documentation can help in the efficiency of a system, there also needs to be a continued calibration of whether such efficiencies are leading to effective outcomes. While efficiency in process may lead to standardisation and certainty in outcome, such efficiency would likely be judged as ineffective if the outcome produced lacked a locally responsive and valued vernacular. Arguably, the ability of local government planners and



Councils to shape decisions allow the unique characteristics of a specific local place to be taken into consideration and to shape outcomes.

The paragraphs below provide the main aspects that should be considered in terms of a response on the proposed reform.

Q8. If you could change one thing in our planning system, what would you change and why?

The Shire's response to this question highlights the need for infrastructure coordination in hyper growth areas. This touches on the many layers of planning from the State Planning Policies and requirements to Local Planning Schemes, the various Structure Plans, Local Planning Policies and consideration of local community expectations. It actually shows that the planning system, with key State Government decision points at strategic, statutory and delivery phases, should afford very ample opportunity for infrastructure to be coordinated. Yet, in the case of the Shire with evidence specific to key road, water and sewer infrastructure, there is evidence to suggest that coordination is far from occurring.

Q9. Which of the following reform measures would make the most significant difference to our planning system?

The following aspects are considered of significant importance to our Shire:

- A more coordinated approach to Government land acquisition for schools, hospitals and transport infrastructure;
- Greater focus on local planning strategies so all local governments have a clear development vision for their communities;
- Online portal to track planning applications;
- Clear and consistent guidance for structure plans, planning schemes and scheme amendments;
- A new, streamlined model for pre-lodgement of development applications;
- Investigate a central referral process across State Government agencies to improve consistency in consideration of related development matters such as heritage, environment and traffic.

The Shire's response highlights the need for better coordination for the provision of infrastructure for the community, especially within hyper-growth Councils, which can only be done at State level as that is where the responsibility lies.

Q10. What's the biggest issue hindering the planning and development of your local community and what could be done better to shape the development of Western Australian communities now and into the future?

The Shire's proposed response highlights infrastructure coordination. A coordinated approach and better understanding of data/projections regarding growth in hyper-growth outer metro Councils is needed. This lack of understanding results in suboptimal planning outcomes, insufficient provision of infrastructure and a general lack of understanding of the problems this will lead to. Resourcing and budgeting hinders the planning process including utility services availability. A more precise suite of planning framework documents that are all consistent with each other would better shape the future.

Q11. Which of the 19 Planning Reform initiatives is most important to you?

The Shire's response highlights the following:



- Land use and infrastructure planning is coordinated;
- Good design is required, and design excellence encouraged;
- Planning is strategically led;
- Engagement and consultation processes are consistent and effective;
- Online planning portal improves access to information;
- Clear and concise guidance is readily available;
- Approvals are quicker and easier for small business in commercial and mixed-use centres and car parking requirements in commercial and mixed-use centres are consistent;
- Pre-lodgement advice facilitates better outcomes;
- Referral processes are well defined and coordinated.

The Shire's detailed response to the Planning Reform Phase 2 is based on the following:

One Planning System

- Needing to avoid reduction in the ability of local governments to influence matters of local importance to the community. While standardisation of process is supported, there needs to be a balance such that this does not erode locally responsive and valued outcomes;
- The lack of infrastructure coordination with specific reference to hyper-growth local governments also due to the inability of servicing agencies and planning to occur cross portfolios at the State level;
- The lack of resources at the State level at times to deal with significant volumes of applications and complex planning framework documents such as Local Planning Schemes, Local Planning Strategies and Structure Plans.

More Red Tape Reduction

- A central format, location or consistent way to refer applications to state departments would greatly assist in ease in referring and obtaining consistent and timely responses;
- Unintended consequences of simplifying processes may complicate decision-making;
- Transparency and timeliness of assessment processes at state level;
- Resourcing within agencies and state departments.

Better consistency

- There should be differentiation between local governments at different stages of development – inner city local governments have significantly different issues, requirements and resources from hyper-growth Councils and regional Council needs;
- Capacity building of Officers and decision-makers at state government level with regard to issues within hyper growth local governments would assist in understanding the differing pressures these areas face;
- Transparency and timeliness of assessment processes at state level especially after formal advertising and referral from local government has occurred.



4. Development Assessment Panels

- The Special Matters Development Assessment Panel, may be regarded as another way to circumvent local government and other DAPs, complicating the planning assessment processes and resulting in further delays if the scope is not clearly defined.
- DAPs are not conducive to taking local matters into consideration which takes decision-making further away from the community. This is an issue that requires very careful consideration, arguably from a sector wide perspective.

The Shire's submission is also recommended to highlight additional changes, which build a collaborative set of suggestions that can address not only its circumstances, but other local governments that are experiencing high growth rates. These are provided following:

1. Infrastructure coordination recommendations
 - a. District/sub-district based understanding of data/projections using both traditional and non-traditional indicators
 - b. Linking to IPRF of Local Government as key non-traditional indicator of short term growth
 - c. Requiring understanding/modelling of catalytic affect infrastructure delivers at district/sub-district levels
 - d. Require interfacing infrastructure impact analysis for new infrastructure
 - e. Models to compare incremental infrastructure 'shifts' vs the ultimate project case issues
2. Planning system recommendations
 - a. System(s) and State level resource(s) which can differentiate between the stages of an area's development – early growth vs hypergrowth vs consolidation and renewal
 - b. Expectations for a 'system' and 'resource' that can be applied uniquely based on the unique stage an area faces
 - c. Hypergrowth = should include dedicated resources at key State Government partner agencies to such growth like DWER, MRWA, DPLH
 - d. Early growth and consolidated growth = less dependent on dedicated resources
3. Technical system recommendations
 - a. Dedicating resources at State agency levels
 - b. Assist complexity of applications that hypergrowth area faces especially being at the rural urban infrastructure interface
 - c. Better address the complexity of issues without impacting community access and participation in the planning process

Options and Implications

Option 1

That Council ENDORSE this report as the basis of a submission on Planning Reform Phase 2.

Option 2

That Council ENDORSE this report as the basis of a submission on Planning Reform Phase 2, with the addition of the following points:

Option 3

That Council NOT ENDORSE this report as the basis of a submission on Planning Reform Phase 2.

Option 1 is recommended.

Conclusion

Council have the opportunity to provide a submission on the second phase of reform. Officers recommend that the Shire generally is supportive of improvements that have been brought about by the previous planning reform initiatives. The Shire's submission is based on:

One Planning System – The loss of the ability of local governments to influence matters of local importance, the lack of infrastructure coordination in hyper-growth local governments also due to the inability of servicing agencies and planning at a State level to respond to rapid population growth.

More Red Tape Reduction - A central format, location or consistent way to refer applications to state departments would assist in ease of referral and obtaining feedback.

Better Consistency - There should be differentiation between local governments at different stages of development, better understanding and data at state government level with regard to issues within hyper growth local governments, transparency and timeliness of assessment processes at state level especially after formal advertising and referral from local government level.

Development Assessment Panels - The Special Matters Development Assessment Panel, may be regarded as another way to circumvent local government and DAPs are not conducive to taking local matters into consideration which takes decision-making further away from the community.

Attachments (available under separate cover)

- **10.1.11 – attachment 1** – Action Plan for Planning Reform Update (IN21/15364)
- **10.1.11 – attachment 2** – Proposed Phase 2 Reforms Summary (IN21/15365)
- **10.1.11 – attachment 3** - One Planning System (IN21/15366)
- **10.1.11 – attachment 4** - More Red Tape Reduction (IN21/15367)
- **10.1.11 – attachment 5** - Better Consistency (IN21/15368)
- **10.1.11 – attachment 6** - Development Assessment Panel Reform (IN21/15369)

Alignment with our Strategic Community Plan

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

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	There are no significant risks associated with this action.						
2	That Council identifies additional points to be made in its submission.	Planning framework	Reputation	Possible	Moderate	MODERATE	Ensure relevant additional matters pertaining to issues of local planning relevance.
3	That Council DOES NOT ENDORSE this report as the basis of a submission.	Planning framework	Reputation	Possible	Moderate	MODERATE	Ensure reasons why are set out.

Voting Requirements: Simple Majority

OCM184/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Dagostino, seconded Cr Strange

That Council ENDORSE this report as the basis of a submission on Planning Reform Phase 2.

CARRIED UNANIMOUSLY 8/0



10.1.12 - Shire of Serpentine Jarrahdale 2021/22 Bushfire Mitigation Activity Fund Submission (SJ2913)	
Responsible Officer:	Coordinator Emergency Services
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 to authorise the Chief Executive Officer to sign the funding agreement for the Shire's successful 2021/22 Bushfire Mitigation Activity Fund Round 1 application. The Shire has received a new grant of \$288,000, which will continue the shared responsibility of bushfire mitigation, with the focus on preparedness, prevention, response and recovery. The new proposed Budget of Council can recognize these funds, once Council resolves to authorize the Chief Executive Officer to sign the funding agreement.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting - OCM141/12/18 - COUNCIL RESOLUTION / Officer Recommendation</i>
<i>That Council:</i>
<i>1. Endorses the Bushfire Risk Management Plan in attachment OCM141.1/12/18; and</i>
<i>2. Requests the Chief Executive Officer present the Treatment Schedule once completed to Council for endorsement.</i>

Background

The Western Australian Government has established the Bushfire Mitigation Activity Fund to proactively treat extreme, very high and high bushfire risks in combination with the progressive rollout of the Bushfire Risk Management Planning framework.

The Shire was notified on 28 June 2021 that its funding application was successful for 2021/22 for the sum of \$288,000.

The Mitigation Activity Fund round in 2021/22 **attachment 1** is seeking to continue supporting activities that build the fire management capacity and overall resilience of communities. It targets on-ground treatments that address extreme, very high and high bushfire risks on State-owned or vested lands located within or adjacent to regional town sites across Western Australia.

The Shire has successfully achieved funding of \$288,000 under the 2021/22 round for the list of applied projects. This approved list of projects is contained in **attachment 2**. A copy of the Shire's Bushfire Risk Management Plan is contained in **attachment 3**.



The identified projects will be completed, and funding acquitted by 30 June 2022. This grant funding will assist the Shire in its ongoing implementation of bushfire risk management, consistent with its adopted plan. By authorising the Chief Executive Officer to sign the funding agreement, the funds can be recognised in the upcoming 2021/22 budget for Council's consideration.

Community / Stakeholder Consultation

The Bushfire Risk Management Plan (OCM141.1/12/18) includes a Communication Strategy **attachment 3**. The Plan underpins the funding request to the Department of Fire and Emergency Services. Consultation will be facilitated through this plan, dependent on the level of funding the Shire receives. Consultation is critical to the development of the Bushfire Risk Management Plan and associated treatments, particularly because it is tenure blind, and looks at risk across all tenures.

Statutory Environment

Under State Hazard Plan - Fire (Interim) (Office of Emergency Management 2017), an integrated Bushfire Risk Management Plan is to be developed for local government areas with significant bushfire risk. This Bushfire Risk Management Plan was prepared for the Shire of Serpentine Jarrahdale in accordance with the requirements of the Guidelines for Preparing a Bushfire Risk Management Plan (Guidelines) (Office of Bushfire Risk Management 2015).

The risk management processes used to develop this Bushfire Risk Management Plan are aligned to the key principles of AS/NZS ISO31000:2017 Risk Management - Principles and Guidelines (AS/NZS ISO31000:2017), as described in the Second Edition of the National Emergency Risk Assessment Guidelines (NERAG 2015). This approach is consistent with State Emergency Management Policy (State Emergency Management Policy) 3.2 - Emergency Risk Management Planning.

Comment

Subject to Council resolving to authorise the Chief Executive Officer to sign the funding agreement, the new proposed 2021/22 budget of Council can recognise this successful grant. The mitigation-funding grant will enable the Shire to implement a total of \$288,000 of identified works, consistent with the endorsed BRMP. The funding for treatments will include prescribed burning, hardstand fire tracks, gates, under pruning trees on verges and drains, spraying, slashing and grazing. Prescribed burning reduces fuel load, hardstands, firebreaks (typically limestone), provide better access and safety for fire fighters, and gates reduce the risk of ignition by motor bikes, 4WD's and other unauthorised access.

Additionally, the hardstand firebreaks will significantly reduce maintenance costs in future years because they will only require spraying and not re-grading.

This is the fourth successful award of mitigation funding that the Shire has secured through this State Government funding program. Delivery of the mitigation works, as set out in **attachment 2**, involves the Shire's Emergency Services Team working closely with the Shire's Infrastructure Team and Procurement Team to ensure a robust risk management approach to delivery. The range of works funded in this role are diverse, covering treatment actions including construction of limestone firebreaks, treatment of reserves to reduce fuel load, mechanical slashing, mulching, fencing to secure the reserve to enable grazing as a treatment mechanism. To ensure these works are delivered according to the parameters of the funding agreement, there will be internal project management applied which draws on the expertise within the Shire to ensure the most effective delivery outcome.



As part of the most recent MAF round, the Shire had approved specific mitigation works to address the risk associated with the Thomas Road drain, and the Orton Road to Gossage Road drain. This had initially been planned through a fencing and controlled grazing approach, however through review, it was identified that a more optimal treatment would be through controlled burning and trail reinstatement. This implementation strategy proceeded and created an optimal outcome in managing the risk. The Shire was also able to implement savings through the coordination of mitigation works, avoiding the sunk costs otherwise associated with mobilisation and demobilisation of plant. As a result of these changes, total savings of \$242,000 were realised, and returned for inclusion into this latest round of MAF program.

It is important to note that the Shire has created in excess of \$1m of capital improvements to manage bushfire risk through the MAF process. This accounts for the recommendations forming part of this year's new budget, which identifies an annual management program of \$200,000 together with an additional Officer to maintain these capital upgrades, and also mitigate works which do not qualify for MAF funding.

Options and Implications

Option 1

That Council:

1. **AUTHORISES** the Chief Executive Officer to sign the funding agreement as contained within **attachment 1**; and
2. **NOTES** the works to be undertaken as contained within **attachment 2**.

Option 2

That Council **DOES NOT AUTHORISE** the Chief Executive Officer to sign the funding agreement.

Option 1 is recommended.

Conclusion

The Department of Fire and Emergency Services 2021/22 Bushfire Mitigation Activity Fund provides an opportunity for the Shire of Serpentine Jarrahdale to complete identified treatments by June 2022. This reflects the application made by the Shire, consistent with its adopted Bushfire Risk Management Plan.

Attachments (available under separate cover)

- **10.1.12 – attachment 1** - Mitigation Activity Fund Sample Funding Agreement (E20/5383)
- **10.1.12 – attachment 2** - Projects List (E21/4684)
- **10.1.12 – attachment 3** - Bushfire Risk Management Plan (E18/6845)

Alignment with our Strategic Community Plan

The Bushfire Mitigation Activity Fund addresses these key strategic themes within the Shire of Serpentine Jarrahdale Strategic Community Plan 2017 - 2027, in particular:

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 1.3.3	Enhance community safety



Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.

Financial Implications

The Department of Fire and Emergency Services will pay the grant funds (no GST applied) in two instalments. The initial 50% of the total grant will be paid once the Funding Agreement has been executed, and the remaining 50% (up to the total grant and total cost) will be paid following acceptable grant acquittal.

Any unexpended funds will be returned to the Department of Fire and Emergency Services within 30 days of the acceptance of the grant acquittal, as per conditions of the grant.

The Shire of Serpentine Jarrahdale must keep adequate financial accounts and records to enable identification of the grant, payments and receipts as shown within **attachment 1**: Sample Funding Agreement.

Upon signing the funding agreement, the monies can be recognized in the upcoming 2021/22 budget of Council. This will occur subject to Council's resolution authorising the Chief Executive Officer to sign the agreement.

As mentioned briefly above, it is important to note that the Shire has created in excess of \$1m of capital improvements to manage bushfire risk through the MAF process to date. Maintaining such treatments, is central to the annual preparedness and prevention activities to manage risk. This accounts for the recommendations forming part of this year's draft budget, which identifies an annual management program of \$200,000 together with an additional Officer to maintain these capital upgrades, and also mitigate works which do not qualify for MAF funding.

Risk Implications

Risk has been assessed on the basis of the Officer's 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	
1	No significant risk associated with Option 1						
2	Fire Danger to the community if the Shire does not seek all available funding opportunities to mitigate such risk.	BRMP	Social / Community Outcomes Environment / Heritage	Rare	Catastrophic	SIGNIFICANT	Option 1



Voting Requirements: Simple Majority

OCM185/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Denholm

That Council:

- 1. AUTHORISES the Chief Executive Officer to sign the funding agreement as contained within attachment 1; and**
- 2. NOTES the works to be undertaken as contained within attachment 2.**

CARRIED UNANIMOUSLY 8/0



10.1.13 – Building Approval Certificate – Below Ground Cellar – 6 (L838) Curacoa Way, Byford	
Responsible Officer:	Manager Health and Building Services
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 permits, applications for other permits/licences (e.g. 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:	CPR Building Approvals
Owner:	Mr Raymond and Mrs Adriana Townley
Date of Receipt:	10 February 2021
Lot Area:	570m 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 Building Approval Certificate application to formally recognise an unauthorised cellar at Lot 838, 6 Curacoa Way, Byford. This application is presented to Council due to previous matters associated with this structure being considered by Council at its 17 February 2020 meeting. On the basis that the applicant has obtained all relevant information that deems the cellar to be safe in respect of its construction, it is recommended that the Building Approval Certificate is granted to validate the cellar structure.

Relevant Previous Decisions of Council

Council Resolution - Ordinary Council Meeting - 17 February 2020 - OCM038/02/20 - 10.6.1 – CONFIDENTIAL - Decommissioning of Unauthorised Development – Building Act 2011 – 6 Curacoa Way, Byford

COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. PROCEEDS to prosecute the landowner of 6 Curacoa Way, Byford for failure to comply with the Building Order issued on 25 September 2019.*
- 2. Subject to successful prosecution being achieved against the Building Order dated 25 September 2019, Council APPROVES the decommissioning of the unauthorised bunker at 6 Curacoa Way, Byford as detailed within the Building Order, and seeks full recuperation of costs in accordance with section 118 (3) of the Building Act 2011.*



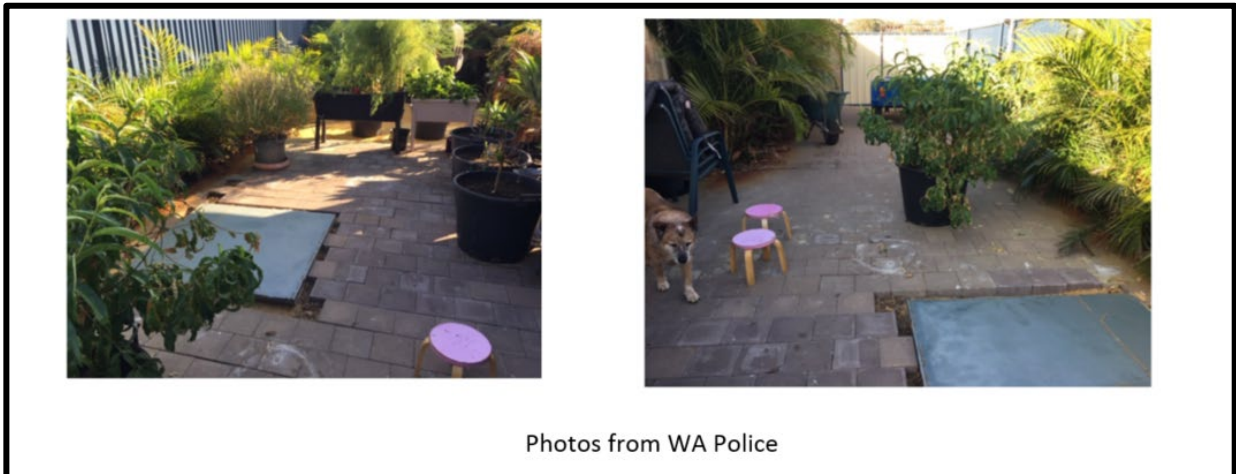
3. APPROVES the reallocation of \$15,000.00 from 2100-12300-4346-0000: Fines and Penalties to 2100-12300-6230-0000: Consultancy to assist in funding the prosecution and decommissioning works at 6 Curacoa Way, Byford.

Background

The unauthorised cellar has been subject to a Shire compliance investigation since February 2017. The Shire advised landowner of the required applications to be submitted to gain a retrospective approval for the cellar. The landowner, at the time, did not attempt to gain the retrospective approvals and subsequently, the Shire undertook prosecution actions against the landowner. These prosecutions were successful, with the accused being fined and ordered to pay costs to the Shire.

The following images depict the various construction stages of the cellar:





Photos from WA Police

In April 2019, Shire Officers continued to advise the landowner that the structure would require retrospective building approval in the form of a Building Approval Certificate. The landowner was advised that failure to obtain the necessary approval would leave the Shire no other option than to proceed to another prosecution.

In February 2020, a report was presented to Council seeking support for the Shire to proceed with yet another prosecution for non-compliance with a Building Order and to do a budget adjustment to undertake the specified work of the Building Order. Section 118 2(a) and (b) of the *Building Act 2011* permits that where there is failure to comply with a Building Order, the permit authority (the Shire of Serpentine Jarrahdale) can undertake the following:

- a) *take any action specified in the order; or*
- b) *commence or complete any work specified in the order*

In order for the Shire to complete the decommissioning of the below ground structure, Council was recommended to support a preferred building contractor quote of \$18,867 to carry out the work. Council resolved to support proceeding to prosecute the landowner for failure to comply with the Building Order issued on 25 September 2019 and subject to successful prosecution; decommission the below ground cellar at the Shire's cost.

As this Building Order was set to be issued and enforced, the landowner began to engage with the Shire, to seek to gain all necessary retrospective permits to legitimise the cellar structure. On 19 January 2021, the landowner met with Shire Officers to submit part of the paperwork for review. The registered Building Surveyor acting as the applicant requested clarification on the requirement for retrospective Development Approval for the below ground structure proposed for use as a cellar incidental to the residential land use. On review of the plans of the existing cellar, it was determined that a retrospective development approval was not required.

The registered building surveyor thus submitted the Building Approval Certificate Application and associated documentation to the Shire on 8 February 2021. This is essentially the retrospective building approval for the structure.

Existing Development

The existing below ground cellar is indicated as 5.2m long x 2.43m wide with a depth of 2.67m. The structure is constructed of a reinforced concrete floor slab with double brick walls filled with concrete and reinforcing steel bars, the roof is an in situ poured concrete slab with reinforcing. The structure is indicated as being coated in a waterproof membrane. Brick paving finish is installed over the roof leaving only the 1m x 1m entry hatch visible above ground.



Community / Stakeholder Consultation

Nil.

Statutory Environment

A Building Approval Certificate Application is a mechanism under s51 of the *Building Act 2011* for obtaining formal recognition of an unauthorised building or structure that was built without a required Building Permit in place. Submitted as part of a Building Approval Certificate Application, a Certificate of Building Compliance issued under s57 of the *Building Act 2011* must be signed by a building surveyor. The building surveyor must be registered in accordance with the *Building Services (Registration) Act 2011*.

A certificate of building compliance must —

- (a) *state that occupying or using the building or incidental structure in its current state in the way proposed in the application would not adversely affect the safety and health of its occupants or other users; and*
- (b) *state that the building or incidental structure in its current state is otherwise suitable to be used in the way proposed in the application; and*
- (c) *state that the building or incidental structure complies with each authority under a written law that is prescribed for the purposes of this paragraph; and.....*

.....(3) *A certificate of building compliance that accompanies an application other than an application mentioned in section 48 or 52(1) or (2) must state that the building or incidental structure substantially complies with each applicable building standard.*

It must be noted that s144 of the *Building Act 2011* states:

This Act does not operate to create a duty of a permit authority (i.e. the Shire) —

- (a) *to check the accuracy of a fact, or the soundness of an opinion, asserted in a certificate of design compliance, a certificate of construction compliance, a certificate of building compliance, or a technical certificate signed by a specialist;...*

Legislation

- *Building Act 2011*
- *Building Regulations 2012*
- *Building Services (Registration) Act 2011*
- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*

State Government Policies

SPP7.3 Residential Design Codes

Local Planning Framework

- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2;*



The deemed-to-comply requirements under C7.2 of the *Residential Design Codes* require for excavation to achieve compliance with the building setback requirements which are set out under Tables 1, 2a and 2b of the *Residential Design Codes*. For a lot coded R20 such as the subject property, a wall may be built up to a lot boundary for a maximum length of 9m or one third of the length of the lot (behind the street setback) to one side boundary only. The subject proposal is setback 995mm from the western side boundary with a dog leg section for the entry way setback 780mm from the side boundary. The proposal is deemed compliant with the side setback requirements.

Easement

A subsoil drainage easement to the benefit of the Shire is located on this property measured 3m wide from the rear boundary. The cellar is setback 2m from the rear boundary and is therefore encroaching into the easement by 1m. The cellar wall covers a length of approximately 2.5m on one side of the pipe at an approximate setback of 0.5m to the pipe. The construction has not damaged the subsoil pipe as confirmed by a drainage investigation carried out by the Shire's Civil Maintenance team on 22 January 2020. The Shire fed a drainage inspection camera up the pipe from an access pit located at 12 Curacoa Way, Byford for a distance of approximately 59m. The cellar is located at an estimated 43m - 46m from the access pit location and some soil and gravel was identified at 44m. The soil and gravel were not deemed a concern as the small amount occurred where two pipes join and could be washed out with a flow of water.

Building Assessment

A certificate of building compliance was supplied by a registered building surveying contractor (**attachment 2**) for the existing class 10a non-habitable structure. The certificate is required to declare the structure complies with the applicable building standards and is suitable for its intended use. Accompanying this was a Structural Engineers inspection report which certifies the structural adequacy of the existing structure (**attachment 3**). This report makes reference to the original structural design documentation of the below ground cellar (**attachment 4**) and shows the structural capacity intent of the structure and method of construction.

Shire assessing Officers noted discrepancies in the dimensions of the structure on the documentation provided when compared with the dimensions taken by Shire Officers in previous inspections. The discrepancies brought to the applicant's attention were of a 1.08m side boundary setback in lieu of a 0.78m side setback where the cellar entry portion creates a dog leg toward the boundary. Minor discrepancies in thicknesses of the walls and roof were noted and later amended.

Shire Officers also sought clarification on whether the existing structure, as built, would have any adverse effect on the neighbouring property. the structural engineering report did not explicitly discuss the effect of the structure on neighbouring property or any implications on any possible future development up to the lot boundary of the neighbouring property.

The Structural engineer confirmed the structure was found to be built to acceptable construction standards to allow a single storey dwelling wall on the adjacent property to be built up to the lot boundary. In accordance with normal statutory planning practices it is not likely a dwelling wall greater than single storey would be allowable with a nil setback.



Options and ImplicationsOption1

That Council APPROVE the Building Approval Certificate application for the existing cellar.

Option 2

That Council REFUSE the Building Approval Certificate application for the existing cellar.

Option 1 is recommended.

Conclusion

The subject of this report, a below ground cellar built without the relevant approvals, has been an ongoing compliance matter for a number of years. The initial disregard for statutory requirements and unwillingness to cooperate with the Shire resulted in two successful prosecutions. Subsequently, through a process of cooperation with the Shire, a Building Approval Certificate Application has been received. The necessary documentation has been supplied by a structural engineer and a registered building surveyor to support the approval of the structure and its suitability for use. Approving the Building Approval Certificate would be an amicable closure to this compliance matter.

Attachments (available under separate cover)

- **10.1.13 – attachment 1** – Site Plan (E21/7084)
- **10.1.13 – attachment 2** – Certificate of Building Compliance (E21/7083)
- **10.1.13 – attachment 3** – Structural Engineering Inspection Report
- **10.1.13 – attachment 4** – Structural Engineering Drawings (E21/7090)

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

Financial Implications

There are no financial implications of Council approving the Building Approval Certificate for the below ground cellar. If the application is refused, there would likely be financial implications for a State Administrative Tribunal hearing. Depending on the outcome of that hearing, there could be financial implications for further legal action.



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	There are no risks associated with these options.						
2	That Council refuse the building approval certificate application and the decision is appealed to the SAT.	<i>Building Act 2011</i>	Financial	Likely	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

OCM186/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr McConkey

That Council **APPROVES** the Building Approval Certificate for the existing below ground cellar.

CARRIED UNANIMOUSLY 8/0



10.2 Infrastructure Services reports

10.2.1 – Library Detailed Design and Cost Estimate (E21/7103)	
Responsible Officer:	Manager Project Development
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 present the Library final detailed design and cost estimate and to seek council approval prior to calling tender.

Relevant Previous Decisions of Council

<i>Ordinary Council Meeting – 21 June 2021 – OCM144/06/21 - COUNCIL RESOLUTION / Officer Recommendation</i> <i>That Council:</i> <ol style="list-style-type: none"><i>1. RESOLVES to proceed with Option 2 of the Library Concept Report and progress the concept to detailed design;</i><i>2. NOTES the Chief Executive Officer will present a report to council with a final detailed design and cost estimate (by a Quantity Surveyor) for approval prior to calling tender; and</i><i>3. AGREES to include provision for a community library in the scope of works for Stage 3 (post 2024) of the Mundijong Civic Precinct, currently subject to masterplanning.</i>

Background

At the 21 June 2021 Ordinary Council Meeting, Council resolved to proceed with Option 2 of the Library Concept report and progress the concept to detailed design. Council also noted a report will be presented with a final detailed design and cost estimate (by a Quantity Surveyor) for approval prior to calling tender for construction works.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Nil.

**Comment**

The detailed design report and cost estimate for the Library is attached in **attachment 1**. The detailed design cost estimate is \$2.3m.

Options and ImplicationsOption1

That Council:

1. APPROVES the final detailed design and cost estimate as per **attachment 1**.
2. AUTHORISES the Chief Executive Officer to call for tenders for the refurbishment of Byford Hall to accommodate the new Shire of Serpentine-Jarrahdale Library Services.

Option 2

That Council:

1. DOES NOT APPROVE the final detailed design and cost estimate.

Option 1 is recommended.

Conclusion

The library detailed design and cost estimate has been developed in consultation with Shire library staff. The project is on target to be delivered on budget.

Attachments (available under separate cover)

- **10.2.1 - attachment 1** – Library Detailed Design Report and Cost Estimate (IN21/16452)

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
Strategy 1.1.2	Provide a healthy community environment
Outcome 1.2	A recognised culture and heritage
Strategy 1.2.1	Recognise local heritage
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
Strategy 2.2.2	Seek to minimise resource usage and continue to maximise reuse opportunities
Outcome 3.1	A commercially diverse and prosperous economy
Strategy 3.1.1	Actively support new and existing local businesses within the district.
Outcome 3.2	A vibrant tourist destination experience
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



Strategy 4.1.2	Maximise the Shire's brand and reputation in the community
Outcome 4.2	A strategically focused Council

Financial Implications

The cost estimate of the detailed design is within the allocated budget for this project, and is reflected in the draft 2021/22 financial year budget.

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	If decision making is deferred/delayed this will impact the Shire's ability to meet funding deadlines.	Consultants have been engaged to provide advice to enable sound decision making.	Reputation	Possible	Major	HIGH	

Voting Requirements: Simple Majority

OCM187/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Dagostino

That Council:

1. **APPROVES** the final detailed design and cost estimate as per attachment 1.
2. **AUTHORISES** the Chief Executive Officer to call for tenders for the refurbishment of Byford Hall to accommodate the new Shire of Serpentine-Jarrahdale Library Services.

CARRIED UNANIMOUSLY 8/0



10.2.2 – Minutes of the Rivers Regional Council meeting – 17 June 2021 (SJ581)	
Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
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

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is to enable Council to note the minutes of the Rivers Regional Council meeting held on 17 June 2021.

Relevant Previous Decisions of Council

Nil.

Background

The Rivers Regional Council (RRC) is a regional local government established under s.3.61 of the *Local Government Act 1995*. The Shire of Serpentine Jarrahdale is a member of the Rivers Regional Council.

The RRC provides waste services on behalf of member local governments.

Community / Stakeholder Consultation

Nil.

Statutory Environment

From a legislative perspective, the RRC is a distinct local government entity. With the exception of the sections listed in s.3.66 of the Act, RRC is required to comply with the Act as any other local government.

Comment

On 17 June 2021, an Ordinary Council Meeting of the RRC was held. The unconfirmed minutes of the meeting are as per **attachment 1**.

The meeting dealt with the following matters:

- Payments for the period 1 April to 31 May 2021
- Financial Report for the period 1 April to 31 May 2021
- Draft Budget for the period ending 31 December 2021
- CEO Report



While Council is under no obligation to consider the minutes of the meeting, the unconfirmed minutes are presented for Council's information. Council's decision on this matter does not confer endorsement or otherwise of the minutes. The confirmation of minutes will be a matter for the members of the RCC at their next meeting.

The next Ordinary Council Meeting of the RCC will be held on 19 August 2021 either electronically or at the City of Mandurah.

Options and Implications

Option1

That Council NOTES the unconfirmed minutes of the Rivers Regional Council meeting held on 17 June 2021.

Option 2

That Council DOES NOT NOTE the unconfirmed minutes of the Rivers Regional Council meeting held on 17 June 2021.

Option 1 is recommended.

Conclusion

As a member of the RCC, the unconfirmed minutes of the RCC Ordinary Council Meeting held on 17 June 2021 are attached for Council's information.

Attachments (available under separate cover)

- **10.2.2 - attachment 1** – Rivers Regional Council Ordinary Council Meeting Minutes 17 June 2021 (IN21/15401)

Alignment with our Strategic Community Plan

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

Nil.

Voting Requirements: Simple Majority

OCM188/07/21

COUNCIL RESOLUTION / Officer Recommendation:

Moved Cr Byas, seconded Cr Denholm

That Council NOTES the minutes of the Rivers Regional Council Ordinary Council Meeting held on 17 June 2021.

CARRIED UNANIMOUSLY 8/0



Shire President, Councillor Rich declared a Financial Interest in item 10.2.3 and left the Chambers at 8:24pm 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 8:24pm.

10.2.3 - Award Request for Tender RFT 03/2021 – Construction of Carpark – Briggs Park, Byford (SJ3548)	
Responsible Officer:	Manager Design
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 advise Council of submissions received in relation to Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford and for Council to authorise award of the contract to the best value for money tenderer as recommended by the evaluation panel.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 19 April 2021 - OCM088/04/21 - COUNCIL RESOLUTION

That Council:

- 1. AWARDS Tender RFT 01/2021 - Construction of Carpark - Briggs Park, Byford to Egan Civil Pty Ltd – T/A Castle Civil to the value of \$ 296,492.87, excluding GST, as contained within confidential attachment 1, subject to the CEO undertaking further due diligence in relation to the tender to the satisfaction of the CEO;*
- 2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 01/2021 - Construction of Carpark - Briggs Park, Byford; and*
- 3. AUTHORISES the Chief Executive Officer to utilise the remaining funds for the landscape improvement works and overhead recovery for Tender RFT 01/2021 - Construction of Carpark - Briggs Park, Byford.*

Background

Briggs Park is a district level sports and recreation facility with a major indoor recreation centre, two ovals, changeroom block and pavilion buildings, cricket nets, baseball back nets, regional BMX track, modular skatepark and variety of associated buildings and infrastructure. Briggs Park Recreation Precinct masterplan identified that considerable upgrade and development of the precinct and its facilities are required to meet the needs of the existing user groups and the



projected additional demand from a growing population. The need to upgrade the existing car parking facilities was identified through this process. In order to meet the parking demand, the verge area between the Recreation Centre and Mead Street has been identified as a suitable location to build a car park.



Figure 1 - Location Map

On 22 May 2020 the Australian Government announced a new \$500 million Local Roads and Community Infrastructure Program (LRCI Phase 1 Program). The Shire of Serpentine Jarrahdale has been allocated \$673,030 grant funding as part of LRCI Phase 1 funding program. Officers nominated the Briggs Park Recreation Precinct Car Park Stage 1 project to be funded from LRCI program and recommended at the Ordinary Council Meeting of 20 July 2020 that the project be adopted by Council for delivery.

Community / Stakeholder Consultation

Comprehensive consultation was undertaken with residents, user groups, State Government agencies, State sporting associations and government departments in the development of the Masterplan. Since that time, community perception surveys, user group meetings, the Community Infrastructure and Public Open Space Strategy and the current Strategic Community Plan review process have provided further updated information on community needs and resources required. A project plan included a stakeholder engagement strategy to ensure ongoing liaison with current Briggs Park user groups, Shire staff, Councillors, State sporting associations and government departments during the life of the project. Prior to commencement of site works, notification shall be made to the public via the Shire's website and Facebook page. In addition, the YMCA as operators of the Serpentine Jarrahdale Community Recreation Centre, and adjacent properties will be notified via letter drop.



Submissions

The Request for Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford was advertised on Wednesday 26 May 2021 and closed at 2.00pm on Thursday 17 June 2021.

The Tender was advertised in the following papers:

- West Australian Newspaper
- Examiner (Serpentine Jarrahdale & Armadale)
- Pinjarra/Murray Times (Inc. Mandurah Coastal Times)
- Sound Telegraph (Rockingham & Kwinana)

Seven (7) submissions were received, and the submissions are summarised in **confidential attachment 1**.

All tender submissions have been found to comply with the request for tender for quote guidelines and compliance criteria.

Tender submissions were received from the following companies:

#	Company Name
1	Delta Pty Ltd
2	Estimating Civils Australia T/A LuxWorks
3	Industrial Roadpavers WA Pty Ltd
4	Raubex Construction Pty Ltd
5	RCA Civil Group
6	Tyrone Living Pty Ltd
7	WCP Civil Pty Ltd

Evaluation Panel

An evaluation panel was convened and consisted of the following personnel:

- Manager Design
- Acting Manager Infrastructure and Assets
- Road and Drainage Engineer

All members of the evaluation panel have made a conflict of interest declaration in writing confirming that they have no relationships with any of the tenders. Each member of the panel assessed the submissions separately.



Evaluation Criteria

The following evaluation criteria and weightings were used by the tender evaluation panel to assess tender submissions:

EVALUATION CRITERIA	WEIGHTING
Price with quantities	55%
Relevant experience with: <ul style="list-style-type: none">Demonstrated relevant experience of the Company in providing the same or similar services to local government or the private sector over the past five years.	15%
Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none">Capacity to deliver the services including:Key personnel / Professional skills;Describe the key personnel who will be involved in the work, including past work of a similar nature.	15%
Demonstrated Understanding/Experience with: <ul style="list-style-type: none">Project schedule;Process for delivery of goods/services;Project Management Plan;Critical assumptions; andAny additional information.	15%

Comment

All tender submissions were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment and prices are documented in **confidential attachment 1**.

Following the assessment of all tender submissions, against the selection criteria, the tender submitted by Delta Pty Ltd was assessed as being the best value for money that meets the Shire's requirements.

The tender evaluation panel therefore recommends the tender submission received from Delta Pty Ltd be accepted.

Previous Procurement Process

A report was presented to Council at the 19 April OCM meeting to award the contract for construction of the car park. Council at that meeting resolved as following to award Tender RFT 01/2021 - Construction of Carpark - Briggs Park, Byford to Egan Civil Pty Ltd – T/A Castle Civil to the value of \$ 296,492.87, excluding GST, subject to the CEO undertaking further due diligence.

The outcome of the due diligence process was that the tender was not awarded.

LRCI Phase 1 Milestones

As part of the conditions of LRCI Phase 1 program, approved projects were required to be completed by the 30 June 2021. As a result of repeat tendering process and extension of time was required to complete the construction of the car park. Accordingly, the Federal Government funding authority was requested for an extension of time until the 30 September 2021 to complete this project and the extension of time has been granted.



Statutory Environment

Section 3.57 (1) of the *Local Government Act 1995* requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply the goods or services.

Council Policy - *Procurement of Goods or Services through Public Tendering* (E19/5672):

Tendering

2. Tender Exemption

The regulations make provision for certain circumstances where tendering is not required. Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*:

- The purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;

Options and Implications

The following options have been identified:

Option 1

1. AWARDS Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford to Delta Pty Ltd to the value of \$310,631.78, excluding GST, as contained within confidential attachment 1; and
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford.

Option 2

That Council NOT AWARD the contract and retender.

Option 3

That Council NOT AWARD the contract and NOT retender i.e. – nil action.

Option 4

That Council REASSESS and appoints an alternative tenderer.

Option 1 is recommended.

Conclusion

Delta Pty Ltd has been assessed as being able to meet the requirements of the contract. The respondent met all of the requirements for Relevant Experience, Key Personnel, Skills and Resources and Demonstrated Understanding and was assessed as providing the best value for money.

Therefore, it is recommended that Council support Option 1 and the contract be awarded to Delta Pty Ltd.

**Attachments (available under separate cover)**

- **10.2.3 – CONFIDENTIAL attachment 1** – RFT 03/2021 - Construction of Carpark - Briggs Park, Byford - Confidential - Evaluation Report (E21/7226)

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 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
Strategy 4.1.2	Maximise the Shire's brand and reputation in the community
Outcome 4.2	A strategically focused Council
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.
Strategy 4.2.2	Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

The funding for this tender is included in the draft 2020/2021 Annual Budget to undertake the works

The allocated budget for the work is \$370,000. However, \$17,500 has been used for the procurement of detailed design works and the remaining budget for the civil works is \$352,500. The recommended tender price of \$310,631.78 ex GST is within budget. The remaining funds after completion of works will be used for the landscape works and overhead recovery.

Local Roads and Community Infrastructure Program (LRCI)			
Project	Shire	Australian Government	Total
Briggs Park Recreation Precinct Car Park – Stage 1	Nil	\$370,000	\$370,000



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	Recommended Contractor unable to provide works to an acceptable standard.	Procurement and tender evaluation completed as per the Shire procurement policy. Contract Management	Reputation	Unlikely	Moderate	MODERATE	Nil
2	Retender process will cause up to 3 months delay in the construction and project delivery. If particular project is not delivered within the current financial year, Shire would have to return the funding	Nil	Financial	Unlikely	Moderate	MODERATE	Nil
3	Council selecting an applicant contrary to the evaluation report may affect the probity of the procurement process resulting in reputation damage.	Nil	Reputation	Possible	Moderate	MODERATE	Provide justification for selecting the alternative tenderer that is in line with the evaluation criteria



Voting Requirements: Simple Majority

OCM189/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Denholm, seconded Cr Strautins

That Council:

- 1 AWARDS Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford to Delta Pty Ltd to the value of \$310,631.78, excluding GST, as contained within confidential attachment 1; and**
- 3. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 03/2021 - Construction of Carpark - Briggs Park, Byford.**

CARRIED UNANIMOUSLY 7/0

Councillor Rich returned to the Chambers at 8:26pm and resumed the Chair as Presiding Member.

Councillor Atwell advised the Shire President, Councillor Rich of the Council Resolution for item 10.2.3.



10.3 Corporate Services reports

10.3.1 - Confirmation of Payment of Creditors (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

Not Applicable.

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(1) of the *Local Government (Financial Management) Regulations 1996* requires where a local government has delegated authority to make payments from the municipal or trust fund, that a list of accounts paid be prepared each month showing each account paid since last such a list was prepared.

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 June 2021 to 30 June 2021 is provided in **attachment 1**.

Options and Implications

Option1

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 June 2021 to 30 June 2021, totalling \$4,215,111.14

Option 2

That Council DOES NOT RECEIVE the Schedule of Accounts as paid under delegated authority from 1 June 2021 to 30 June 2021, totalling \$4,215,111.14

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 30 June 2021 (E21/7345)
- **10.3.1 - attachment 2** – Westpac Purchasing Card Report – 28 April 2021 to 27 May 2021 (E21/7348)

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 June 2021 to 30 June 2021 totalled \$4,215,111.14.



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 accepts the payments	Provision of sufficient information and records to support the recommendation	Financial	Likely	Insignificant	LOW	
2	That Council does not accept the payments	Provision of sufficient information and records to support the recommendation	Financial	Unlikely	Insignificant	LOW	

Voting Requirements: Simple Majority

OCM190/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr McConkey

That Council RECEIVES the Schedule of Accounts as paid under delegated authority from 1 June 2021 to 30 June 2021, totalling \$4,215,111.14 as attached.

CARRIED UNANIMOUSLY 8/0

**10.3.2 – Monthly Financial Report – May 2021 (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 31 May 2021.

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 financial position as at the end of May 2021.

The municipal surplus as at 31 May 2021 is \$10,858,316 which is favourable, compared to a budgeted surplus for the same period of \$4,712,631.

Reasons for the variances as per the below table are discussed below.

Description	YTD Budget	31 May 2021 Actual	Variance (unfavourable)
Opening Surplus at 1 July 2020 (revised)	7,990,228	7,990,228	0
Proceeds from sale of assets	80,000	136,455	56,455
Net transfers to/from Reserves	(2,907,677)	(4,867,203)	(1,959,526)
Loan/Lease principal repayments	(276,108)	(733,106)	(456,998)
Capital expenditure	(11,868,851)	(9,374,058)	2,494,793
Capital revenue (cash items)	6,342,201	9,130,521	2,788,320
Operating revenue (cash items)	34,513,557	34,914,615	401,058
Operating expenditure (cash items)	(29,160,719)	(26,339,136)	2,821,583
	4,712,631	10,858,316	6,145,685

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

No variance analysis required, variance to budget is less than 10%.

Fees and Charges

Favourable variance to budget of \$693,068 due largely to significant increase of Building Applications - \$107,134, Verge Licences - \$57,208, Waste Services - \$95,435, and EAS Orders and Requisitions - \$51,462.



Interest Earnings

Unfavourable variance of \$250,634 due primarily to underlying low interest rates on term deposits. Approximately \$180,000 of this variance relates to interest on cash reserves and will be offset by a reduction in transfers to reserve, limiting the impact on Council's surplus/deficit position.

Other Revenue

Favourable variance of \$167,496 primarily due to an LGIS surplus distribution - \$56,300, reimbursement of legal costs - \$39,647, and reimbursement of traffic management costs for incident response from DFES - \$30,414.

Profit on Asset Disposal

No variance analysis required, variance to budget is less than \$10,000.

Operating Expenses

Employee Costs

No variance analysis required, variance to budget is less than 10%.

Materials and Contracts

Favourable variance to budget of \$1,129,482, primarily due to savings specific to purchases of materials/consumables - \$301,724, Bushfire Mitigation expenditure - \$243,050, consultancy costs - \$198,168, and equipment and lease hire costs - \$178,720 due to change to AASB 16 regarding the treatment of leases.

Utility Charges

No variance analysis required, variance to budget is less than 10%.

Depreciation on Non-Current Assets

No variance analysis required, variance to budget is less than 10%.

Interest Expenses

Unfavourable variance to budget of \$132,893 due to timing of loan repayments.

Insurance Expenses

No variance analysis required, variance to budget is less than 10%.

Other Expenditure

Favourable variance of \$111,227 due primarily to underspend comparative to budget specific to community grants - \$112,980.

Loss on Disposal of Assets

No variance analysis required as net profit/loss variance to budget is less than \$10,000.

Other

Capital Expenditure

Favourable variance of \$2,494,793, refer to Capital Works Expenditure within the Monthly Financial Report attachment for further details.

**Non-Operating Grants, Subsidies and Contributions**

Favourable variance of \$2,788,320 primarily due to unbudgeted developer contributions recognised as revenue in accordance with AASB 1058 due to the nature of the contributions not being sufficiently specific to recognise a liability. These funds are transferred to reserve on receipt as detailed below.

Proceeds from Disposal of Assets

Favourable variance of \$56,455 due primarily to better-than-expected sale prices for five motor vehicles traded.

Repayment of Loans

Unfavourable variance of \$512,384 due to timing of loan repayments as per agreements.

Repayment of Leases

Favourable variance of \$55,386 due to timing of lease repayments.

Transfers to/ from Cash Backed Reserves (Restricted Assets)

Transfers from reserves are ahead of budget \$360,193 largely due to the timing of plant and vehicle purchases.

Transfers to cash reserves are also ahead of budget (\$2,319,719) largely due to the unbudgeted transfer of \$2,083,367 to the Byford DCP reserve in accordance with state planning policy proposals for such funds to be accounted for in this way. Further transfers to this reserve are expected once the DCP audit is completed.

Options and ImplicationsOption 1

That Council RECEIVES the Monthly Financial Report for May 2021 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**.

Option 2

That Council DOES NOT RECEIVE the Monthly Financial Report for May 2021, 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**.

Option 1 is recommended

Attachments (available under separate cover)

- **10.3.2 - attachment 1** – Monthly Financial Report May 2021 (E21/7352)

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 31 May 2021, the Shire's respective cash position was as follows:

Municipal Fund: \$648,767

Trust Fund: \$1,304,222

Risk Implications

Risk has been assessed on the basis of the Officer's 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	Nil.						
2	That Council does not receive the Monthly Financial Report for April 2021 leading to the Shire not meeting legislative requirements on financial reporting.	Provision of sufficient information and records to support the recommendation	Financial	Unlikely	Insignificant	LOW	Accept Officer Recommendation

Voting Requirements: Simple Majority

OCM191/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr McConkey

That Council RECEIVES the Monthly Financial Report for May 2021 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 8/0

**10.3.3 – 2021 Ordinary Local Government Election and Councillor Induction (SJ413)**

Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
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 enable Council to note the arrangements for the 2021 Ordinary Local Government Election and consider options for a Councillor induction following that election.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 26 November 2018 – OCM128/11/18

That Council:

- 1. In accordance with section 4.20(4) of the Local Government Act 1995, declares by an absolute majority, that the WA Electoral Commissioner be responsible for all Local Government Elections for the Shire of Serpentine Jarrahdale together with any other elections or polls which may be required between now and 31 December 2023;*
- 2. In accordance with section 4.61(2) of the Local Government Act 1995, determines by an absolute majority, that the method of conducting all elections for the Shire of Serpentine Jarrahdale between now and 31 December 2023 will be as postal elections;*
- 3. Notes that resolutions 1 and 2 above are not a binding contract with the WA Electoral Commissioner and nothing shall prevent Council from revoking the decision at any time before 31 December 2023.*

Background

The 2021 Ordinary Local Government election will be held on 16 October 2021. In accordance with Council's resolution of November 2018, the election will be conducted by the WA Electoral Commission as a postal election.

In May 2021, Officers commenced work on arrangements for the election including meeting with the WA Electoral Commission and conducting a review of Shire's Owners and Occupiers Roll to ensure its accuracy and currency.

As part of putting together arrangements to ensure a successful election conducted in accordance with legislation, it is timely for Council to consider adjacent matters, including Councillor induction following the 2021 Ordinary Local Government Election.



Community / Stakeholder Consultation

Nil.

Statutory Environment

The statutory requirements for local government elections are set in the *Local Government Act 1995* and in part the *Electoral Act 1907*.

The combination of the legislation provides rules for how an election is to be conducted and prescribes timing for events such as the preparation of electoral rolls, opening and closing of nominations and the declaration of the result.

In 2019 amendments were introduced to the Act that require:

- all nominees for election to complete an online induction available on the Department of Local Government's website; and
- following the election, all Councillors (who are not otherwise exempt) to complete the 'Council Member Essentials' course.

Comment

Election arrangements

The 2021 Ordinary Local Government election will be a postal election with the Shire's Administration Building and Civic Centre at 6 Paterson Street assigned as the location for nominations, site for the delivery of postal votes, and site for election count and declaration of result. In accordance with section 4.20 of the Act these arrangements have been made by the WA Electoral Commissioner in accordance with Council's 2018 resolution and in consultation with Shire Officers.

In 2019, a candidate information session was held in September. The information session which had fifteen attendees featured presentations from the WA Electoral Commission, Western Australian Local Government Association and Department of Local Government. Following the success of the 2019 session, planning is underway to hold a Candidate Information Session on Wednesday, 25 August 2021.

The election night count will be carried out at the Civic Centre at 6 Paterson Street. Traditionally, the election count attracts candidates and their supporters for the announcement of the results. While the count is normally completed within 90 minutes, certification of election results is reliant on the WAEC head office which in 2019 took several hours.

Council's policy 1.1.17 Refreshment and Alcohol Policy provides that reasonable and appropriate expenditure can occur to cater for Civic Functions. The definition of civic functions provided for in the policy includes civic functions such as citizenship ceremonies that provide community recognition or a welcome by the Council. This definition does not appear to include catering associated with the announcement of the election result. As such, if Council wishes for catering to be provided on election night, it is asked to consider resolving to do so. An expenditure of \$1,500 would provide catering for the expected number of visitors.

An informal survey of neighbouring local governments conducted in 2019 found that, while the scale of election night activities varied, most provided catering for count staff, scrutineers and members of the public present for the announcement of results. In 2019, no expenditure occurred for catering at the announcement of results which resulted in some criticism in local media.



Councillor induction

Following the election, all Councillors (who are not otherwise exempt) as required under the Act to complete the 'Council Member Essentials' course. As in 2019, Councillors will have options to complete the compulsory training under the Act via several means in accordance with the Council Policy – Councillor Training and Continuing Professional Development.

In addition to the compulsory training under the Act, it is proposed that all Councillors receive an induction to welcome them to the organisation, strengthen Council as a collective quasi-judicial decision-making body and prepare them for their responsibilities and duties as public Officers under legislation.

Council has significant power under the *Local Government Act 1995* and the State's planning framework and legislation and individual Councillors have significant responsibilities.

The objectives of the induction are four-fold:

- Provide critical information to Councillors to prepare them for their immediate role
- Provide an opportunity for a dialogue and a conversation with Councillors to form a cohesive working relationship
- Introduce Councillors to the Shire Administration
- Share the expertise of external presenters.

A three-day induction over three weeks is proposed commencing on Monday, 18 October 2021. A summary of the proposed induction program is as follows:

Day 1 - Monday, 18 October 2021

Time	Topic	Purpose
9:00am – 9:30am	Welcome and introductions	Provide a welcome to the Shire and an overview of what the purpose of the induction is and the sessions planned.
9:30am – 10:30am	An overview of the Shire of Serpentine Jarrahdale <ul style="list-style-type: none"> - organisational structure - challenges, issues, opportunities - the Shire's journey 	This session will provide an overarching introduction to the Shire administration, the organisational structure, challenges
10:30am – 11:00am	Integrated Planning, the Strategic Community Plan, the Corporate Business Plan, Long Term Financial Plan and the Annual Budget	This session will cover the IPR including SCP, CBP. Financial plan and annual budget. It will provide an overview of the current strategic vision and the major projects being undertaken.
11:00am – 11:30am	Morning tea	-
11:30am – 12:00pm	Meetings and communication. The who, what, when, how of Council meetings, committees, advisory groups, Q&A and Policy Concept Forums (PCF)	This session will provide some practical guidance on the logistics of Council. It will cover the timetable of Council, including the timing of meetings, committees, Q&A and PCF.
12:00pm – 1:00pm	Lunch	-
1:00pm – 1:30pm	How Council makes decisions – the process for meetings	This session will provide a practical overview of how meetings operate and basic meeting procedure conventions.



Ordinary Council Meeting Minutes

Monday, 19 July 2021

Time	Topic	Purpose
1:30pm – 2:00pm	Managing interests, conduct and the responsibilities of being a public officer	This session will cover the legislative responsibilities of Councillors as public officers and inform Councillors about the oath, rules of conduct, code of conduct and provisions related to interests.
2:00pm – 3:00pm	Rehearsal for swearing-in ceremony and Special Council Meeting	This practical session will go through the arrangements for the evening's swearing-in ceremony and Special Council Meeting. <ul style="list-style-type: none"> • Seating arrangements prior to swearing in. • the Oath and associated paperwork • Voting procedures • Seating allocation
3:00pm – 3:30pm	IT provision to new Councillors as required	This session will only be required for new Councillors as it will provide an opportunity to onboard any new Councillors with their IT equipment and credentials
6:00pm	Swearing-in and Special Council Meeting	-

Day 2 – Monday 25 October 2021

Time	Topic	Purpose
9:30am – 10:00am	Directorate presentation – Development Services	To provide an overview of the respective Directorates and their functions
10:00am – 10:30am	Directorate presentation – Infrastructure services	
10:30am – 11:00am	Break / Morning tea	
11:00am – 11:30am	Directorate presentation – Corporate Services	To provide an overview of the respective Directorates and their functions
11:30am – 12:00pm	Directorate presentation – Community and Organisational Development reports	
12:00pm – 1:00pm	Lunch followed by administration building and library tour	-
6:00pm	Policy Concept Forum	-
7:00pm	Special Council Meeting ¹	Appoint members to Committees and Groups

Day 3 – Monday, 1 November 2021

Time	Topic	Purpose
8:00am – 9:00am	Depot tour and breakfast	
9:30am – 10:30am	External presenter - Overview of Councillor mentoring	This session will be externally facilitated and is intended to provide an overview of the Councillor mentoring program
10:30am – 11:00am	Morning tea	-

¹ The concept of a Special Council Meeting and the rationale is dealt with in a separate paper.



Time	Topic	Purpose
11:00am – 12:30pm	External presenter - Local government's role in the planning framework	This session will be externally facilitated and aims to support Councillors through an overview of: <ul style="list-style-type: none">• The Western Australian Planning System• The Shire's Local Planning Framework• Councillors' roles and responsibilities in Planning and Development decisions, individually and collectively.
5:30pm	Audit, Risk and Governance Committee meeting	-

An invitation will be provided to all Councillors whether they are first-time Councillors, returning or sitting members. This is to provide a common platform for Councillors to operate a collective decision-making body.

Options and Implications

Option1

That Council:

1. REQUESTS that the CEO make arrangements to cater for the 2021 ordinary election night to the maximum value of \$1,500.
2. REQUESTS that the CEO make arrangements for a Councillor Induction program for all Councillors as specified in this paper.

Option 2

That Council:

1. REQUESTS that the CEO DOES NOT make arrangements to cater for the 2021 ordinary election night.
2. REQUESTS that the CEO make arrangements for a Councillor Induction program for all Councillors as specified in this paper.

Option 3

That Council:

1. REQUESTS that the CEO make arrangements to cater for the 2021 ordinary election night to the maximum value of \$1,500.
2. REQUESTS that the CEO DOES NOT make arrangements for a Councillor Induction program for all Councillors as specified in this paper.

Option 4

That Council:

1. REQUESTS that the CEO DOES NOT make arrangements to cater for the 2021 ordinary election night to the maximum value of \$1,500.



2. REQUESTS that the CEO DOES NOT make arrangements for a Councillor Induction program for all Councillors as specified in this paper.

Option 1 is recommended.

Conclusion

The 2021 local government election is a significant project for the Shire and will be conducted in accordance with legislation in partnership with the WAEC. Council's consideration of arrangements for election night and Councillor induction will assist Officers to plan.

Attachments

Nil.

Alignment with our Strategic Community Plan

Outcome 4.2	A strategically focused Council
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

The draft 2021-22 budget includes allocations for catering and councillor professional development that can accommodate the expenses associated with the Officer's recommendation.

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	
1-4	Catering is a high-profile expenditure line item. Opposing viewpoints are likely to exist the community on the appropriateness of providing catering.	Nil	Reputation	Rare	Minor	LOW	Nil



Voting Requirements: Simple Majority

OCM192/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr McConkey

That Council:

- 1. REQUESTS that the CEO make arrangements to cater for the 2021 ordinary election night to the maximum value of \$1,500**
- 2. REQUESTS that the CEO make arrangements for a Councillor Induction program for all Councillors as specified in this paper.**

CARRIED UNANIMOLUSLY 8/0



10.3.4 – Appointments to Committees and related groups following the 2021 Ordinary Local Government Election (SJ3413)	
Responsible Officer:	Manager Governance and Strategy
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

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 enable Council to consider arrangements for appointing members to Committees and related groups following the 2021 Ordinary Local Government election.

Relevant Previous Decisions of Council

There is no previous Council decision relating to this matter.

Background

In accordance with the *Local Government Act 1995* (the Act), Council has established two formal committees of Council under that Act and makes appointments to various advisory groups, committees established under other legislation, and other related groups.

The term of membership for almost groups expires following the 2021 Ordinary Local Government Election. One notable exception is the Metro Outer Joint Development Assessment Panel (JDAP). In the case of JDAP, members are appointed by the Minister for Planning on the recommendation of the local government for a period of up to three years but cease when a member is no longer a Councillor.

Membership of committees and related groups expire at the election for both Councillor and external members. With the 2021 ordinary local government election to be held on 16 October 2021, it is timely that Council consider the arrangements for appointing members to groups following the election.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Some of the committees and related groups to which Council makes have a basis in legislation.

This report also deals with the calling of a Special Council Meeting. The power for Council to call a Special Council Meeting is derived from section 5.4 of the Act.



Comment

The composition of Council's committee and advisory structure was considered in a major review in December 2019. The review resulted in a consolidation of committees and the establishment of several new advisory groups. As part of the review, Council also adopted a policy on Council Delegates and Representation on External Organisations, Including Community Groups.

It is proposed that Council considers appointments to several high-priority committees and groups at a Special Council Meeting to be held on Monday, 25 October 2021 at 7:00pm. At this time, it is proposed that Council consider appointments to the following committees and groups are made:

Committees under the Local Government Act 1995

- Audit, Risk and Governance Committee
- CEO Employment Committee

Council advisory groups and committees established under legislation other than the Local Government Act 1995

- Bush Fire Advisory Committee
- Local Emergency Management Committee

External groups with Council representation

- Western Australian Local Government Association (WALGA) – Peel Zone
- Metropolitan Regional Roads Sub Group (MRRG)

It is further proposed that Council make appointments to other advisory groups and related bodies at a subsequent meeting of Council.

The rationale for this proposal is that the six identified groups above are critical groups or bodies that have statutory obligations under the Act or other legislation and can not wait until the next ordinary council meeting following the October election. This is especially the case with the Audit Risk and Governance Committee that is scheduled to meet on 1 November 2021.

In respect to the Audit, Risk and Governance Committee, Officers intend to issue an expression of interest to create a pool for external members to assist Council in the selection of external members. Both current external members of the of the Committee have expressed an interest in being reappointed for an additional term following the 2021 ordinary local government election.

Under section 5.100 of the *Local Government Act 1995* (the Act) an external committee member is not permitted to be paid a fee. Reimbursement of expenses of external committee members is common practice in local governments across the state. In previous years, a reimbursement of \$500 per meeting has been provided in recognition of the contribution made by external audit risk and governance committee members. This practice is also broadly consistent across neighbouring local governments. Notwithstanding, the value of reimbursement may not be consistent with the intent of section 5.100 prohibiting payment of fees and Officers will recommend that when appointing members to the Audit, Risk and Governance Committee following the 2021 local government election that a true reimbursement of expenses is applied.



Options and Implications

Option 1

That Council:

1. RESOLVES that a Special Council meeting be held on Monday, 25 October 2021 at 7:00pm for the purpose of: 'Council considering appointments to particular Committees and other groups'.
2. NOTES that an expression of interest will be conducted prior to the Special Council Meeting for external member positions of the Audit, Risk and Governance Committee.

Option 2

That Council:

1. RESOLVES that a Special Council meeting be held on Monday, 18 October 2021 at 9:00pm for the purpose of: 'Council considering appointments to particular Committees and other groups'.
2. NOTES that an expression of interest will be conducted prior to the Special Council Meeting for external member positions of the Audit, Risk and Governance Committee.

Option 3

That Council:

1. RESOLVES that a Special Council meeting be held on Monday, 25 October 2021 at 7:00pm for the purpose of: 'Council considering appointments to particular Committees and other groups'.
2. REQUESTS that the CEO does not issue an expression of interest prior to the Special Council Meeting for external member positions of the Audit, Risk and Governance Committee.

Option 1 is recommended.

Conclusion

Committees and related groups provide an important input to Council decision-making and advocacy efforts. The approach outlined in this paper will enable continuity of this function following the 2021 Ordinary Local Government election.

Attachments (available under separate cover)

Nil.

Alignment with our Strategic Community Plan

Outcome 4.1	A resilient, efficient and effective organisation
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

There are no financial implications associated with 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	A Special Council Meeting may need to be called in the event that a special committee meeting is required in the intervening period between the election and Monday, 25 October 2021	What are the things currently in place that are managing the risk (think tangible things like policies, frameworks, procedures, processes and plans)	Organisational Performance	Rare	Minor	LOW	Nil
2	Newly elected Councillors will not have the benefit of receiving the full induction prior to making appointments	Nil	Organisational Performance	Likely	Minor	MODERATE	Nil
3	Not issuing an expression of interest could limit the pool of potential external members of the Audit, Risk and Governance Committee	Nil	Organisational Performance	Unlikely	Minor	LOW	Nil



Voting Requirements: Simple Majority

OCM193/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Byas

That Council:

- 1. RESOLVES that a Special Council meeting be held on Monday, 25 October 2021 at 7:00pm for the purpose of: 'Council considering appointments to particular Committees and other groups'.**
- 2. NOTES that an expression of interest will be conducted prior to the Special Council Meeting for external member positions of the Audit, Risk and Governance Committee.**

CARRIED UNANIMOUSLY 8/0



10.3.5 – Councillor training, professional development and mentoring 2021-22

Responsible Officer:	Manager Governance and Strategy
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

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 enable Council to consider matters related to Councillor training, professional development and mentoring subject to adoption of the 2021-22 draft budget and associated changes to Council's policy related to Training and Professional Development.

Relevant Previous Decisions of Council

*Ordinary Council Meeting – 19 October 2020 - OCM339/10/20- COUNCIL RESOLUTION
That Council:*

- 1. In accordance with Council Policy – Councillor Training and Continuing Professional Development, APPROVES the Councillor mentoring program described in this report, including the introduction to mentoring session;*
- 2. APPROVES Councillors to participate in the mentoring program specified in this report up to the maximum value of \$2,900 per Councillor;*
- 3. RESOLVES that funds to meet costs of the program will be funded from Councillor's remaining individual training allocation in the first instance; and*
- 4. APPROVES the following a budget adjustment for any shortfall in individual training allocations to enable investment in a Councillor mentoring program.*

<i>Account Number</i>	<i>Type</i>	<i>Description</i>	<i>Debit</i>	<i>Credit</i>
<i>5200-17101-6906</i>	<i>Increase expenditure</i>	<i>Councillor Training / Conference</i>	<i>\$16,625</i>	
<i>5200-17101-6230</i>	<i>Decrease expenditure</i>	<i>Consultancy</i>		<i>\$16,625</i>

Reason: Reallocate funds to enable investment in a Councillor mentoring program.

Background

In October 2020, Council resolved to approve a Councillor Mentoring program. The program represented an innovative approach for local government. Both the Department of Local Government and Western Australian Local Government Association supported the initiative and applauded the progressive and forward-thinking nature of the program.



As the program concluded at the 2020-21 financial year, it is timely that Council consider whether to continue a mentoring program in 2021-22.

Community / Stakeholder Consultation

In the course of regular discussions with Officers, both the Department of Local Government and Western Australian Local Government Association have indicated their support for the Shire's investment in mentoring.

Statutory Environment

The *Local Government Act 1995* contains provisions regarding training for Councillors. Section 5.126 of the Act provides a head of power for requiring compulsory training. Section 5.127 of the Act requires a local government to prepare a report on training undertaken. Section 5.128 of the Act requires Council's to adopt a policy on training and continuing professional development. Council adopted its policy on training and professional development at the December 2019 Ordinary Council Meeting.

Comment

Councillor mentoring

As an innovative program, lessons have been learned in the course of the design and implementation of the Council mentoring program in 2020-21. These findings include:

- Training and mentoring are two related but distinct concepts. While from a budgetary perspective, the mentoring program sat within 'Councillor Training' line item, mentoring and coaching is a unique form of professional development that does not fit entirely within the parameters of Council's training and professional development policy and is considered outside the scope of the report on training required by 5.127 of the Act;
- There are benefits associated with professional coaching that cannot be achieved by linking Councillors with peers alone;
- Compulsory mentoring is not considered effective. Undertaking mentoring is a journey that participants must be willing to undertake, it can not be forced;
- Funding for Councillor mentoring should be distinct from the individual Councillor training and professional development allocation;
- Mentoring can have more in common with programs like those of an Employee Assistance Program that offer support during periods of stress than a training program with clear learning goals and objectives.

In keeping with the last of the four points, while Officers have been in regular contact with the consultant coordinating the program, recognition of the need for confidentiality has been a feature of these discussions. Officers have only sought and received enough information to assess the uptake and success of the program. The total expenditure on the Councillor Mentoring program in 2020-21 was \$9,923.

Overall, it appears that the program is a success and Officer's recommend that it continue. This viewpoint is based on the general discussions with the coordinator, anecdotal evidence from Councillors who have participated and feedback from the Department and WALGA. Other Councils, including those in the Growth Areas Perth and Peel grouping have made enquiries about the program which again demonstrates its perceived value. As a means to strengthen the



functioning of Council as a collective decision-making body, Officers believe that the program is well worth the expenditure and has prevented costly interventions.

With the success of the program to date, Officers propose that future draft budgets (beyond 2021-22) list for Council's consideration a discrete allocation to 'Councillor Support and Mentoring' which will make the program a routine capacity building exercise.

Amending the Training and Professional Development policy

Council's Training and Professional Development policy was adopted by Council prior to the commencement of the mentoring program.

As noted above, in the course of designing and implementing the mentoring program, Officers have identified that mentoring has more in common with professional and executive support programs than it does with traditional training and professional development that specifies learning outcomes and objectives.

To incorporate this learning, it is proposed to make amendments to the Councillor Training and Professional Development policy to exclude Councillor mentoring and coaching from the policy. This change will allow sitting Councillors to receive support up to the date of their term expiring, clarify that mentoring does not fall within the parameters of section 5.127 of the Act, and provide greater clarity in setting and accessing funding in future budgets.

Councillor training and professional development

Council's policy on training and professional development provides that Councillors are assigned an annual training funding allocation. During the 2020-21 budget adoption, the total amount allocated to Councillor training was \$10,000 which applied across nine Councillors equates to approximately \$1,100 each.

In 2021-22, a total of \$37,000 for Councillor Training has been listed for Council's consideration in the 2021-22 draft budget. The proposed breakdown of this allocation is as follows:

- \$5,000 for compulsory training of Councillors in accordance with the *Local Government Act 1995* following the 2021 ordinary local government elections;
- \$5,000 for training as a collective (for example the proposed Councillor induction);
- \$9,000 for Councillor training to be used at the discretion of each Councillor in accordance with Council's professional development policy (\$1,000 each);
- \$18,000 for the Councillor mentoring program.

This proposed allocation would provide \$1,000 for training and professional development for each Councillor to use at their discretion in accordance with Council's professional development policy and \$18,000 for the Councillor mentoring program referenced above. In accordance with the Council's policy, compulsory training for Councillors following an election is to be funded separate from an individual Councillor's funding allocation.

Options and Implications

Option1

That Council:

1. AMENDS the Council Policy – Councillor Training and Professional development as shown in **attachment 1**.



2. NOTES that the 2021-22 draft budget contains an allocation under Councillor Training and Professional Development (5200-17101-6906) comprising:
- \$5,000 for compulsory training of Councillors in accordance with the *Local Government Act 1995* following the 2021 ordinary local government elections;
 - \$5,000 for training undertaken as a group;
 - \$9,000 for Councillor training to be used at the discretion of each Councillor in accordance with Council's professional development policy (\$1,000 per Councillor); and
 - \$18,000 for the Councillor mentoring program.

Option 2

That Council DOES NOT AMEND the Council Policy – Councillor Training and Professional development as shown in **attachment 1**.

Option 1 is recommended.

Conclusion

The Councillor mentoring program is regarded internally and externally as an innovative achievement for the Shire that has led to benefits that exceed the investment. As part of Council setting the 2021-22 budget it is recommended that Council approve a continuation of the program and note that the proposed allocation of Councillor Training and Professional development funding in the budget to deliver a combination of discretionary training and professional development, compulsory training and mentoring.

Attachments (available under separate cover)

- **10.3.5 - attachment 1** – Council Policy – Training and Professional Development (proposed amendments as shown) (E21/7347)

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

There are no immediate funding implications associated with this paper. The funding for Councillor Training and Mentoring will be considered by Council in the adoption of the 2021-22 Annual Budget.

**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	There are no significant risks associated with this option						
2	The Council policy will not reflect lessons learned in design and implementation of the councillor mentoring program and result in a potential lack of clarity regarding the eligibility to access support programs and training and compliance with requirements to report training.		Organisational Performance	Unlikely	Insignificant	LOW	Nil



Voting Requirements: Absolute Majority (s5.128)

OCM194/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Strange

That Council:

- 1. AMENDS the Council Policy – Councillor Training and Professional development as shown in attachment 1.**
- 2. NOTES that the 2021-22 draft budget contains an allocation under Councillor Training and Mentoring (5200-17101-6906) comprising:**
 - \$5,000 for compulsory training of Councillors in accordance with the *Local Government Act 1995* following the 2021 ordinary local government elections;**
 - \$5,000 for training undertaken as a group;**
 - \$9,000 for Councillor training to be used at the discretion of each Councillor in accordance with Council's professional development policy (\$1,000 per Councillor);**
 - \$18,000 for the Councillor mentoring program.**

CARRIED BY ABSOLUTE MAJORITY 8/0



10.4 Community and Organisational Development reports

10.4.1 – Organisational Development Roadmap 2020-2030 Revision (SJ388)	
Responsible Officer:	Manager Human Resources and Organisational Development
Senior Officer:	Deputy CEO/Director Community and Organisational Development
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 request Council consider endorsing a revised Organisational Development Roadmap 2020-2030.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 19 October 2020 – OCM340/10/20- COUNCIL RESOLUTION / Officer Recommendation

That Council:

- 1. ADOPTS the Shire of Serpentine Jarrahdale Organisational Development Roadmap as contained in attachment 1;*
- 2. CONSIDERS an amount of \$100,000 at a future quarterly budget review be utilised to resource the delivery of the Organisational Development Roadmap; and*
- 3. NOTES that work will not commence on the delivery of the Organisational Development Roadmap until resources are available to facilitate the works outlined in the Strategic Workforce Programs 2020-2023, as contained in appendix 2 of attachment 1.*



Ordinary Council Meeting – 15 February 2021 - OCM031/02/21 - COUNCIL RESOLUTION

That Council

1. *APPROVES the creation of the Oakford Fire Station Reserve for the purpose of funding the construction of the new Oakford Fire Station;*
2. *APPROVES the schedule of variations to the 2020/21 Budget as presented below, in accordance with section 6.8 of the Local Government Act 1995, resulting in a change to the opening municipal surplus (net current assets) of \$2,200,000 as at 1 July 2020:*

<i>Account Number</i>	<i>Type</i>	<i>Account Description</i>	<i>Debit \$</i>	<i>Credit \$</i>
6500-80236-6600-0000	Increase Expenditure	Trails Development	250,000	
6300-NEW-6600-0000	Increase Expenditure	ASV RT – 120 Mulcher	300,000	
6300-NEW-6600-0000	Increase Expenditure	FYH 300-350 LWB Beavertail	200,000	
5300-17302-5200-0000	Increase Transfer to Reserve	Administration Building Reserve – Transfer to Reserve	1,100,000	
5300-17302-NEW-0000	Increase Transfer to Reserve	Oakford Fire Station Reserve – Transfer to Reserve	50,000	
5300-17302-5213-0000	Increase Transfer to Reserve	Footpaths Asset Management Reserve	200,000	
4700-10300-6230-0000	Increase Expenditure	Consultancy	100,000	
		Change in Net Current Assets		2,200,000

Background

At the Ordinary Council Meeting held October 2020 Council endorsed the Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 and resolved to consider an amount of \$100,000 at a future quarterly budget review to be utilised to resource the delivery of the roadmap. The Organisational Development Roadmap is included in this report as **attachment 1**. Subsequently at the Ordinary Council Meeting held 15 February 2021 Council resolved to provide additional financial resources to support the delivery of the Roadmap.

Since the October 2020 Ordinary Council Meeting the Shire's People and Culture business unit has undergone a significant period of change and refocusing to ensure that the business unit can meet the human resources and organisational development needs of the organisation. This has included a period of time with vacancies within the business unit including the Manager role, resulting in a reliance on casual staff to backfill the vacancies.

Human resource functions have continued to be provided to the organisation, however the demand on resources to meet recruitment and staff management needs, as well the as commitment of resources to the OneComm project, have meant that there has been minimal achievement of actions outlined in the Six Key Workforce Programs.



During this time the Western Australian State Elections also provided funding commitments from the Western Australian State Government for major infrastructure projects in the Shire. Significant strategic projects are also underway, coupled with proposed increase in service delivery including in library services, waste and bush fire mitigation, to be considered by Council through the 2021/2022 financial year budget setting process. This has resulted in a need to appropriately resource the delivery of these projects and to mature the project management performance of the organisation.

Given this period of change it is necessary to update the Organisational Development Roadmap, reflecting these changes and providing revised dates for achieving the actions in the Six Key Workforce Programs.

Community / Stakeholder Consultation

Councillors were advised via email on 3 June 2021 of the intention to revise the Organisational Development Roadmap.

Statutory Environment

Local Government Act 1995 section 5.56. Planning for the future

- (1) A local government is to plan for the future of the district.*
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Comment

The People and Culture business unit has undergone a significant period of change and refocusing to ensure that the business unit can meet the human resources and organisational development needs of the organisation. The Manager Human Resources and Organisational Development position was filled in April 2021 and the People and Culture team have now filled all but one vacancy. This has meant that only a small number of actions outlined in the Six Key Workforce Programs have commenced but not been achieved.

The revised Shire of Serpentine Jarrahdale Organisational Roadmap 2020-2030 is included in this report as **attachment 3**. A track changes copy indicating the changes made from the original document is included in this report as **attachment 2**.

The main changes to the document are:

- An update of the current organisation headcount and FTE to reflect the current state of the organisation as at June 2021.
- An update of the Six Key Workforce Programs completion dates.
- An update of the Shire population forecast for 2021.

The revised Roadmap accurately reflects the current position of the organisation and provides achievable timeframes for the delivery of the Six Key Workforce Programs.

Options and Implications

Option1

That Council ENDORSES the revised Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 as contained in **attachment 3**.

Option 2

That Council DOES NOT endorse the revised Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 as contained in **attachment 3**.

Option 3

1. That Council DOES NOT endorse the revised Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 as contained in **attachment 3**; and
2. Requests the Chief Executive Officer to undertake further work on the revision of the document and present it to Council for consideration as soon as practicable.

Option 1 is recommended.

Conclusion

Council are asked to consider adopting the revised Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 as contained in **attachment 3**.

Attachments (available under separate cover)

- **10.4.1 - attachment 1** – Organisational Development Roadmap, adopted 19 October 2020 (E21/7243)
- **10.4.1 - attachment 2** - Organisational Development Roadmap, revision with tracked changes (E21/7094)
- **10.4.1 - attachment 3** - Organisational Development Roadmap Revised July 2021 (E21/7578)

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
Strategy 4.2.3	Provide clear strategic direction to the administration

Financial Implications

Costs associated with the delivery of the Roadmap are to be met through existing budgeted allocations and resources and/or through the annual financial year budget process.



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	Nil						
2	Unable to deliver the actions within the timeframes specified.	Nil	Organisational Performance	Almost Certain	Moderate	HIGH	Council endorses the revised Roadmap
3	Further delay in the delivery of the actions within the document.	Nil	Organisational Performance	Unlikely	Moderate	MODERATE	Council endorses the revised Roadmap

Voting Requirements: Simple Majority

OCM195/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Byas, seconded Cr Strautins

That Council **ENDORSES** the revised Shire of Serpentine Jarrahdale Organisational Development Roadmap 2020-2030 as contained in attachment 3.

CARRIED UNANIMOUSLY 8/0

**10.5 Executive Services reports**

10.5.1 – State Government Election Commitments – Updates and Current Funding Agreements (SJ3322)	
Responsible Officer:	Chief Executive Officer
Senior Officer:	Chief Executive Officer
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

Advocacy	When the Council advocates on its own behalf or on behalf of its community to another level of government / body / agency.
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.

Report Purpose

The purpose of this report is to

1. Update Council on the status of the negotiations of funding agreements with the State Government from commitments made as part of the election; and
2. Present for Council's consideration to agree upon draft funding agreements for some of the State Government election commitments.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 20 July 2020 – OCM234/07/20 – COUNCIL RESOLUTION / Officer recommendation

That Council

1. *APPROVES the election priorities and requests as contained within attachment 1*
2. *REQUESTS the Chief Executive Officer to prepare relevant promotional material for the priorities.*

Ordinary Council Meeting – 15 February 2021 – OCM038/02/21 – COUNCIL RESOLUTION / Officer recommendation

That Council

1. *ENDORSES in principle, the Byford Health Hub Business Case, as per attachment 1;*
2. *SUPPORTS in principle, the Health Hub Facility to be located on the Shire's 7000m2 Civic Reserve in Byford, subject to endorsement of a future Business Plan;*
3. *REQUESTS the Shire President and Chief Executive Officer ADVOCATE for the State Government to fund the construction of the Byford Health Hub and;*
4. *REQUESTS the Chief Executive Officer present a report back to Council after the WA State Government election to determine how to progress the project.*



Background

Since the Western Australian State election Officers have been working with State Government Officers to prepare funding agreements for those projects for which the Shire will have responsibility for delivery.

There are a number of other election commitments that were made to groups and projects in the Shire, however this report only relates to those projects in which the Shire will be involved.

The election commitments for which the Shire will have responsibility to deliver are outlined in **attachment 1**. This attachment includes details of the amount of funding, status and proposes timing of delivery which aligns with the draft 2021/22 FY Budget and Corporate Business Plan.

Community / Stakeholder Consultation

Initial contact has been made with those groups involved in the funding agreement being presented to Council as part of this agenda item.

If Council accepts the funding agreements, further consultation with those groups will occur to assist in finalizing the scope and delivery details of the project within the budget and timeframe set out in the respective agreements. This will also include engaging with other groups and users of the facilities/spaces, so they are aware of the proposed projects.

Officers have made contact with representatives from Serpentine Jarrahdale Food and Farm Alliance and Serpentine Horse and Pony Club, Foothills Polocrosse Club, Byford Bushrangers, and YMCA in relation to the projects contained in the funding agreements presented through this report.

Statutory Environment

Nil.

Comment

There are 5 (five) funding agreements to consider at this stage which relate to the following election commitments:

- Upgrade to perimeter fencing at the Serpentine Sports Reserve
- Upgrades to the Serpentine Jarrahdale Community Recreation Centre including replacing all lights within the basketball hall with LED lighting; cladding the back wall to cover insulation; painting of the inside of the building including main hall; removing the skylight at the entry to the building and installing a more traditional roof structure.
- Installation of one indoor roof mounted retractable basketball backboard system at the Serpentine Jarrahdale Community Recreation Centre (providing retractable basketball backboards for one court).
- The Installation of four "dugouts" at the Briggs Park Baseball diamond including concrete pads, shelters and seating.
- Installation of accessible compostable toilet at Jarrahdale Cemetery, next to the trail head of the Kitty's Gorge Walk Trail. Note this project is recommended to be supplemented by additional funds, subject to Council's consideration of the new budget, to make it a reticulated toilet system.

Copies of these funding agreements are attached at **attachment 2** for Councillors review.



Councillors will note from **attachment 1** that consultation is occurring between the State Government, the Shire and the Serpentine Historical Society in relation to the commitment to funding for the Old Serpentine Bridge School and the Hopeland Community Association in relation to the commitment to funding for the Old Hopeland School Hall, to determine if they support the Shire delivering the projects. Should this occur funding agreements will be presented to Council for consideration at a later date.

The funding agreements for the Skatepark Stage 2 and Nature Play Splash Park are being prepared and will be presented to Council once ready. These projects are proposed to be delivered in the 22/23 FY. This will allow for consultation, design and final project planning to be undertaken. Given the unique user groups of these two facilities, which are our young people, it is important for engagement to take a bespoke approach so that young people are reached out to by Officers, to shape the design scope.

In relation to the election commitment for \$18 million for the upgrade of Kargotich, Soldiers and Orton Roads, Officers have liaised with Main Roads. Provided at **attachment 3** is a copy of correspondence regarding how this funding will be provided to the Shire for Councillors information. These projects and associated funding have been reflected in the draft 2021/22 FY Budget and Corporate Business Plan.

Planning for the delivery of the Byford Health Hub is being finalised including a timeline and clarity on the Shire's role. The State Government has confirmed the State will construct the building however the Shire may be responsible for the site works from the funding allocated as part of the election commitment. As per the previous resolution of Council, this matter will be presented to Council as a separate report in the coming months once further details are finalised. It is important to recognise that this facility is proposed to be located on the Shire's 7000sqm community purpose reserve, which is a Crown land title vested to the Shire as a reserve for its management. In order to arrive at a spatial location for where the Health Hub can be located and configured in a manner which integrates with the overall development outcomes for the community purpose site, master planning for the site will need to be completed in the 21/22 FY. This will seek to identify the portion of the 7000sqm community purpose site for the Health Hub, together with the other elements that need to be accommodated on the site including the Library and multi agency building; town square or plaza; nature play splash park space. The concept for this project will need to be revised and detail design undertaken subsequent to the master planning outcomes being finalised.

In addition, the Shire has received a grant from WALGA for the 2021-22 Local Government Urban Canopy Grant Program valued at approximately \$16,000. The Grant Program is in place to mitigate high heat islands through Perth. The grant has been awarded to fund street trees on Abernethy Road. The Shire's relevant policy does not permit the incoming funding agreements to be signed unless the funding is incorporated in the current budget. As the 2021-22 budget has yet to be presented to Council, a Council resolution authorising acceptance of the funding is required. The draft 2021-22 budget includes provision for a partial contribution for the works valued at \$10,000.

Resources for delivery

As outlined to Councillors as part of budget workshops, additional resources will be required to implement these projects as these works cannot be accommodated with the existing workload and organisational priorities. These resources are to be funded in part from these election priorities as outlined in the budget.



Officers are currently reviewing the Infrastructure Directorate structure with a view to refocusing the Directorate and increasing resources to enable delivery of these projects in a timely manner over the coming years.

The review will look at the current structure and organisational design of the Directorate and provide recommendations on how best to meet the increasing demands.

This is a project focused on resourcing ongoing growth, increasing capacity and enabling delivery. A key outcome will be recommendations and decisions about further resourcing, and where current and future resources are best positioned.

This review will be presented to Council for consideration as part of the adoption of the 2021/22 budget.

Options and Implications

Option One

That Council:

1. AUTHORISES the Chief Executive Officer to execute the funding agreement contained in **attachment 2** for the following projects:
 - a. Upgrade to perimeter fencing at the Serpentine Sports Reserve
 - b. Upgrades to the Serpentine Jarrahdale Community Recreation Centre including replacing all lights within the basketball hall with LED lighting; cladding the back wall to cover insulation; painting of the inside of the building including main hall; removing the skylight at the entry to the building and installing a more traditional roof structure.
 - c. Installation of one indoor roof mounted retractable basketball backboard system at the Serpentine Jarrahdale Community Recreation Centre (providing retractable basketball backboards for one court).
 - d. The Installation of four "dugouts" at the Briggs Park Baseball diamond including concrete pads, shelters and seating.
 - e. Installation of accessible compostable toilet at Jarrahdale Cemetery, next to the trail head of the Kitty's Gorge Walk Trail. Note this project is recommended to be supplemented by additional funds, subject to Council's consideration of the new budget, to make it a reticulated toilet system.
2. NOTES these projects are included in the draft 2021/22 FY together with and contribution from the Shire for Councils consideration as part of the budget adoption process;
3. NOTES the correspondence from Main Roads regarding the election commitment of \$18 million for upgrade of local roads and that this is reflected in the draft 2021/22 FY budget and Corporate Business Plan for Council consideration; and
4. NOTES further reports on other election commitments including the Byford Health Hub will be presented to Council as finalised over the coming months.
5. AUTHORISES the Chief Executive Officer to execute the funding agreement for the Local Government Urban Canopy Grant Program in **attachment 4**.

Option 2

Council can choose to accept or reject the funding offered to any other these projects.



Option 3

Council could choose not to allocate the additional funds towards the toilet at the Kitty's George Entry/Jarrahdale and install a compostable toilet. If this was the case it would not negate accepting the funding agreement, the additional Shire funds from reserve towards the project would not be allocated in the budget.

Option 1 is recommended.

Conclusion

Funding agreements presented as part of this report are for commitments made by the State Government at the last election.

Whilst some of the projects being considered as part of this report may not have been priorities for the Council in the election, Officers consider that as these are being delivered upon Shire land, it is appropriate for the Shire to receive the funding and deliver the projects to a suitable standard.

The funding provided for the SJ Recreation Centre and the toilet at Jarrahdale Cemetery, align with priorities of Council either in the upgrade of the Recreation Centre or through inclusion in the draft Jarrahdale Trail Town Business Case and are therefore supported by Officers.

As funding agreements are finalised for remaining election commitments further reports will be presented to Council for consideration.

Attachments (available under separate cover)

- **10.5.1 - attachment 1** – State Government Election Commitments – as at July 2021 (E21/7601)
- **10.5.1 - attachment 2** – State Government Funding Agreements from Election Commitments (E21/7667)
- **10.5.1 - attachment 3** – Letter from Main Roads (IN21/16442)
- **10.5.1 - attachment 4** – Local Government Urban Canopy Grant Program Grant Agreement (E21/7666)

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
Strategy 1.1.2	Provide a healthy community environment
Outcome 1.2	A recognised culture and heritage
Strategy 1.2.1	Recognise local heritage
Outcome 1.3	A safe place to live
Outcome 3.2	A vibrant tourist destination experience
Strategy 3.2.1	Actively support tourism growth within the district
Strategy 4.2.1	Build and promote strategic relationships in the Shire's interest.



Financial Implications

Three of the funding agreements being considered as part of this report have funding implications for the Shire as outlined below:

- Serpentine Jarrahdale Community Recreation Centre upgrades works election commitment required a matching contribution from the Shire of \$60,000 of Shire. These funds required have been included in the draft 2021/22 FY budget for Councils consideration.
- Installation of accessible compositable toilet at Jarrahdale Cemetery, next to the trail head of the Kitty's Gorge Walk Trail- The funding provided by the State Government for this project is \$35,000 for a compositable accessible toilet. Officers consider that given the level of use of the Kitty's Gorge Walk Trail and the Jarrahdale Cemetery, a universally accessible toilet (that is not compositable) should be provided instead and have included a \$150,000 transfer from Reserve in the 2021/22 FY budget for Councils consideration, to make the total project budget of \$185,000.

All the election commitments have been included in the draft 2021/22 FY budget for Councils consideration. It is worth noting that for some of these election commitments Officers provided high level order of magnitude estimates however for others they have been costed independently.

There is a financial risk that some of the funds allocated for commitments made do not cover the costs to deliver the promises once the projects are fully designed and quotes obtained. Officers have liaised with the Department of Local Government, Sport and Cultural Industries regarding this matter and should this situation arise there is an opportunity to negotiate changes to the funding agreements. This mitigates any financial risk for agreeing to the funding agreements at this time.

In relation to the Local Government Urban Canopy Grant Program, expenditure of \$10,000 to complement the grant amount of \$16,000 has been included for Council's consideration in the 2021-22 budget.

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	Projects are delivered as a result of election commitments on Shire land without sufficient input from the Shire and are thus substandard.	Accepting the funding agreements and the Shire taking responsibility for delivering the projects.	Organisational Performance	Unlikely	Minor	LOW	



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1	If Council agrees to the funding agreements but does not adopt the commensurate funding in the 2021-22 budget, projects may not proceed	Nil	Organisational performance	Possible	Moderate	MODERATE	
2	Income for associated projects will not be available	Officers have reviewed the budgets and will only deliver what is possible within the funding provided in consultation with the groups. If funds are found not to be sufficient for a particular project the funding agreement can be renegotiated.	Financial	Unlikely	Moderate	MODERATE	



Voting Requirements: Simple Majority

OCM196/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr Strautins, seconded Cr Byas

That Council:

- 1. AUTHORISES the Chief Executive Officer to execute the funding agreement contained in attachment 2 for the following projects:**
 - a. Upgrade to perimeter fencing at the Serpentine Sports Reserve.**
 - b. Upgrades to the Serpentine Jarrahdale Community Recreation Centre including replacing all lights within the basketball hall with LED lighting; cladding the back wall to cover insulation; painting of the inside of the building including main hall; removing the skylight at the entry to the building and installing a more traditional roof structure.**
 - c. Installation of one indoor roof mounted retractable basketball backboard system at the Serpentine Jarrahdale Community Recreation Centre (providing retractable basketball backboards for one court).**
 - d. The Installation of four "dugouts" at the Briggs Park Baseball diamond including concrete pads, shelters and seating.**
 - e. Installation of accessible compostable toilet at Jarrahdale Cemetery, next to the trail head of the Kitty's Gorge Walk Trail. (Note this project is recommended to be supplemented by additional funds, subject to Council's consideration of the new budget, to make it a reticulated toilet system).**
- 2. NOTES these projects are included in the draft 2021/22 financial year budget together with any contribution from the Shire for Councils consideration as part of the budget adoption process;**
- 3. NOTES the correspondence from Main Roads regarding the election commitment of \$18 million for upgrade of local roads and that this is reflected in the draft 2021/22 Financial Year budget and Corporate Business Plan for Council consideration; and**
- 4. NOTES further reports on other election commitments including the Byford Health Hub will be presented to Council as finalised over the coming months.**
- 5. AUTHORISES the Chief Executive Officer to execute the funding agreement for the Local Government Urban Canopy Grant Program in attachment 4.**

CARRIED UNANIMOUSLY 8/0



10.5.2 – Peel Regional Leaders Forum (PRLF) meeting minutes Thursday, 24 June 2021 (SJ3413)	
Responsible Officer:	Manager Governance and Strategy
Senior Officer:	Chief Executive Officer
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

Information	For the Council / Committee to note.
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Report Purpose

The purpose of this report is to enable Council to note the Peel Regional Leaders Forum minutes from the meeting dated 24 June 2021.

Relevant Previous Decisions of Council

Nil.

Background

The Peel Regional Leadership Forum (PRLF) was established in 2010 to provide a vehicle for the coordination and prioritisation of project funding across the Peel Region. Its membership comprises the local governments of the Region (the City of Mandurah and the Shires of Boddington, Murray, Serpentine Jarrahdale and Waroona) together with Regional Development Australia (RDA) Peel, the Peel Community Development Group and the Peel Harvey Catchment Council. The Peel Development Commission (PDC) attends meetings of the PRLF as a non-voting member.

Community / Stakeholder Consultation

Nil.

Statutory Environment

Nil.

Comment

On 24 June 2021, the Peel Regional Leaders Forum held its 47th general meeting. The matters discussed were:

- A presentation from the Department of Communities regarding their district leadership group
- An update on the water supply initiative
- An update on the valuing nature project
- The concept of the PRLF utilising an independent chair
- The 2021-22 operational funding plan



- The RDA Peel Strategic Plan 2021-25
- Peel Away the Mask Update 3
- Minutes of the CEO Group Meeting
- Finance report
- Peel Trails Committee update

The minutes of the meeting are available in **attachment 1**.

Options and Implications

Option1

That Council NOTES the minutes of the 24 June 2021 PRLF meeting.

Option 1 is recommended.

Attachments (available under separate cover)

- **10.5.2 - attachment 1** – PRLF General Meeting Minutes 24 June 2021 (E21/7360)

Alignment with our Strategic Community Plan

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	There are no significant risks associated with this option.						



Voting Requirements: Simple Majority

OCM197/07/21

COUNCIL RESOLUTION / Officer Recommendation

Moved Cr McConkey, seconded Cr Byas

That Council NOTES the minutes of the 24 June 2021 PRLF meeting.

CARRIED UNANIMOUSLY 8/0

**10.6 Confidential reports**

10.6.1 – CONFIDENTIAL – <i>Criminal Procedure Act 2004</i> – Lot 518 (54) Bruns Drive, Darling Downs (PA20/428)	
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> .

OCM198/07/21**COUNCIL RESOLUTION****Moved Cr Denholm, seconded Cr Strautins**

That the meeting be closed to members of the public while item 10.6.1 is discussed pursuant to section 5.23(2)(d) and (f) of the *Local Government Act 1995*.

CARRIED UNANIMOUSLY 8/0

At 8:31pm the meeting went behind closed doors.

Voting Requirements: Simple Majority

OCM199/07/21**COUNCIL RESOLUTION / Officer Recommendation****Moved Cr Denholm, seconded Cr McConkey**

That Council resolves to AUTHORISE the prosecution proceedings under section 20(1)(b)(ii) of the *Criminal Procedure Act 2004* against the landowner and occupants for unauthorised development and any further charges as advised by the Shire's appointed solicitors.

CARRIED UNANIMOUSLY 8/0**OCM200/07/21****COUNCIL RESOLUTION****Moved Cr Denholm, Cr Dagostino**

That the meeting be reopened to members of the public.

CARRIED UNANIMOUSLY 8/0

At 8:33pm the doors were reopened to members of the public.

Presiding Member, Councillor Rich advised the public 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 8:34pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on the 16 August 2021.

Presiding Member – Councillor Rich

20/08/2021

Date