

| <b>Technical Report</b>                |                               |                        |  |
|--|-------------------------------|------------------------|--|
| <b>Application No:</b>                 | <b>PA19/767</b>               |                        |  |
| <b>Lodgement Date:</b>                 | <b>30 July 2020</b>           | <b>DAU Date:</b>       | <b>29 January 2020</b>                           |
| <b>Address:</b>                        | <b>543 King Road, Oldbury</b> |                        |  |
| <b>Proposal:</b>                       | <b>Transport Depot</b>        |                        |  |
| <b>Land Use:</b>                       | <b>Transport Depot</b>        | <b>Permissibility:</b> | <b>SA</b>  |
| <b>Owner:</b>                          | <b>Christine Mary Koward</b>  |                        |  |
| <b>Applicant:</b>                      | <b>Exit Waste</b>             |                        |  |
| <b>Zoning:</b>                         | <b>Rural</b>                  | <b>Density Code:</b>   | <b>R2 in accordance with Clause 5.4.2</b>        |
| <b>Delegation Type:</b>                | <b>12.1.1</b>                 | <b>Officer:</b>        | <b>Manager Statutory Planning and Compliance</b> |
| <b>Site Inspection:</b>                | <b>Yes</b>                    |                        |  |
| <b>Advertising:</b>                    | <b>Yes</b>                    |                        |  |
| <b>Outstanding Internal Referrals:</b> | <b>No</b>                     |                        |  |
| <b>External Referrals:</b>             | <b>Yes</b>                    |                        |  |
| <b>Within a Bushfire Prone Area:</b>   | <b>Yes/</b>                   |                        |  |

### Introduction:

A planning application for a proposed Transport Depot at 543 King Road, Oldbury was refused on under delegation on 10 February 2020. The reasons for refusal were as follows:

- The proposed development is neither a rural pursuit nor associated with a rural pursuit and is inconsistent with the objective for the 'Rural' zone in accordance with Clause 5.10.1 of the Shire of Serpentine Jarrahdale Town Planning Scheme No.02;*
- The proposed development is inconsistent with the established rural character of the area and is likely to adversely impact on the rural lifestyle of surrounding residents, which is contradictory to the objectives of the Rural Policy Area under the Rural Strategy Review;*
- Insufficient information has been submitted to determine the noise, and odour impacts of the proposed development;*

As a result, the refusal was subsequently appealed to the SAT on 9 March 2020. Mediation was held on 25 June 2020 where Officers advised the applicant

- to provide further information relating to noise and odour emissions generated from the development.
- to demonstrate how possible environmental impacts from the development could be managed. The applicant was also required with the additional information to demonstrate alignment with the objective of the 'Rural' zone of TPS2.

In that regard, SAT Council has been invited to reconsider its decision on the application under Section 31 (1) of the State Administrative Tribunal Act 2004. A reconsideration under Section 31 (1) allows for Council to either:

- Affirm the decisions'
- Vary the decisions; or
- Set aside the decisions and substitute a new decisions;

It is worth noting that if Council varies or substitutes the original decision, then the next step depends on the applicant. If the applicant is satisfied with the varied or substituted decision, they can withdraw the proceedings and the new decisions comes into effect. If the applicant is not satisfied with the new decision, the proceedings are resolved before the SAT by way of a full hearing.

### **Background:**

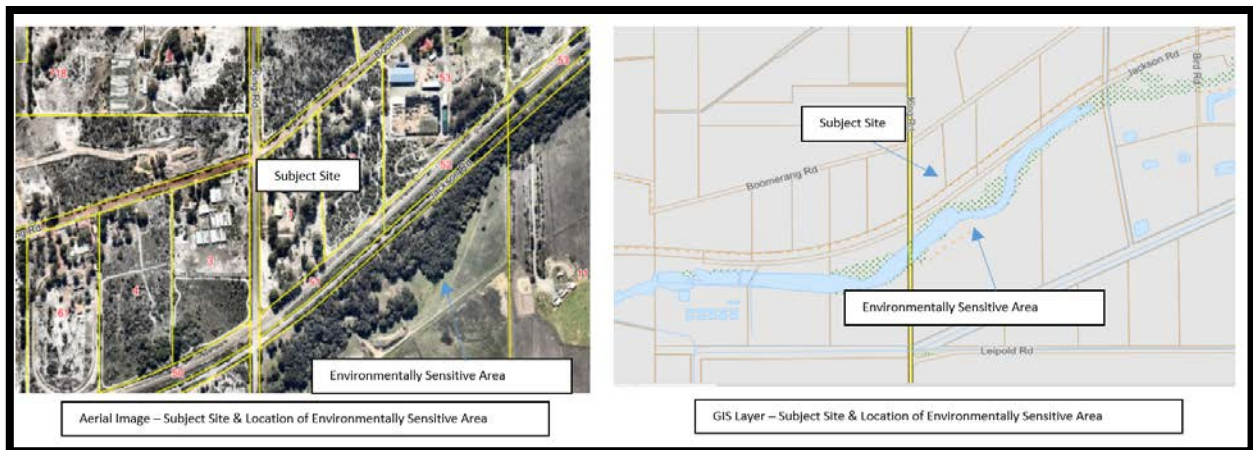
The property is zoned 'Rural' under TPS2 and is approximately 42 ha in size. It comprises of a dwelling, garage and a rural building. The rural building was initially approved in 1989 by the Shire and an extension granted in 1996. The approval granted the construction for a workshop.

A row of mature trees are located along the King Road frontage. Aside from this, the site is sparsely vegetated. Access to the site is via two driveways from King Road. Refer below to aerial image of site:



Aerial Image - 543 King Road Oldbury

A Resource Enhancement Wetland (UFI 7190) and a Bush Forever Site 69 are located to the east of the site.



The general locality comprises of 'Rural' zoned properties used for a variety of rural uses including grazing, equestrian activities, market gardens, nursery, extractive industries and transport depots. There are also various unauthorised activities occurring in the locality of which Statutory Enforcement Officers are seeking to address separately to this matter.

The initial application, sought retrospective planning approval for a transport depot operated by Exit Waste. The operation primarily involves parking and storage of commercial vehicles used for collecting various liquid wastes and controlled waste throughout the Perth Metropolitan Area. The waste trucks are licensed by the Department of Water and Environment Regulation (DWER).

The proposal initially sought the following:

- The parking of 5 controlled waste trucks; 1x aggregate truck weighing 15,000kg, 3 aggregate trucks weighing 22,500kg and 1x aggregate truck weighing 27,500kg;
- Only 2 vehicles operational at any one time;
- Commercial vehicles parked on hardstand area of approximately 1000m<sup>2</sup>. Vehicle movement consisting of two vehicles leaving the site and two returning at the end of the day;
- Trucks and staff vehicles entering the site from King Road via the northern driveway
- Waste trucks picking up bulk loads and disposing of the waste offsite. Vehicles mainly returning empty on the same day;
- Trucks containing controlled waste occasionally being parked on site in accordance with DWER's regulations, which allow waste to be retained in

controlled waste tanks for a maximum of 7 days before disposal to a tip site; a static waste tank is also proposed to be located onsite;

- Truck-to-truck transfer of liquids between vacuum units to intermittently occur within the holding period of 7 days; between 3 to 4 times a week;
- The main type of waste being sewage collected from septic tanks. Other wastes including grease trap, (vegetable oil/food waste), carwash waters and sludges, hydrocarbons, storm and ground water waste. No dangerous goods;
- Three employees comprising of 1 full time employee, 1 contract worker and the manager/owner;
- A transportable building/mobile amenity room, rainwater tank and car parking area. The transportable building will be used as the administration office for the business; and
- Hours of operation from 7am to 5pm six days a week. The business remains open for call out services outside these hours. Call out service occurs at an average of once of once or twice a month.
- Servicing of vehicles onsite and washing of vehicles;

Subsequent to the assessment being undertaken, based on the information forming the application, Officers considered that risks were too high to warrant against adverse amenity or environmental impacts.

The application was refused on the following grounds:

- 1 *The proposed development is neither a rural pursuit nor associated with a rural pursuit and is inconsistent with the objective for the 'Rural' zone in accordance with Clause 5.10.1 of the Shire of Serpentine Jarrahdale Town Planning Scheme No.02;*
- 2 *The proposed development is inconsistent with the established rural character of the area and is likely to adversely impact on the rural lifestyle of surrounding residents, which is contradictory to the objectives of the Rural Policy Area under the Rural Strategy Review;*
- 3 *Insufficient information has been submitted to determine the noise, and odour impacts of the proposed development;*

**SAT Proceedings**

The refusal was subsequently appealed to the SAT on 9 March 2020. Mediation was held on 25 June 2020 where Officers explained to the SAT the issues and concerns that were not addressed, and the reasons underpinning refusal. Officers also explained the issue in respect of the objectives of the 'Rural' zone of TPS2.

Upon the applicant submitting further information through mediation, the SAT has now invited Council to reconsider its original decision.

In accordance with the SAT Orders, Council has been invited to reconsider its decision on the application under Section 31 (1) of the State Administrative Tribunal Act 2004. A reconsideration under Section 31 (1) allows for Council to either:

- Affirm the decisions'
- Vary the decisions; or
- Set aside the decisions and substitute a new decisions;

If the applicant is satisfied with the varied or substituted decision, they can withdraw the proceedings and the new decision comes into effect. If the applicant is not satisfied with the new decision, the proceedings are resolved before the SAT by way of a full hearing.

**Revised Proposal**

The application principally remains the same. The additional information for Council's consideration is summarised as follows:

- The acoustic assessment submitted by the applicant demonstrates that the nearby sensitive receptors will not be exposed to undue noise impacts;
- Odour assessment submitted demonstrates that odour will not impact upon the amenity of the area;
- Additional details of the proposed bunded hardstand and associated drainage;
- The development seeks to service effluent disposal systems within the Shire's rural community who are not connected to reticulated sewer.

Six (6) commercial vehicles are proposed to be parked onsite of which four (4) are licensed waste controlled vehicles by the Department of Water Environments Regulations (DWER). The storage capacity of the individual waste vehicles are 8,000L, 11,000L, 11,000L and 14,000L. The applicant has advised that there will also be two (2) mobile skid mounted tanks onsite which will be located on the larger hardstand area which have a volume capacity of 1800L & 14,000L.

**Community/Stakeholder Consultation**

During the initial advertising period two submissions were received objecting against the proposal. The issues raised relate to:

- Against business from operating within this area;
- Development is not a rural pursuit or associated activity;

- Impacts to rural lifestyle/amenity;
- Unauthorised developments;
- Noise and odour emissions;
- Hazardous material;
- Vehicle movements; and
- Environmental impacts;

The application was initially referred to State departments for a period of 42 days. At the end of the consultation period, two (2) responses were received, one from the Department of Primary Industries and Regional Development (DPIRD) and the Department of Water and Environment Regulation (DWER). DPIRD provided no objection, DWER advised as follows:

**Environmental Protection Act**

*As per the details of use and development contained within the application, the proposed activity does not trigger any obligations relating to the Environmental Protection (Controlled Waste) Regulations 2004. The activities described also do not meet the definition of a category 61 (liquid waste facility) prescribed premises under the Environmental Protection Regulations 1987. Shire approval is likely to be the only requirement for the proposed development and use as a 'Transport Depot'.*

**Peel Harvey Coastal Plain Catchment**

*The subject area is located within the Peel-Harvey catchment and provisions of State Planning Policy 2.1 – The Peel-Harvey Coastal Plain Catchment and Environmental Protection (Peel Inlet – Harvey Estuary) Policy 1992 apply.*

**Stormwater Management**

*All vehicles containing controlled waste are to be parked on sealed hardstand areas. Drainage systems should be designed and constructed consistent with the Stormwater Management Manual for Western Australia (DoW, 2004-2007).*

**Best Practice Management**

*The following Water Quality Protection Notes (WQPN's) provide best practice management guidelines to protect the state water resources. These can be found on the DWER website here and searching under "publications"*

*WQPN 10 – Contaminant spills - emergency response*

*WQPN 51 – Industrial wastewater management and disposal*

*WQPN 52 – Stormwater management at industrial sites*

*WQPN 65 – Toxic and hazardous substances*

*WQPN 68 – Mechanical equipment wash down*

**Sewerage**

*In accordance with the Government Sewerage Policy (Government of Western Australia, 2019), the subject land is located within a sewage sensitive area. It is recommended that any new or upgraded staff amenities are connected to a secondary treatment system with nutrient removal."*

**Officer comment**

Officers identify concerns in respect of the current proposed approach to management of stormwater and wastewater, primarily due to the risk of direct interaction of these two water types. This is explained further in the report.

## **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; and
- Draft Local Planning Strategy

### Planning Assessment

#### **Town Planning Scheme No2**

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

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

The concept of 'rural' and 'pursuit' is not defined within TPS 2. The ordinary meaning of "rural" and of "pursuit" as cited in Attwell and City of Albany, uses the Macquarie Dictionary where "rural" means:

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

(2) *Living in the country;*

(3) *Of or relating to agriculture.*

And "pursuit":

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

The zoning table of TPS 2 lists a range of uses that can be considered within the 'Rural' zone, the uses range from having a direct relationship to an indirect relationship to a rural pursuit or associated activity. The land uses that are not directly rural pursuits or associated activities are considered discretionary for that reason. In considering a discretionary land use, it is required to determine the association with a rural pursuit or associated activity carried out within the scheme area. Land uses not directly rural in nature are considered capable of approval

This approach has indeed been applied by the SAT in Evangel Christian Fellowship Inc. and Shire of Serpentine Jarrahdale (2017) (WASAT 159). The SAT stated in this case that a land use such as a 'consulting room', *"which on its face could not be described as a rural activity, but is a land use that may be needed to service the medical needs of the local community, thereby supporting the carrying out of rural pursuits in the Rural zone."*

The additional information supplied by the applicant as part of the SAT presents that the operations support the local rural community. The applicant portrays that it will provide a service to rural properties and operations that are not connected to sewer by emptying septic apparatuses, which are commonly found in country areas. The applicant has advised that this service comprises about half of the overall operations. The other half, therefore, could be argued to service a range of non-rural sectors. This is not considered to be sufficiently clear enough to warrant a close association within rural pursuits and associated activities.

#### Land Use Permissibility

In determining the land use of the proposal, it is considered the retrospective proposal best fits within the TPS2; definition of 'Transport Depot', which is defined, as follows:

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

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

The zoning table in TPS2 provides that 'Transport Depot' is an 'SA' use in the 'Rural' zone, which means that this use may, at the decision maker's discretion, be permitted after the proposal has been advertised in accordance with the Scheme.

Officers consider that the 'Transport Depot' land use best fits the proposal as the development seeks to transfer waste from vehicle to vehicle and the operations comprises of staff attending the site to drive the licenced waste controlled commercial vehicles. Servicing of vehicles is also proposed to occur as part of the development within the existing buildings onsite. Therefore, the proposed development has been assessed as falling within the 'Transport Depot' classification.

In terms of DWER, it should be noted that the premises itself does not require a license for the storage of liquid waste. The controlled waste vehicles are required to be licensed through DWER. The intent of this is for DWER and various other State government departments to monitor waste disposals and volumes transported around Western Australia. Under DWER's license for the waste control vehicles, liquid waste can be kept on site within a controlled waste tank or on a vehicle for up to 7 days.

### 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 subject land is identified to remain zoned 'Rural' whereby the land use of 'Transport Depot' is an 'SA' use, meaning the land use can be approved at the discretion of Council subject to the application being advertised and any submission considered in making a decision.

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

- *'To provide for the maintenance or enhancement of specific local rural character'*

The surrounding area generally comprises of a range of rural type uses and associated incidental developments. The current development associated with the proposed development will be screened from King Road by the existing approved rural sheds on site vegetation. The applicant has also presented that the vehicles are associated with a rural pursuit (about half of overall operations). Officers are not satisfied with this extent.

- *To maintain and enhance the environmental qualities of the landscape, vegetation, spoils and water bodies including groundwater, to protect sensitive areas especially the natural valley and watercourse systems from damage;*

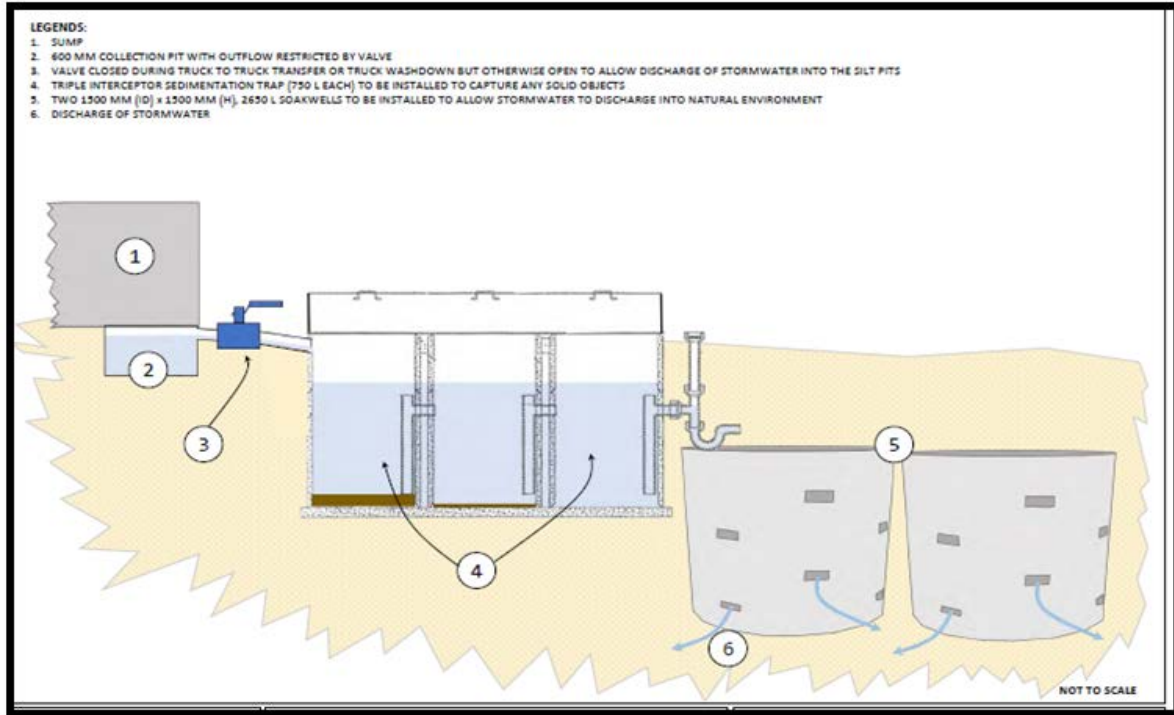
The applicant has prepared a site specific Storm Water Spill and Wash Down Management Plan which depicts an asphalt raised dedicated parking hardstand of 34m x 47m for the commercial vehicles and a 10m x 47m hardstand solely for the purposes of liquid waste transfer and vehicle washing.

A portion of the hardstand area where liquid waste transfer and vehicle washing is proposed to occur, will be bunded by a 200mm raised concreted kerb. This portion of area will be graded towards a wastewater sump to capture any wastewater runoff, to be then pumped out and disposed of. The purpose of the kerbing and hardstand area seeks to prevent hydrocarbons and possibly other contaminants leaching into the environment.

Officer note that bunding does extend to the entire perimeter of the hardstand area. This includes the parking area of the commercial vehicles, and thus any built up or spilt hydrocarbons within this area could impact the surrounding environment.

Further to this, a stormwater pit (soakwells) is proposed to be located at the base of the wastewater sump, which is proposed to capture stormwater run-off from the 10m x 47m dedicated hardstand areas. This is proposed when the wastewater sump is not being used as part of the liquid waste transfer process or when commercial vehicles are not being washed. This relies on a lever to be open or shut subject to the activity occurring at the time. The wastewater sump is thus sized for collection and containment of contaminated water that could occur with activities of truck to

truck transfer or cleaning, with this wastewater sump cleaned after such occurs. Outside these activities however, stormwater is intended to flow 'through' the system and infiltrate once passing through sediment traps, via the end of system stormwater pit (soakwells). This is shown following. Area (2) is the wastewater sump, which will also have a flow through of stormwater before existing at (6).



Stormwater Management

This practice is not considered optimal, and officers note DWER guidance does not support inline management of two different water quality flows. Officers have identified concerns over the possibility of contamination occurring to stormwater as a result of the stormwater pit being located at the base of the wastewater containment sump, albeit with a degree of treatment between the two. While noting this 'treatment' train, the fact liquid waste is being proposed in this operation means that risk management should demonstrate avoidance of such interaction, consistent with DWER WQPN guidance.

Officers also note that there is no dedicated sump, for stormwater purposes, for the larger hard surfaced area (34mx 47m) to capture and treat stormwater. Officers also note concern of the storage of the 2 skid mounted tanks on this area.

- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding land uses.*

The development argues a position of compatibility with rural character, by virtue of operations supporting a degree of rural pursuits.

### **Shire of Serpentine Jarrahdale Rural Strategy**

The Shire's Rural Strategy 2013 Review (Strategy) outlines key themes that future development within rural areas should be considered against. Generally, the

Strategy requires rural areas to maintain rural character, retain natural assets and facilitate productive rural areas by ensuring the areas are economically productive.

The subject site falls within the 'Rural Policy' Area of the Strategy. Within this policy area there is a general presumption against development that is not 'rural' in nature, or would impact adversely on the established character and amenity of the locality. The additional information supplied by the applicant as part of the SAT presents that the operations support the local rural community. The applicant portrays that it will provide a service to rural properties and operations that are not connected to sewer by emptying septic apparatuses, which are commonly found in country areas. The applicant has advised that this service comprises about half of the overall operations. The other half, therefore, could be argued to service a range of non-rural sectors. This is not considered to be sufficiently clear enough to warrant a close association within rural pursuits and associated activities.

In terms of impacts upon rural character, the development will be appropriately be screened from site as the vehicles are proposed to be parked behind the existing rural buildings onsite. As such, not considered to adversely impact upon the visual amenity of the area.

#### Draft Local Planning Strategy

The Strategy designates the subject site as 'Rural Land'. A key component of the designations is as follows:

*"The Rural land use category provides for a full range of rural land uses, tourism opportunities, rural enterprises and the preservation of the natural landscape. Rural land facilitates agricultural production and the protection of the natural landscape"*

From the additional information submitted by the applicant, it is noted part of overall operations could be seen to service the rural community. In terms of natural landscape, the development will be screened by the existing rural buildings onsite which have been previously approved. Impacts to nearby rural features such as the wetland and bush forever are however not adequately demonstrated, specific to the risks in respect of wastewater and stormwater management.

#### State Planning Policy 2.5

Land Use Planning in Rural Areas (SPP 2.5) is also relevant to consideration of the proposed development. In particular, cl 5.8, which deals with avoiding land use conflicts, as it provides:

*'The introduction of sensitive or incompatible land uses such as additional housing or accommodation in rural areas can compromise rural land uses and effectively sterilise rural land. Incompatible land uses may also include uses that are acceptable in a rural zone but have a negative impact on other rural land uses. ... There is a need to ensure that existing rural land uses are protected and landholders are able to exercise their operational needs effectively and appropriately.'*

The relevance of SPP 2.5 is limited to the consideration of ensuring compatibility between land uses and is relevantly focused on the need to assess potential impacts that may arise from non-rural activities on nearby rural land use and include such matters as traffic volumes, amenity, visual compatibility and noise.

Officers have considered that the proposal will not prevent nearby land from being used for rural purposes and therefore consistent with the objectives of SPP2.5.

State Planning Policy 2.1 – Peel-Harvey Coastal Plain Catchment

The subject site is located within the Peel-Harvey catchment area and as such, the provisions of SPP 2.1 apply. Land uses which are likely to drain towards the Peel-Harvey Estuarine System, should be managed to reduce or eliminate nutrient export from the land.

Officers consider the current approach to wastewater and stormwater management represent an unacceptable level of risk.

**Amenity**

The Environmental Protection Authority Guidance Note 3 (Separation distances between Industrial and Sensitive Land Uses) provides proponents, responsible authorities and stakeholder on generic separation distances between industries and sensitive land uses to avoid or minimise the potential for land use conflicts. With regard to the proposed development, the generic separation distance that applies between 'Transport Depots' and sensitive land uses is 200m.

Clause 2.3 of the document defines a sensitive land use as:

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

Where the separation distance is less than the generic distance, a scientific study based on site and industry specific information must be presented to demonstrate that a lesser distance will not result in unacceptable impacts. The map below identifies one sensitive receptor located within the generic 200m buffer. There is one located just outside the buffer:



Sensitive Receptors Located within the 200m Buffer

### Noise

An Environmental Noise Assessment prepared by Herring Storer Acoustic was submitted to the Shire to demonstrate that noise levels associated with vehicle movements and the transfer of liquid waste onsite will not result in undue noise impacts on nearby sensitive receptors. The noise assessment can be viewed within the relevant attachment.

The acoustic report was assessed on the movement of two commercial vehicles a day entering and exiting the site and the sound pressure level associated with the pump which facilitates the liquid transfer from vehicle to vehicle. The assessment concluded that the noise levels generated by the development are below the assigned compliant noise levels under the *Environmental Protection (noise) Regulations 1997* at the identified nearby sensitive receptors:

| Scenario            | Location | Assessable Noise Level, dB(A) | Applicable Times of Day                    | Compliant L <sub>A1</sub> Noise Level (dB) | Exceedance to Assigned Noise Level (dB) |
|---------------------|----------|-------------------------------|--|--|---|
| 1 – Truck Movements | R1       | 46                            | 0700 - 1900 hours Monday to Saturday (Day) | 55   | Complies                                |
|                     | R2       | 46                            | 0700 - 1900 hours Monday to Saturday (Day) | 55   | Complies                                |
| 2 – Pump Transfer   | R1       | 47                            | 0700 - 1900 hours Monday to Saturday (Day) | 55   | Complies                                |
|                     | R2       | 42                            | 0700 - 1900 hours Monday to Saturday (Day) | 55   | Complies                                |

Assessment of Noise Emissions

Officers note that vehicle movements may be generated after hours due to urgent call outs. In this regard, the acoustic assessment has not assessed the possible impacts resulting from this due to the infrequent nature. Due to the low frequency of this occurring, Officers consider that a Noise Management Plan would adequately address this as vehicle noise emissions could be managed through utilising the most northern located driveway when exiting and entering the site during the after-hours call outs as it is the further away from the sensitive receptors.

### Odour

An Odour Assessment has been provided detailing the level of emissions generated from the development. The assessment identifies that odour emissions are typically



Transfer of Waste from Licensed Controlled Vehicles (Decanting)

generated for the vents of stationary tankers due to temperature fluctuations during the transfer of liquid waste from vehicle to vehicle. According to the applicant's consultant, odour emissions during this time are most likely emitted at low levels, and is only potent at the source of transfer. The concentration due to its low levels, will likely dissipate once it moves beyond the truck lay down area. In this regard, noting the distance of sensitive receptors from the development and the low levels of emission, the applicant's Odour Assessment submits that there will not be adverse impacts upon the locality. Refer below to images of odour sources:

The applicant's assessment against DWERs Odour Guidelines (2019) is captured below which identifies the odour sources, potential risk and proposed controls:

| Activity / odour source   | Description, including proposed controls  |
|---|---|
| Liquid controlled waste tankers parked on site                          | <p>Tankers are used to pick up and deliver liquid waste, including sewerage, to appropriately licensed third party waste disposal facility; wastes are transported in enclosed vessels and pumped into offsite storage tanks via pipes with closed couplings. Empty tankers are stored on-site within the tanker laydown area.</p> <p>Tankers are equipped with pressure vents that could discharge gases due to expansion from temperature fluctuations. The likelihood of odour outside the Site boundary from a vent discharge, which would comprise a short low volume emission, from an empty tanker is considered rare.</p>   |
| Wash down of liquid controlled waste tankers                            | <p>The insides of the tanks are washed down and decanted into the next tanker via closed line couplings. A plastic container is placed under couplings to catch any small dribbles that may occur during uncoupling. This activity is restricted to the tanker lay down area. Odours may be detectable by the operator, however, impacts across the Site and beyond the boundary are not likely to eventuate due to the small size of the odour source and the short duration of exposure to atmosphere of odorous liquids. A worst-case scenario for odour impacts at the boundary requires odour emitting activities to be carried out at the same times as poor dispersion conditions (i.e. neutral to stable atmospheric stability) which can occur in the early morning. This is a low probability scenario and presents a low odour risk.</p> <p>The resulting wash down water is stored temporarily in the final tanker for disposal with the next load at a licensed liquid waste disposal facility. The volume in the tanker will be small and contained and thus is unlikely to pose an odour source.</p>   |
| Loaded controlled waste tanker and static controlled waste tank storage | <p>On occasion tankers may not be able to be offloaded (i.e., pickup and delivery cannot be carried out during liquid waste facility opening hours) and the loaded tanker may be temporarily parked up at the depot in the tanker lay down area.</p> <p>The Site includes a static controlled waste tank, available for use as contingency should tankers be returned to the Site containing wastewater and decanting is required to make the tanker available for the next load. Decanting would be via pipelines equipped with closed couplings and therefore a contained process from which any odour would be minimal. Dribbles from uncoupling would be caught via plastic container for appropriate disposal. Minor odour impacts may be detectable by the person handling the container however impacts across the site and beyond the site boundary are not likely to eventuate.</p> <p>The static tanks and the tankers both have pressure vents that could discharge air when filling or during expansion due to temperature fluctuations. Any venting would be small in volume and any associated detectable odour resulting would be local and transient. Impacts at the nearest sensitive receptors are not expected to result due to the separation distance and short range and duration of any vent discharges.</p> |
| Debris removal  | <p>Debris (i.e., rags or similar) in the transported waste can cause clogging in the downstream wastewater treatment process. In the event of debris being detected in a load then this must be recovered prior to delivery to a prescribed facility. This is conducted by decanting the waste (from the tanker) via a screen to recover the offending items. This process has potential for odour emissions to occur. However screening for debris is understood to occur only 2 to 3 times per year. Odour from the liquid waste being screened is likely to be localised due to the low volume exposed to atmosphere at any time. Furthermore, this process is of short duration with an expected completion time of 30 to 60 minutes. Due to the low frequency, short duration, a rare likelihood of detectable odour crossing the boundary and the separation distance, the risk of odour impacts at the nearest sensitive receptors is low.</p>   |

#### Odour Screening Analysis

### Environmental Considerations

The main environmental impact considered resulting from the proposal is the potential impacts to the nearby Resource Enhancement Wetland and Bush Forever site as depicted below:



The soils within the subject property are Bassendean Type (b1) which is recognised as having very low phosphate retention capacity. Stormwater and contaminants leaching through the subject site could readily express themselves within these environmentally sensitive areas, and flow through to the Peel Harvey Inlet, leading to environmental degradation.

The applicant has submitted a Stormwater, Spill and Wash Down Management Plan. The applicant has proposed a sealed hardstand area where the controlled waste vehicles will be parked and where the transfer of liquid waste from vehicle to vehicle is proposed to occur. This is depicted below:



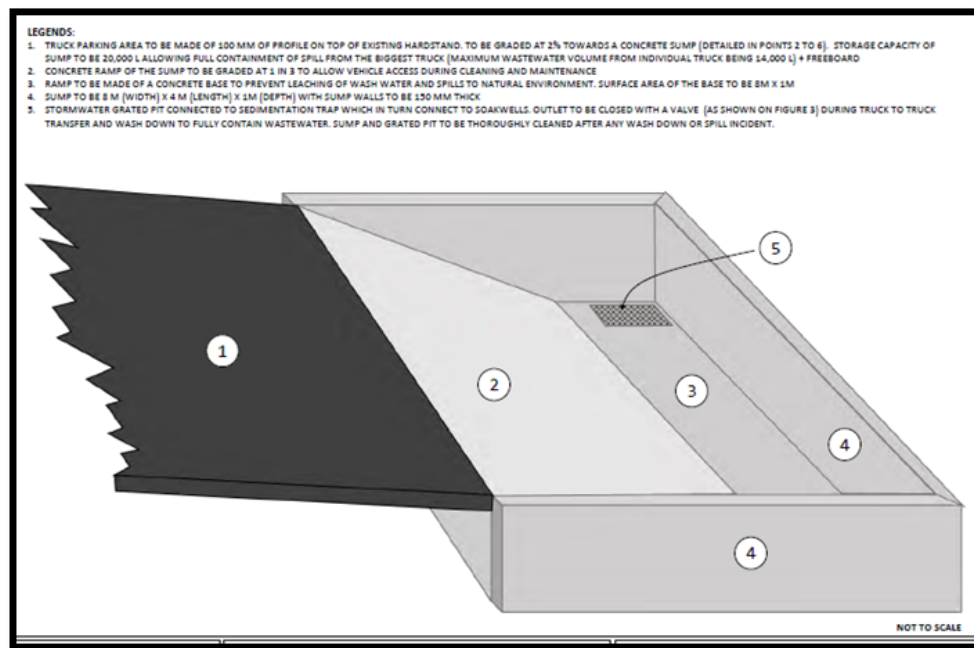
Proposed Raised Kerbed Hardstand Area

The dedicated hardstand area for this purpose is 10m x 47m in size and is impervious in nature. It consists of 100mm of profile (asphalt surface) on top of the existing surface. The area where liquid transfer and vehicle wash down is to occur will be graded at 2% towards a concrete wastewater concrete sump for spill and wastewater containment. The sump is designed for a spill volume capacity of up to 20,000L allowing full containment of a spill based on the largest truck container onsite, but relying on such being always empty and available for full use. The hardstand area where the transfer of liquid will occur will comprise of 200mm raised concrete bunds around the perimeter for the hardstand area.

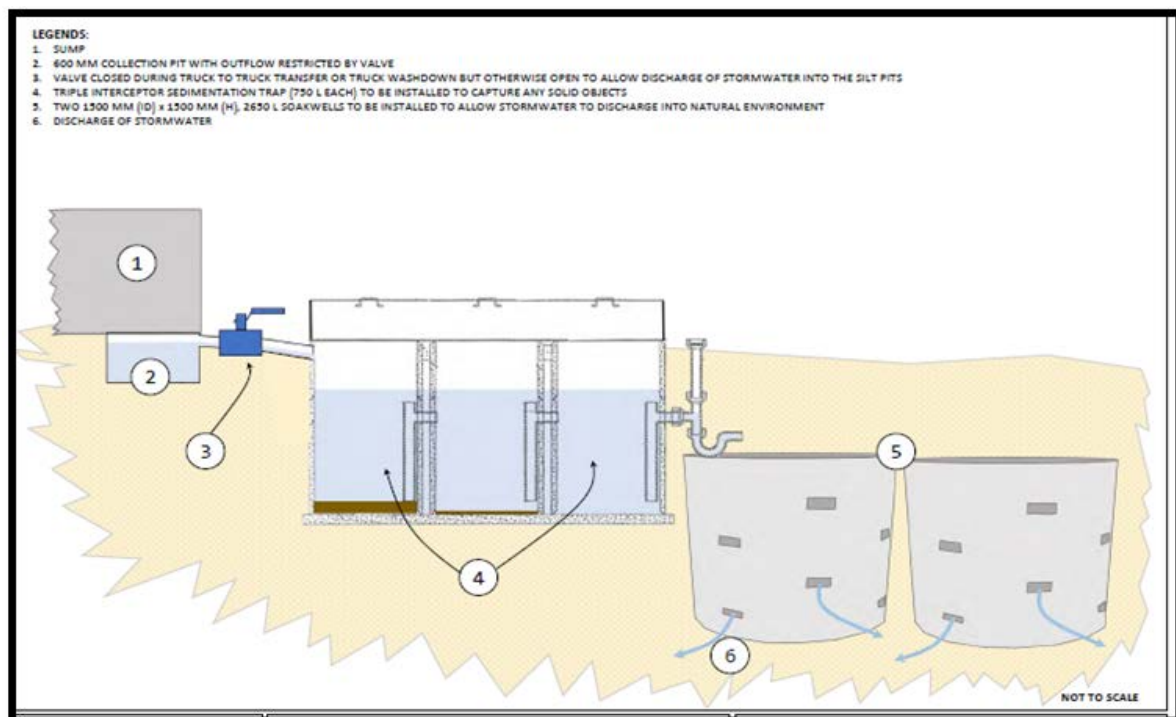
An area of 34m x 47m hardstand has also been dedicated for the parking of commercial vehicles and the skid mounted tanks, which is proposed to be constructed of the same profile as the transfer of waste and vehicle wash down area. It is noted, however, that this hardstand area is not bunded.

In terms of stormwater, a stormwater pit (soakwells) is located at the base of a wastewater containment system, in line with that system at its end point. Stormwater runoff from the 10m x 47m hardstand area will thus flow through the wastewater containment system – this is a key planning concern. It is also noted that there is no area proposed to capture stormwater runoff from the larger 34m x 47m hardstand area, representing a further planning concern.

The stormwater system is depicted below:



Spill and Wash Water Containment



Stormwater Management

Officers raise concerns over the proposed methodology to contemplate interaction between wastewater and stormwater within the same system.

To minimise risk, a more optimal solution would be to always separate stormwater and wastewater processes to ensure that only clean stormwater physically capable of being released into the environment, and cannot mix with contaminated water. This is not currently proposed.

Water Protection Quality Note (WQPN) 52: Stormwater Management at Industrial Sites recommends that *“uncontaminated stormwater runoff from roofs, paths and the landscape should not be allowed to mix with process effluent, stored chemicals or stormwater runoff from areas susceptible to chemical spills. Where practical processing areas involving the use of chemicals should be weather proof or covered”*.

In this regard, the proposed wastewater sump relies upon a lever to open during those processes of transfer or cleaning. The wastewater sump is sized for the maximum truck volume, and thus also relies on it being completely empty and not having any residual water in there already, such as from low frequency rainfall events. Outside transfer and cleaning, stormwater can flow through the sump to the end of line stormwater pit (soakwell).

There is the possibility that stormwater in some instances could collect residue of liquid waste from wastewater sump, providing a pathway for contaminants to leach into the environment. Also, small rainfall events could inadvertently reduce the capacity of the wastewater sump, posing a risk to the environment also.

These risks render the application unacceptable for approval.

### **Built Form**

The development will be mainly screened from King Road by the existing line of trees along King Road. The transportable office and amenities room is located behind the



Existing Transportable (Office Cribb Room)

existing rural building onsite. Officers note that these structures will be fully screened from view.

### **Conclusion**

In accordance with the SAT Orders, Council has been invited to reconsider its decision to refuse the retrospective application for a Transport Depot at Lot 1 (543) King Road, Oldbury under Section 31 (1) of the State Administrative Tribunal Act 2004. A reconsideration under Section 31 (1) allows for Council to either:

- Affirm the decisions'
- Vary the decisions; or
- Set aside the decisions and substitute a new decisions;

The application seeks retrospective approval for a Transport Depot involving the parking of commercial vehicles associated with controlled waste and the infrequent transfer of liquid waste from vehicle to vehicle. Officers do not recommend Council vary its decision due to the risks associated with stormwater and wastewater management. Officers also do not consider that the use is sufficiently associated with rural pursuits or associated activities. It is recommended that Council affirm the original decision.

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

## Land Use:

|   |                                 |   |                                 |
|---|---------------------------------|---|---------------------------------|
| a) The aims and provisions of this Scheme and any other local planning scheme operating within the area | YES<br><input type="checkbox"/> | NO<br><input checked="" type="checkbox"/> | N/A<br><input type="checkbox"/> |
| <b>Comment: the proposal is not considered to meet the objective of the 'Rural' zone.</b>               |                                 |   |                                 |

|   |                                 |   |                                 |
|---|---------------------------------|---|---------------------------------|
| b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving | YES<br><input type="checkbox"/> | NO<br><input checked="" type="checkbox"/> | N/A<br><input type="checkbox"/> |
| <b>Comment: The proposal is inconsistent with objectives of draft LPS 3</b>   |                                 |   |                                 |

|                                       |                                 |   |                                 |
|---------------------------------------|---------------------------------|---|---------------------------------|
| c) any approved State planning policy | YES<br><input type="checkbox"/> | NO<br><input checked="" type="checkbox"/> | N/A<br><input type="checkbox"/> |
| <b>Inconsistent with SPP2.1</b>       |                                 |   |                                 |

|  |                                 |                                |  |
|--|---------------------------------|--------------------------------|--|
| d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <b>None</b><br><b>Applicable to this area from what I can determine</b> | YES<br><input type="checkbox"/> | NO<br><input type="checkbox"/> | N/A<br><input checked="" type="checkbox"/> |
| <b>Comment:</b>  |                                 |                                |  |

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

|  |                                 |                                |  |
|--|---------------------------------|--------------------------------|--|
| f) any policy of the State               | YES<br><input type="checkbox"/> | NO<br><input type="checkbox"/> | N/A<br><input checked="" type="checkbox"/> |
| <b>Comment: Inconsistent with SPP2.9</b> |                                 |                                |  |

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

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

|  |  |                                       |   |
|--|--|---------------------------------------|---|
| i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input checked="" type="checkbox"/> |
|  |  |                                       |   |

|   |  |                                       |   |
|---|--|---------------------------------------|---|
| j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input checked="" type="checkbox"/> |
| <b>Comment: the site is not reserved under TPS2 or LPS3.</b>  |  |                                       |   |

## Development:

|  |  |                                       |   |
|--|--|---------------------------------------|---|
| k) the built heritage conservation of any place that is of cultural significance | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input checked="" type="checkbox"/> |
| <b>Comment:</b>  |  |                                       |   |

|   |  |                                       |   |
|---|--|---------------------------------------|---|
| l) the effect of the proposal on the cultural heritage significance of the area in which the development is located | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input checked="" type="checkbox"/> |
| <b>Comment:</b>   |  |                                       |   |

|   |  |  |  |
|---|--|--|--|
| m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input checked="" type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
| <b>Comment: Concerns over environmental impacts to nearby Wetland and Bush Forever Site</b>   |  |  |  |

|  |  |  |  |
|--|--|--|--|
| n) the amenity of the locality including the following –<br>I. Environmental impacts of the development<br>II. The character of the locality<br>III. Social impacts of the development | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input checked="" type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
| <b>Comment: Concerns over environmental impacts to nearby wetland and Bush Forever Site</b>  |  |  |  |

|  |  |  |  |
|--|--|--|--|
| o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input checked="" type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
|--|--|--|--|

|   |
|---|
| <b>Comment: Concerns over environmental impacts to nearby wetland and Bush Forever Site</b> |
|---|

|  |                                 |                                |  |
|--|---------------------------------|--------------------------------|--|
| p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved | YES<br><input type="checkbox"/> | NO<br><input type="checkbox"/> | N/A<br><input checked="" type="checkbox"/> |
|--|---------------------------------|--------------------------------|--|

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

|   |
|---|
| <b>Comment: BAL assessment submitted showing an acceptable risk</b> |
|---|

|  |                                 |                                |  |
|--|---------------------------------|--------------------------------|--|
| r) the suitability of the land for the development taking into account the possible risk to human health or safety | YES<br><input type="checkbox"/> | NO<br><input type="checkbox"/> | N/A<br><input checked="" type="checkbox"/> |
|--|---------------------------------|--------------------------------|--|

|                 |
|-----------------|
| <b>Comment:</b> |
|-----------------|

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

|  |
|--|
| <b>Comment: Access and Egress sufficient</b> |
|--|

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

|  |
|--|
| <b>Comment: low movements proposed</b> |
|--|

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

|   |
|---|
| <b>Comment: Proposed waste and stormwater management in context to liquid waste (transfer and storage) still poses a risk to adverse environmental impacts.</b> |
|---|

|  |                                 |   |                                 |
|--|---------------------------------|---|---------------------------------|
| v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result | YES<br><input type="checkbox"/> | NO<br><input checked="" type="checkbox"/> | N/A<br><input type="checkbox"/> |
|--|---------------------------------|---|---------------------------------|

|   |  |  |  |
|---|--|--|--|
| from economic competition between new and existing businesses |  |  |  |
| <b>Comment:</b>   |  |  |  |

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

|  |  |  |  |
|--|--|--|--|
| x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals | <b>YES</b><br><input type="checkbox"/> | <b>NO</b><br><input checked="" type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
| <b>Comment: Officers consider that the proposal poses an environmental risk</b>  |  |  |  |

|  |   |                                       |  |
|--|---|---------------------------------------|--|
| y) any submissions received on the application               | <b>YES</b><br><input checked="" type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
| <b>Comment: refer to consultation section of assessment.</b> |   |                                       |  |

|   |   |                                       |  |
|---|---|---------------------------------------|--|
| Za) the comments or submissions received from any authority consulted under clause 66 | <b>YES</b><br><input checked="" type="checkbox"/> | <b>NO</b><br><input type="checkbox"/> | <b>N/A</b><br><input type="checkbox"/> |
| <b>Comment: refer to consultation section of assessment.</b>                          |   |                                       |  |

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