

SUMMARY OF SUBMISSIONS

**PA22/407 – Lot 39, 846 Rowley Road Oakford - SECOND Summary of Submissions - Retrospective Storage and Sale of Firewood
Growing of Vegetables and Fruit and Apiary**

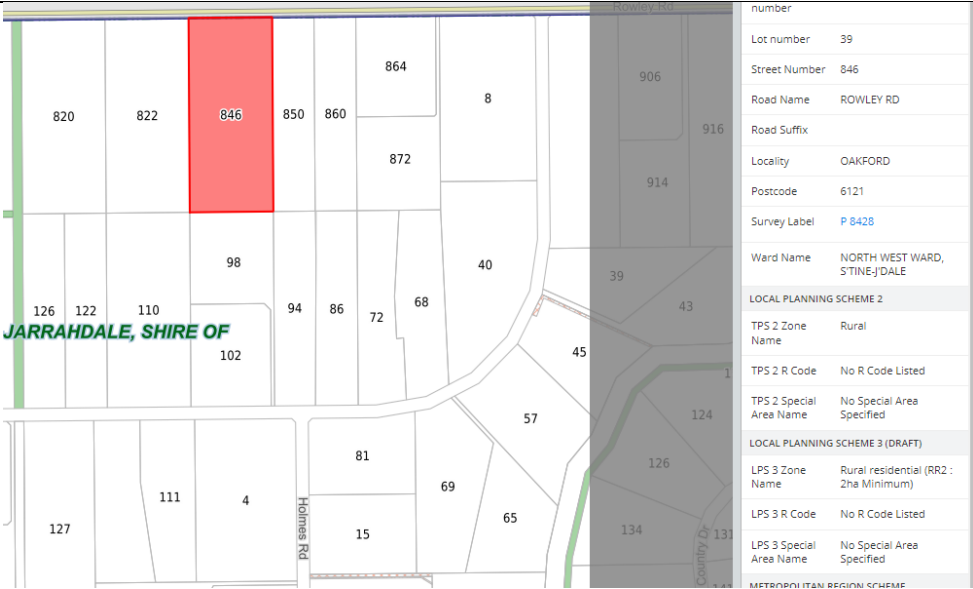
Submitter	No	Submitter Comments	Officer Comment
A295000		<p>We are located at 822 Rowley Road Oakford, adjacent to the proposed development at 846 Rowley Road Oakford and would like to raise our concern with the location of the Apiary.</p> <p>The applicant has stated in their recent additional information submission that "bees roam a distance of something in the order of 3 kilometres searching for food." Our plant production facility is well within this limit located adjacent to the property therefore I envisage our production facility becoming a close food source for the bees.</p> <p>I'm concerned the bees will become a nuisance on our property and cause Occupational Health and Safety issues for our employees and the possibility of bee swarms infiltrating indoor and outdoor production facilities causing production delays and additional OHS concerns.</p> <p>Further information is therefore requested on how the bees will be kept controlled and away from our site to avoid OHS issues for our employees.</p>	<p>The keeping of bees (Apiary) land use has already been approved by Council at its 15 August 2022 OCM. The appeal relates to the wording of the condition only.</p> <p>Where bees are causing a nuisance, the Local law separately has the power to address the matter.</p>
A216301		<p>RE - State Administrative Tribunal - Additional Information - Section 31 Reconsideration Order - Storage and Sale of Firewood, Keeping of Bees & growing of Fruit and Vegetables, 846 Rowley Road Oakford</p> <p>We wish to provide comment with regard to this matter and wholly contest the requested overturning of condition (f) by the applicant relating to the proposed Firewood business, firmly believing this is absolutely relevant and must stay in place. Condition (f) set by SJ Shire originally being <i>"the use of chainsaws and/or petrol log splitters is prohibited at all times and wood is only to be sold in the form that it is delivered to the site"</i>. Additionally, we do not agree with the proposed replacement condition "that provides that any and all chainsaws or log splitters shall only be used between the hours of 10am and 4pm on any weekday, and not on weekends" or any variation of this.</p>	<p>In relation to noise, Officers are satisfied with the submitted acoustic assessment. It demonstrates that noise emissions from the use of the chain saws (electric, battery and petrol) and log splitters received at the sensitive receptor to the east meet the assigned levels of the Noise Regulations. It indicates a slight exceedance at the sensitive receptor to the west, however, can be reduced to meet the assigned levels, subject to the activities occurring behind a firewood berm. The development will have to comply with the recommendations of the acoustic assessment.</p> <p>In terms of frequency, the daily use of the chain saw is proposed for 30 minutes a day only, which is considered an acceptable upper level in noting</p>

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		<p>The surrounding area within SJ Shire, including the property in question of the proposed business at 846 Rowley Road Oakford, is zoned 'Rural' as per Local Planning Scheme 2 and 'Rural Residential' as per Local Planning Scheme 3 (DRAFT). It is not zoned Commercial or Industrial. The use of chainsaws and/or log splitters (petrol or other) for the purpose of this proposed business activity has the very high likelihood and potential of being in, or almost in, continuous use for very long periods of time. Additionally, there could be any number of this equipment, of any type used at any one time. Such equipment, particularly in continuous use, is industrial noise emitting and as such will significantly affect our peaceful Rural setting as our property is within a possible 215m from the noise source. All properties within the immediate area will be affected in the same way as the noise volume and pitch of such equipment carries for a significant distance and all properties are between 5 and 10 acres.</p> <p>The memorandum and data provided by Acoustics Consultants Australia (ACA) even acknowledges that the noise measured during its testing of petrol chainsaws at the site exceeded the WA Environmental Protection (Noise) Regulations 1997.</p> <p>Although chainsaws and log splitters are part of rural living, in a rural setting they are only used periodically and intermittently as required to maintain the small acreage properties within this Rural Residential setting and land zoning. Not regular or continuous use all day every day.</p> <p>Please see below snip of land zoning as displayed via the SJ Shire website for 846 Rowley Road Oakford; https://maps.sjshire.wa.gov.au</p>	<p>the impulsive nature of the noise associated with these activities.</p>

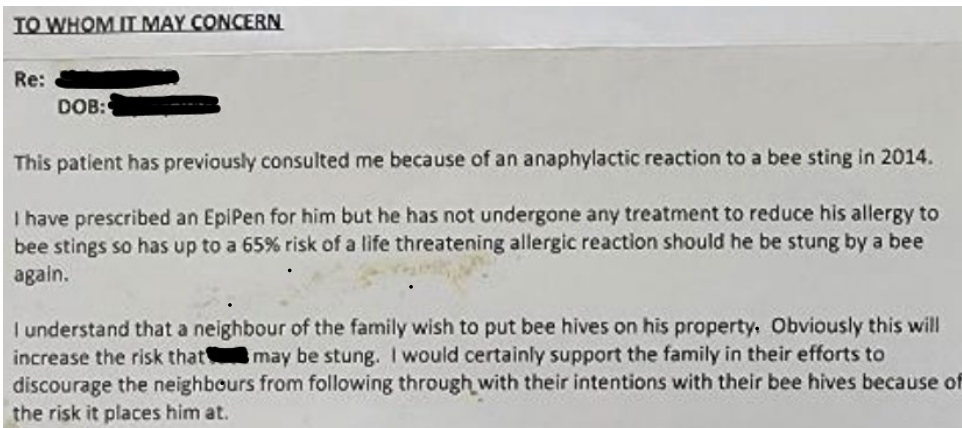
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		 <p>On the basis that the land in question used by the applicant is zoned "Rural", not Commercial or Industrial, the permitted business activities and resultant noise emissions must fall within activities undertaken in such land zoning and settings and equivalent frequencies of such activities.</p> <p>Noise is the single largest concern to us, and likely most others as well, and as such request the SJ Shire give very careful consideration before removing or varying this condition currently in place.</p>	
A402030		<p>Apiary decision:</p> <p><u>Respondent:</u></p> <p><i>'Upon speaking with SSJ Health Team (name redacted) they have advised me that due to the Anaphylactic reaction my son has in regard to Bee's that the council would not approve/permit Mr Heslington to have bee hives at</i></p>	<p>The keeping of bees (Apiary land use) has already been approved by Council at its 15 August 2022 Ordinary Council Meeting. The appeal seeks to modify the condition of approval.</p>

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		<p>846 Rowley Road. My son's condition was advised in my initial response to Mr Heslington's development application. I have attached a copy of the letter confirming this from his Specialist (name redacted) at Allergy West who, in his letter, supports this. Therefore, we do not approve any bee hives at neighbouring property 846 Rowley Road due to the threat this is to my son's life and well-being. This letter was emailed to name redacted at SSJ'. An extract is show below:</p>  <p>Is it the case that condition (o) has no relativity or application to the growing of vegetables but only applies to the Apiary application?</p> <p>(a) Is it the Shire's position that condition (b) regarding a dust management plan is not applicable to the apiary application?</p> <p>(b) No issue is taken with subparagraph (c) of the approval that provides "No retail or wholesale sale of produce grown on the site or hone produced on site shall occur".</p> <p>(c) No issue is taken with condition (k) – beehives are to be located wholly outside the Conservation Category Wetland.</p>	Where bees are causing a nuisance, the Local law separately has the power to address the matter.

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		<p>(d) Condition (l) provides <i>“No more than 10 beehives to be kept on the property at any given time or the amount permitted under the Shire of Serpentine-Jarrahdale Beekeeping Local Law, whichever is the lesser”</i>.</p> <p>(e) Respectfully, the Shire of Serpentine-Jarrahdale Beekeeping Local Law has no application and such condition, should be removed, because the land in question being used by our client is greater than 20,000 square metres.</p> <p>(f) Controls on the number of beehives only exist under that Local Law in relation to land which is no more than 2,000 square metres (2 beehives) or between 2,000 and 20,000 square metres (15 beehives). This condition should be amended to simply provide <i>“No more than 10 beehives to be kept on the property at any given time”</i>.</p> <p>(g) Condition (o), provides as follows <i>“Within 30 days of the approval, the Applicant is to submit a landscape plan to the Shire for approval showing additional landscaping of minimum 5m width on both the east and west sides of the apiary. The landscaping is to include advanced trees and medium shrubs which have native flowers the bees use, to the satisfaction of the Shire”</i>. As was discussed at the mediation that condition is respectfully void for uncertainty, but in any event, should be removed because it appears to have been included on the basis that the native flowering species proposed to be provided close to the beehives by such condition will provide a primary source of food for the bees.</p> <p>(h) That is not the case.</p> <p>(i) Bees roam a distance of something in the order of 3 kilometres searching for food.</p> <p>(j) The site itself and the properties within 3 kilometres, provide all the vegetation and food source necessary for the bees.</p> <p>(k) Respectfully, no reason or science has been advanced to suggest that the site itself or properties within 3 kilometres are insufficient to supply</p>	

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		<p>food for the bees in 10 beehives. Insofar as the “5m width on both east and west sides of the apiary” is provided for, such fails the test of certainty because, whilst a width is indicated, the length is not provided for. The application filed by our client indicates that there are significant distances to the west and east of the proposed location of the beehives to adjacent property boundaries.</p> <p>(l) It is simply unclear as to whether the suggested landscaping of 5m width will be, for example, from the beehives to the west boundary, a distance of approximately 60 metres.</p> <p>(m) We simply cannot envisage that it is being suggested that our client should create an area of landscaping to the west and east of the beehives, each in the order of approximately 300 square metres.</p> <p>(n) We invite the Shire to make enquiries on the matters raised herein about the need for a food supply for the bees as the proposed landscaping provides no purpose.</p> <p>(o) Condition (m) provides “<i>The water supply must be kept on site at all times for the bees, located approximate to the hive locations</i>” is accepted.</p> <p>Vegetable growing decision:</p> <p>Conditions (b), (c) and (n) are relevant conditions applying to such use – does the Shire agree?</p> <p>As to condition (b) regarding a dust management plan, such plan proposals are as follows:</p> <ul style="list-style-type: none"> • Whenever nutrients or soil is added, it will be watered into the existing soil via the existing reticulation system. • Whenever nutrients or soil are removed, the area so affected will be watered by the existing reticulation system. 	

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		<ul style="list-style-type: none"> To the extent any soil and/or vegetables or fallow are “turned over”, that area will be contemporaneously watered by the existing sprinkler system. Insofar as there are “bare areas” of proposed vegetable growing without natural grasses to hold the soil together, making such “bare areas” susceptible to dust being created at times of high wind, those “bare areas” will be watered on at least 2 occasions per week during times of high wind, with each sprinkler run being not less than 30 minutes by the existing reticulation system. <p>No issue is taken with condition (c) which provides “<i>No retail or wholesale sale of the produce grown on the site, or honey produced on site, shall occur</i>”. It would be helpful however if the Shire could clarify whether condition (c) is intended to apply to the growing of vegetables or to the apiary application or both.</p> <p>No issue is taken with condition (n) which provides “<i>No more than 20% of the total cropping area to be farmed/fertilised at the one time</i>”.</p> <p>Firewood decision:</p> <p>a) Conditions (b), (d), (e), (f), (g), (h), (i) and (j) are relevant conditions applying to the firewood use – does the Shire agree?</p> <p>b) As to condition (b) requesting a dust management plan, our client’s plan is that dust relating to the firewood activity will take into account and address vehicle movements, utilising the existing sprinkler system and our client shall:</p> <ul style="list-style-type: none"> Utilising the existing sprinkler system, will water the firewood hardstand area, on 2 occasions per week for not less than 30 minutes per each watering, for the whole of the year. Such watering will occur irrespective of whether or not during any week, it rains, and irrespective of winter seasonal rainfall. 	

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		<ul style="list-style-type: none"> Given most vehicle movements will occur on the weekend, one of the 2 said sprinkler runs of 30 minutes duration, will occur on either a Saturday or a Sunday each week. The firewood hardstand area has been constructed of road base material, and will be maintained utilising such material; such material is porous and not akin to soil and thus its properties do not give rise to dust of any significance arising from vehicle movements. <p>Respondent</p> <p><i>'This is not sufficient, the dust not only pertains to the hard stand area but also Mr Heslington's increasing chainsaw activity to which he has never stopped regarding the conditions the SSJ applied to his initial development application. Part of these conditions set were also to install a 10,000 ltr water tank for said watering of dust and also for Mr Heslington to install x2 1000ltr IBC's for fire management. Mr Heslington has not done this despite these are the conditions set by the shire yet he still in bringing in firewood to the property yet he cannot abide by any rules or conditions set. I also add Mr Heslington could not even manage to do fire breaks on our side of the property'</i></p> <p>c) As to condition (e) which provides that "No more than 7 clients are permitted to attend the site between Monday and Friday and must not exceed a total of 40 per week" our instructions are that 90% of all customers will attend on a weekend and of that 90%, 70% will attend on a Saturday. Our client estimates that at a maximum, there would be 50 customers Monday to Friday inclusive. Our client requires the weekly limit be 110 customers, with there being no more than 50 customers Monday to Friday, and there being no more than 60 customers on a weekend, and there be a condition that there be no more than 6 customers on site at any one time, and further, our client not permit more than 6 customers attend in any hour that the gates are open. Is it the case that in the particular locality and in relation to the subject land, there</p>	<p>Officers are satisfied with the proposed dust measures as detailed in the report. The water tank required is for fire fighting requirements and the IBCs are to provide a water source for the bees.</p>

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		<p>is a ceiling of 420 traffic movements to the land which triggers the need to control the number of traffic movements per week to the subject site? If so, the said 110 customers/traffic movements is but one-quarter of that threshold.</p> <p>d) As to condition (f) which provides <i>“The use of chainsaws and/or petrol log splitters is prohibited at all times and wood is to be only sold in the form that it is delivered to the site”</i>, our client takes issue with that decision.</p> <p>e) There is concern of the Shire (and possibly of adjacent landowners) as to the noise from the use of such items of equipment affecting adjacent landowners.</p> <p>f) In that respect, we again attach a copy of the Acoustic Australia report of 16 December 2022, which in our submission fully responds to and negates the concerns of the Shire.</p> <p>g) Such report is a basis for entirely removing condition (f).</p> <p>h) The sentence within such condition <i>“Wood is to be only sold in the form that it is delivered to the site”</i>, appears to have only been included because of the perceived problem that might occur with noise generated by chainsaws or log splitters.</p> <p>i) The Acoustic Australia report deals with not only electric chainsaws, but also petrol chainsaws and petrol log splitters.</p> <p>j) Our client proposes a replacement condition that provides that any and all chainsaws or log splitters shall only be used between the hours of 10am and 4pm on any weekday, and not on weekends.</p> <p>k) As to subparagraph (g) which provides <i>“No more than 1 delivery of firewood to site is to occur”</i>, our client’s current experience with trading volumes, is that wood materials are delivered on less than 1 occasion per week, on an annual basis, noting however that there can be up to 3</p>	

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		<p>deliveries per week in winter months. However in summer months, such deliveries are usually once per month.</p> <p>l) At the present time, wood deliveries usually occur on a Saturday afternoon via a truck with an approximate 38 cubic metre carrying capacity.</p> <p>m) In winter months, the provision of 1 delivery of firewood to site per week of merely 38 cubic metres. is insufficient for the business to operate to meet public demand.</p> <p>n) There appears to be no specific reason why such a condition should be imposed at all, let alone limiting supplies to 1 delivery per week.</p> <p>o) Our client would agree to a condition that provides <i>“No more than 3 deliveries of firewood to site per week is to occur”</i>.</p> <p>p) Condition (i) provides <i>“Signage shall be only in the form of a 60 cm by 90 cm boundary sign advertising opening hours and contact details. All existing unapproved signage must be removed within 30 days of this approval”</i> – our client does not accept that condition.</p> <p>q) It is unclear which signage is said to be unapproved that is being referred to.</p> <p>r) Insofar as there is on the Rowley Road property boundary, cloth material or the like, the signage aspect thereto has been reversed, and does not face outwards and onto Rowley Road, but into the property. Such cloth material does not therefore constitute signage, and in fact enhances the overall amenity of the property, and assists with dust management.</p> <p>s) Our client proposes that the signs on the gates at the time of the mediation of 8 November 2022, 2 photos of which signage are provided herewith, be approved</p> <p>t) Further and in addition to such gate entry signage per the attached photo, our client seeks approval for a single length bespoke sign of 10</p>	

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		<p>metres length on the Rowley Road fence, and to the east of the entry gates, advertising the nature of the business (i.e. the sale of firewood) and the opening hours and business phone number.</p> <p>u) Our client does not take issue with condition (j) which states <i>“The loader on site must not be used to load the trailers of customers at any time unless approved by the Shire of Serpentine-Jarrahdale”</i>.</p> <p><u>Respondent</u></p> <p><i>‘Said signage does not assist with any dust management. Mr Heslington Installed shade cloth material down our fence line which also is 1.5 meters above without our consent which was to eliminate dust, as this was never engineered correctly (just Mr Heslington installed it) it never eliminated any dust and the material used never stood up to the wind or conditions and has never been maintained and is now in disrepair (as per below photo)</i></p>	<p>The additional signage is proposed to provide contact details of the operator on the front gate. This is supported as detailed in the report.</p> <p>The applicant is also seeking retrospective approval for the existing cloth material on the front fence. Officers consider that this will assist in managing dust leaving the site. This is supported as detailed in the report.</p> <p>No other signage or material is supported on the front fence or gate as detailed in the report.</p>


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		 <p><i>We take issue with anymore customer traffic other that what the SSJ has already conditionally approved. Mr Heslington cannot accommodate the customers he already has with cars with trailers having to park on Rowley road. 6 Cars and trailers would not be able to park on the hardstand area and turn around.</i></p> <p><i>We take issue with any further loads of wood being delivered other that 1 load a week to which Mr Heslington has never adhered to regardless of what the SSJ have approved. Wood that has been delivered now is not even being put on the hard stand are but further down towards wetland area in scrub which again was not part of his development application.</i></p> <p><i>In regard to the acoustic report Mr Heslington has obtained I question the integrity of this the report is far too generic in regard to the items used i.e log splitter, chain saw etc I know for a fact Mr Heslington has many</i></p>	<p>The weekday operations are on appointment basis with no more than 10 customers a day. It is unlikely that all the customers will attend site at the same time. Notwithstanding this, Officers consider that there is sufficient manoeuvring area onsite for vehicles to park with trailers.</p> <p>The delivery of wood 3 times a week is not considered to pose an impact on the road network as detailed in the report.</p> <p>In relation to noise, Officers are satisfied with the submitted acoustic assessment. It demonstrates that noise emissions from the use of the chain saws (electric, battery and petrol) and log splitters received at the sensitive receptor to the east meet the assigned levels of the Noise Regulations. It indicates a slight exceedance at the sensitive receptor to the west, however, can be reduced to meet the assigned levels, subject to the activities occurring behind a firewood berm. The development will have to comply with the recommendations of the acoustic assessment.</p> <p>In terms of frequency, the daily use of the chain saw is proposed for 30 minutes a day only, which is considered an acceptable upper level in noting the impulsive nature of the noise associated with these activities.</p>

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		<p><i>chainsaws which vary in noise (DB) however there has only been one used for this report (I would say the smallest and quietest one he has) therefore this report is null and void.</i></p> <p><i>For this report to be valid they would need to conduct this report showing the exact Make & Model of each piece of machinery used and the many petrol chainsaws Mr Heslington has. For example, Stihl have specifications of Decibels that each chainsaw emits, as this has not happened, we do not accept this report or its findings.</i></p> <p><i>The report is also based on Mr Heslington doing the right thing and using his chainsaw on the hard stand area, when in fact he has used this wherever he wants with no care or respect for neighbours one time only 3 meters away from our bedroom window for 4 hours in scrub being a huge fire hazard without any fire management on the property (please see below) (video of this occurrence is also available).</i></p> 	<p>In terms of fire hazard, the development will need to comply with the approved Bushfire Management Plan for the site.</p> <p>Noted: The Shire's Compliance will investigate where a formal compliant has been received.</p>

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		<p><i>Based on this we do not approve of Mr Heslington using ANY chainsaws at 846 Rowley Road, why does Mr Heslington have the need to use chainsaws when as per his development application all timber brought to site is pre-cut? Therefore, based on this, NO chainsaws should be used or be required to be used.</i></p> <p><i>Mr Heslington has gone from bringing in pre-cut timber to now bringing in roots and timber off cuts hence his need to use chainsaws (as per below photo of wood being delivered) These off cuts now take up 70% of wood on his block which is not in his development application. We DO NOT approve this type of business. We bought 5 acres of Rural Property to enjoy and not to be living next to a timber processing yard. My husband and I work shift work and having chainsaws going during the weekday or weekends is not allowing us to peacefully enjoy our own property'.</i></p>		

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		 <p data-bbox="521 1018 1496 1166">We look forward to your response to these submissions and should you require clarification of any aspect hereof, please do not hesitate to contact the writer. 23 December 2022</p>	