

<b>Technical Report</b>			
<b>Application No:</b>	<b>PA20/417</b>		
<b>Lodgement Date:</b>	<b>20 May 2020</b>	<b>DAU Date:</b>	
<b>Address:</b>	<b>2858 South Western Highway, Serpentine</b>		
<b>Proposal:</b>	<b>Amendment to Rural Workers Dwelling</b>		
<b>Land Use:</b>	<b>Rural Workers Dwelling</b>	<b>Permissibility:</b>	<b>AA</b>
<b>Owner:</b>	<b>Gus Bert Veenendaal</b>		
<b>Applicant:</b>			
<b>Zoning:</b>	<b>Rural</b>	<b>Density Code:</b>	<b>R2</b>
<b>Delegation Type:</b>	<b>12.1.1</b>	<b>Officer:</b>	<b>Haydn Ruse</b>
<b>Site Inspection:</b>	<b>Yes</b>		
<b>Advertising:</b>	<b>No</b>		
<b>Outstanding Internal Referrals:</b>	<b>No</b>		
<b>External Referrals:</b>	<b>No</b>		
<b>Within a Bushfire Prone Area:</b>	<b>Yes</b>		

### **Introduction:**

A planning application dated 20 May 2020 has been received for proposed amendments to an approved Rural workers Dwelling at 2858 South Western Highway, Serpentine.

The subject lot is zoned Rural in accordance with the Shire's Town Planning Scheme No. 2 (TPS 2). A Rural Workers Dwelling is an 'AA' use within the Rural zone in accordance with TPS2.

The proposal is reported to Council for determination as officers do not have delegation to determine an application for development approval where variations to local planning policy are proposed in accordance with delegation 12.1.1. The proposed amendments to the Rural Workers Dwelling seek variation to the floor area of the dwelling permitted under LPP4.14 and therefore cannot be approved under delegation.

This report recommends that the amendments to the Rural Workers Dwelling as proposed be approved subject to appropriate conditions.

### **Background:**

#### Existing Development:

The site is currently developed for residential use and stock grazing. The land features an existing dwelling, outbuilding and unenclosed hay shed.

#### Proposed Development/Site Context:

The proposed amendments relate to an approved Rural Workers Dwelling and include:

- Extension to the garage by 14m<sup>2</sup>.
- Extension of front porch by 8.6m<sup>2</sup>; and
- Addition of a 10.8m by 2.3m (24.8m<sup>2</sup>) verandah to the northern side of the building.

The amended plans also feature some internal amendments to door locations etc.; however, these modifications would not trigger the requirement for an amended development approval in accordance with clause 61(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**Community / Stakeholder Consultation:**

The proposed development does not require mandatory advertising in accordance with the provisions of TPS2. Officers do not consider advertising to be necessary given the proposed development would be setback a significant distance from the adjoining lot boundaries and the street. As a result it is expected that the development would not impact on the amenity of any of the adjoining neighbours nor the streetscape.

**Statutory Environment:**

- Shire of Serpentine Jarrahdale Town Planning Scheme 2
- Rural Strategy Review 2013
- Draft Local Planning Scheme No.3
- Draft Local Planning Strategy
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- State Planning Policy 7.3 – Residential Design Codes Volume 1
- Local Planning Policy 4.14 – Rural Workers Dwellings

**Planning Assessment:**

A comprehensive assessment has been undertaken in accordance with section 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the assessment can be viewed as an appendix at the end of this assessment.

Land Use:

The proposal amendments relate to an approved Rural Workers Dwelling, which is defined under the TPS2 as:

***‘Rural Workers Dwelling – Means a dwelling:***

- a) *Which is on land upon which there is already erected a dwelling and which is occupied by persons engaged in any of the following uses on that same land: Cottage Industry; Feedlot; Fish Farming; Horticultural Pursuit; Pig Farming; Poultry Farming; Rural Industry or Rural Use; and*
- b) *Which can also accommodate family members involved in the operation of an agricultural enterprise on that land.’*

The land has historically been used for the grazing of animals and the applicant has affirmed the land is intended to be used for grazing once the Rural Workers Dwelling is Constructed. As such, the associated land use would be ‘Rural Use’ and the development would align with the definition of a Rural Workers Dwelling in accordance with TPS2. Within the Rural zone, a Rural Workers Dwelling is an ‘AA’ land use, meaning it is capable of approval at the discretion of Council.

Clause 5.10.3 of TPS2 sets out requirements for additional dwellings in the ‘Rural’ zone and states:

*“The Council may permit the construction of an additional dwelling on a lot within the rural Zone provided that:*

- (i) The lot has a land area of not less than 4 hectares; and*
- (ii) The total number of dwelling on the lot will not exceed two; and*
- (iii) The additional dwelling is to be used for the purposes of a rural worker’s dwelling as defined in Appendix 1 of the Scheme; and*
- (iv) The additional is located within close proximity of the existing dwelling on the lot as determined by the Council and shares all services where practical”.*

In this case, the subject site measures 40.1ha in area and there is only one dwelling currently on the lot, which would share all services except for sewerage. Officers consider the proposal meets the requirements set of for the type of development under TPS2 and is therefore capable of approval.

Draft Local Planning Scheme No.3:

The definition for a Rural Workers Dwelling under LPS3 is different to the definition under TPS2, being:

*“Rural Workers Dwelling - means an ancillary dwelling on the same landholding, used as the principal place of residence for persons employed for the purpose of agriculture or a rural industry on that land.”*

The intent dwelling would be incidental to an existing dwelling on the sam landholding and would be used as the principle place of residence for an agricultural use occurring on the same site. As such, Officers consider the proposal would also meet the definition of a Rural Workers Dwelling under LPS3. Within the Rural zone under LPS3 a Rural Workers Dwelling would be an ‘I’ use, meaning the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with all relevant development standards and requirements of the Scheme.

The predominant land use on the site would be an ‘Agriculture – Extensive’ land use under the definitions of LPS3, which means:

*“Agriculture - Extensive - means premises used for the raising of stock or crops including outbuildings and earthworks, but does not include agriculture - intensive or animal husbandry - intensive.”*

The majority of the land is used for the grazing of stock, which would meet the above land use definition. The Rural Workers Dwelling would therefore be related to an agricultural use occurring on the land, demonstrating compliance with both the Rural Workers Dwelling definition and the primary requirement for permissibility as an incidental use under LPS3.

*Development Standards*

Clause 36(1) of LPS3 sets aside requirements for vehicle parking for land uses. In this instance there are no parking requirements specifically relating to the Rural Workers Dwelling land use; however, as the use is a residential use the requirements of the R Codes as they pertain to a Single Dwelling has been applied, which would require the provision of two parking bays. The proposal incorporates a double garage which would provide two parking bays, designed to accord with the spacing requirements of the R Codes.

Clause 40 of LPS3 provides specific provisions in relation to Rural Workers Dwelling and requires that the following be demonstrated:

- The lot contains only one (1) Single House;
- Adequate provisions can be made for the supply of domestic water and for the disposal of sewage and stormwater from the Rural Workers Dwelling; and
- The Rural Workers Dwelling will not adversely affect the rural landscape or conflict with agricultural production on the subject lot or on adjoining land.

The subject land already contains an existing Single House and the plans identify the location of existing effluent disposal system and a water tank of a sufficient size to provide a domestic water supply and adequate stormwater capture.

Officers consider the proposed dwelling would not adversely affect the rural landscape or conflict with agricultural production on the subject lot or on adjoining land. The Rural Workers Dwelling would present as a rural dwelling and facilitate the operation of an agricultural enterprise on the subject site. The Rural Workers Dwelling is located 47m from the nearest lot boundary and is would not conflict with the operation of any agricultural production on any adjoining land. Officers consider the proposal complies with provisions under clause 40 of LPS3.

The subject site also falls within Special Control Area 2 – Darling Scarp Landscape Protection (SCA2). Within this Special Control Area, the intent is to preserve amenity derived from the scenic value of the scarp, protect and enhance the landscape, scenic and townscape values and maintain the integrity of landscapes in a line of sight along scenic routes. Officers consider the proposal would meet these objectives as the lot is not located on the scarp and the development would not be visible from surrounding viewpoints due to the flat geology of the land and existing screening vegetation surrounding the subject lot. There are also additional provisions that apply to SCA2 which require mandatory development approvals for any development within the area, prohibit development being located on visually exposed areas or on slopes greater than 25% and require proposals to demonstrate the landscape value of the area will be protected. The proposed development is not located on a visually exposed area or on a slope greater than 25% and Officers consider the proposal would not adversely impact the landscape value of the land, as such, the proposal would comply with the requirements under SCA2.

Schedule 4 of LPS3 provides for additional site and development requirements applicable to development within different zones. Within the Rural zone a provision requires a suitable water supply to be provided for dwellings where reticulated water is not available, being at least 120,000L capacity. There is an existing water tank located within close proximity to the proposed rural workers dwelling that has a capacity in excess of 120,000L and would be sufficient to supply water to the dwelling in accordance with the LPS3 requirement.

Schedule 4 of LPS3 also provides development standards for proposals within the Rural zone, notably setbacks that development must achieve. For the Rural zone, development must be 20m from the Primary Street and 10m from all other boundaries. The proposed development is well in excess of these setbacks and would comply.

The proposed development would be fully compliant with the provisions and standards of LPS3.

Rural Strategy 2013 Review:

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 a rural character, retain natural assets and facilitate productive rural areas by ensuring the areas are economically productive.

The subject lot is within the Rural policy area of the Rural Strategy Review 2013. Within this policy area, the objectives are to retain and maintain traditional agricultural uses, promote alternative agricultural uses with less degradation and higher commercial viability, prevent fragmentation of land through subdivision, retain and enhance rural lifestyle and character and protect local natural areas and encourage revegetation.

The proposed development would retain the existing rural lifestyle and character established in the area. The intent for the land is to graze stock and harvest hay which is considered to meet the objective for retaining traditional agricultural uses. Officers consider the proposal to be consistent with the objectives of the Rural Strategy.

Draft Local Planning Scheme:

The subject lot is identified as Rural under the Draft Local Planning Scheme (LPS). Within this area the objectives for land relate to promoting the Shire as a 'Food Bowl', promoting sustainable agricultural practice, managing urban growth boundaries, protecting land for agricultural enterprises and minimising nutrient export into the Harvey-Peel Estuarine System. Officers consider the proposed development would align with these objectives where applicable and comply with the LPS.

State Planning Policy 3.7 – Planning in Bushfire Prone Areas:

The subject property is identified as being bushfire prone and is subject to a requirement for a bushfire attack level assessment for the ancillary dwelling and rural workers dwelling in accordance with SPP3.7. The applicant has submitted a BAL assessments which indicate a risk level of BAL-LOW for the rural workers dwelling. As the proposed development is at a risk lower than BAL-40 there are no additional requirements under SPP3.7 for assessment.

State Planning Policy 7.3 – Residential Design Codes Volume 1:

The subject lot is coded R2 in accordance with clause 5.4.2(a) of TPS2. The property is over 40ha in size and the proposed development would be located centrally on the lot towards the street, complying with all setback requirements of the R Codes. The proposed dwelling is single storey and does not exceed building heights under the R Codes. Overall the proposed amendments would comply fully with the R Code requirements for an R2 block.

Local Planning Policy 4.14 – Rural Workers Dwellings:

The Rural Workers Dwelling meets the policy requirements with exception of evidence of a farmland concession, location of the dwelling within 50m from the primary dwelling and maximum floor area of 200m<sup>2</sup>. The variations have been considered below:

*Farmland Concession / Validity of Use:*

The initial application stated that the rural workers dwelling is intended to house the land owner who is the primary worker of the agricultural use on the land. The existing dwelling is to be occupied by the extended family of the land owner who will be involved in the farming of the land on a transient basis. Officers consider the requirement for a rural workers dwelling is valid in light of the fact that the dwellings are intended to be utilised by family members and given the history of the occupant in operating lower scale uses of a similar nature.

*Proximity to Primary Dwelling:*

The policy sets a standard for a 50m maximum distance between the primary residence and rural workers dwelling, but allows up to 100m subject to compliance with performance standards. The proposed rural workers dwelling is separated from the house by a greater distance to enable both the existing residence and proposed rural workers dwelling to share use of an approved outbuilding, located between the two dwellings. The location also allows shared access from the existing driveway and allows effluent disposal to be installed without impacting agricultural services to the south of the existing dwelling. There is an existing windmill, which is connected to the residence water tank to fill water troughs in the nearby paddock.

Officers consider the proposal location meets the performance standards under LPP4.14.

*Floor Area:*

The approved rural workers dwelling has an overall floor area of 323.6m<sup>2</sup> and the proposed amendments would increase this to 371.7m<sup>2</sup>; however, this includes the garage, porch, verandah and alfresco. Generally dwellings are assessed based on a plot ratio area which includes only internal living areas. The internal living area of the approved rural workers dwelling is 196.2m<sup>2</sup> which would be reduced to 196m<sup>2</sup> as part of the proposed amendments. The proposed development seeks a variation to the floor area restrictions under the policy, which are supported by officers as the intent of the provision to limit habitable floor area is considered to be met. Furthermore, the increase area would not generate and adverse visual impacts to the streetscape or any adjoining properties.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, DAU has the following options:

- Option 1: DAU may resolve to approve the application subject to conditions.
- Option 2: DAU may resolve to approve the application unconditionally.
- Option 3: DAU may resolve to refuse the application subject to reasons.

**Conclusion:**

The proposed development seeks approval for amendments to an approved rural workers dwelling, which is an 'AA' land use under TPS2 and an 'I' us under LPS3 and can be considered for development approval. The amendments to the rural workers dwelling seek variation to the maximum floor area permitted under LPP4.14 and requires referral to Council for determination. Officer support the variation as the intent of the policy provision is considered to be maintained through an internal living area consistent with the 200m<sup>2</sup> maximum. Officers support the proposed development and will prepare a Council Report recommending approval.

**Attachments:**

- CL67 Table

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

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is considered to be compliant with the aims and provisions of the TPS2.</b>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: State Planning Policy 3.7 – Planning in Bushfire Prone Areas State Planning Policy 7.3 – Residential Design Codes Volume 1</b>			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <b>None</b> <b>Applicable to this area from what I can determine</b>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: Local Planning Policy 4.14 – Rural Workers Dwellings</b>			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is considered to be compatible with surrounding development and expected development in accordance with the Shires policies.</b>			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development would be largely screened from view from all boundaries and is not considered to impact on the amenity of any of the adjoining neighbours or the streetscape.</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	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
u) the availability and adequacy for the development of the	YES	NO	N/A

following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Comment:</b>			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
w) the history of the site where the development is to be located	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
y) any submissions received on the application	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
Za) the comments or submissions received from any authority consulted under clause 66	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			
Zb) any other planning consideration the local government considers appropriate	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			