

# Form 1: Responsible Authority Report

(Regulation 12)

## Notes for Author

This template is provided to assist in the formulation of a Responsible Authority Report (RAR) for a Development Assessment Panel (DAP) application under Regulation 12 of the *Planning and Development (Development Assessment Panel) Regulations 2011*. This template should be used for all RARs under r.12 except for applications for a review of the original decision or a reconsideration of the original decision, please use the State Administrative Tribunal (SAT) Reconsideration template for those reports.

This template contains guidance to assist the author prepare a report that is comprehensive, succinct and addresses the key issues required for a decision to be made under the relevant Local Planning Scheme and Region Scheme (where applicable). The guidance notes should be deleted once the RAR is prepared and do not form part of the report.

The RAR template also provides for some sections to be deleted if they are not required. Where other sections are not relevant to a particular report and there are no specific notes, please insert either “not relevant” or “not applicable” under those headings.

Where the RAR template is submitted to a Council meeting, please note:

- The officer’s recommendation may be placed either first or last in accordance with the usual requirements of the Council meeting.
- For the submission of the RAR to the DAP Secretariat, the heading “Responsible Authority Recommendation” must contain the Council’s recommendation.
- If the officer recommendation is different from the Council recommendation, this should be shown under the heading “Officer Recommendation”.
- The “Reasons for Responsible Authority Recommendation” section should be completed after the Council meeting and should reflect why the recommendation differs from the reasons as shown in the minutes of the Council meeting.
- Where local government officers have delegation to provide the RAR to the DAP secretariat, only the “Responsible Authority Recommendation” should be completed and the “Officer Recommendation” section can be deleted.

## Lot 9002 (formally Lot 801), 1780 Thomas Road, Oakford – Proposed Service Station, Rural Supplies Store and Veterinary Clinic

### Form 1 – Responsible Authority Report (Regulation 12)

<b>DAP Name:</b>	Metro Outer Development Assessment Panel	
<b>Local Government Area:</b>	Shire of Serpentine Jarrahdale	
<b>Applicant:</b>	Planning Solutions	
<b>Owner:</b>	V and T Borrello	
<b>Value of Development:</b>	\$4 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
<b>Responsible Authority:</b>	Shire of Serpentine Jarrahdale	
<b>Authorising Officer:</b>	Andrew Trosic	
<b>LG Reference:</b>	PA22/297	
<b>DAP File No:</b>	DAP/22/02211	
<b>Application Received Date:</b>	4 April 2022	
<b>Report Due Date:</b>	27 June 2022	
<b>Application Statutory Process Timeframe:</b>	90 Days	
<b>Attachment(s):</b>	<ol style="list-style-type: none"> <li>1. Initial Applications Details</li> <li>2. Revised Application Details</li> <li>3. Submission/s</li> <li>4. Applicant's response to MRWA submission</li> </ol>	
<b>Is the Responsible Authority Recommendation the same as the Officer Recommendation?</b>	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> N/A	
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

#### Responsible Authority Recommendation

Ensure that there is an appropriate delegation for the RAR.

Where there is a Council resolution, this is the Responsible Authority Recommendation. If the Council resolution differs from the Officer recommendation, the Officer Recommendation section of this report also needs to be completed.

Where local government officers have delegation to provide the RAR to the DAP secretariat, the Officer Recommendation section in the body of the report can be deleted and only the section below needs to be completed.

That the metro Outer Joint Development Assessment panel resolves to:

1. **Refuse** DAP Application reference Insert DAP reference number and accompanying plans (Plan No, Rev No - if applicable) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause no. of the Shire of Serpentine Jarrahdale Town Planning Scheme

No. 2, for a proposed service station (with incidental components), Rural Supplies Store and Veterinary Clinic at Lot 9002, 1780 Thomas Road, Oakford

### Reasons for Responsible Authority Recommendation

Complete this section where the Council resolution differs from the Officer Recommendation and provide the reasons as shown in the Council minutes here. The Officer Recommendation section below, including reasons, will also need to be completed.

Include a brief summary of key issues and provide clear and succinct reason/s for the recommendation. If the recommendation is for a refusal, this section may be used to emphasise the reasons in the recommendation if required.

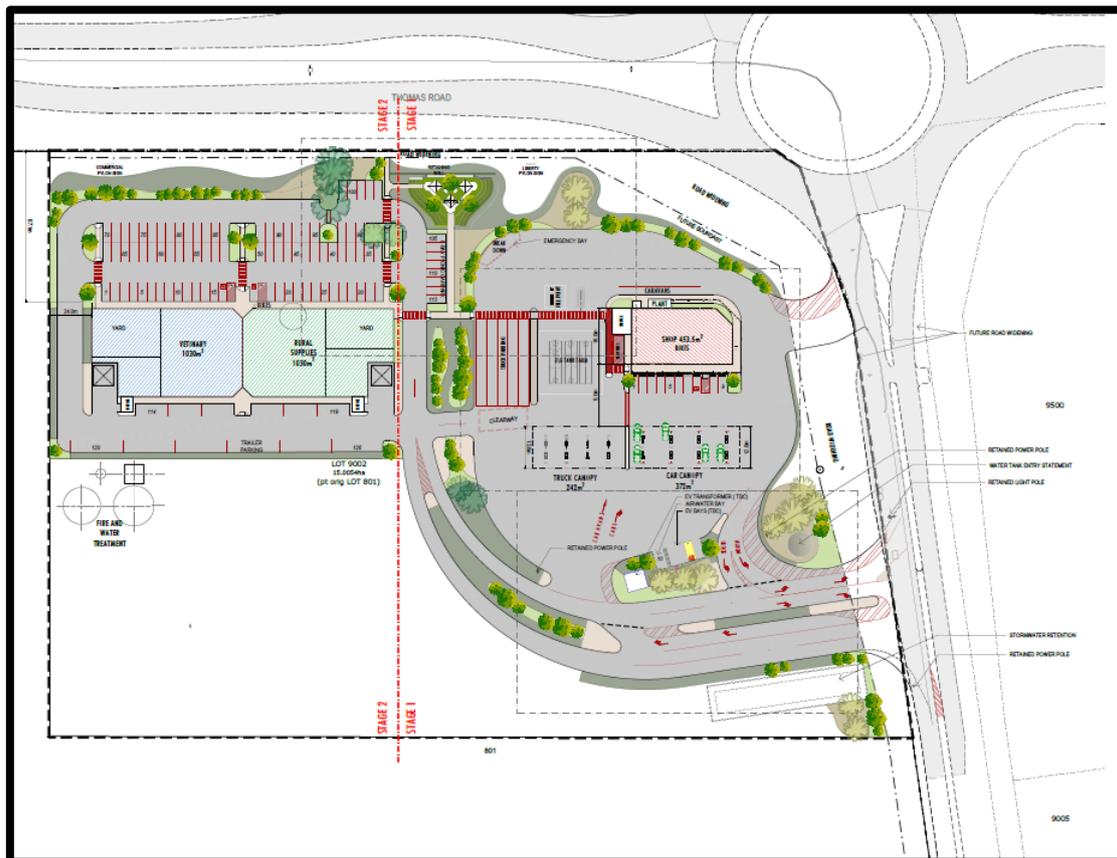
### Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Rural
Local Planning Scheme	Shire of Serpentine Jarrahdale Town Planning Scheme No.2
Local Planning Scheme - Zone/Reserve	Rural
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Service Station (SA), Veterinary Clinic (AA) and Produce Store (AA)
Lot Size:	15.53ha
Existing Land Use:	Vacant land
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

### Proposal:

#### Proposed Development

The application seeks approval for two buildings including a 'Service Station' (453m<sup>2</sup>), a 'Veterinary Clinic' (1,030m<sup>2</sup>) and a 'Rural Supplies Store' (1,030m<sup>2</sup>) providing general retail, construction services, agricultural retail, and equine services. During the application process the proposal was amended. The initial proposal is contained within **attachment 1** and the revised proposal within **attachment 2**. The proposed site plan is depicted below:



The 'Service Station' component would operate 24 hours a day, seven days a week and comprise of the following:

- Petrol canopies for cars and trucks;
- Retail Area;
- Dining Area;
- WC's, shower facilities and lounge;
- Food preparation and storage areas;
- BBQ and picnic area;
- 144 car parking bays including 6 trailer bays;
- 5 truck parking bays;
- Caravan parking;
- Four wall signs;
- One pylon sign; and
- Landscaping.

Access is proposed via one full movement crossover and one egress only crossover onto Kargotich Road. There would be no access from Thomas Road.

## Background

The subject site is located to the south of Thomas Road and the west of Kargotich Road in Oakford. The current use of the subject land is rural in nature, historically being used for pastoral

and grazing purposes. Lots south of Thomas Road are generally rural with rural residential development. Lots to the north of Thomas Road are also generally rural residential.



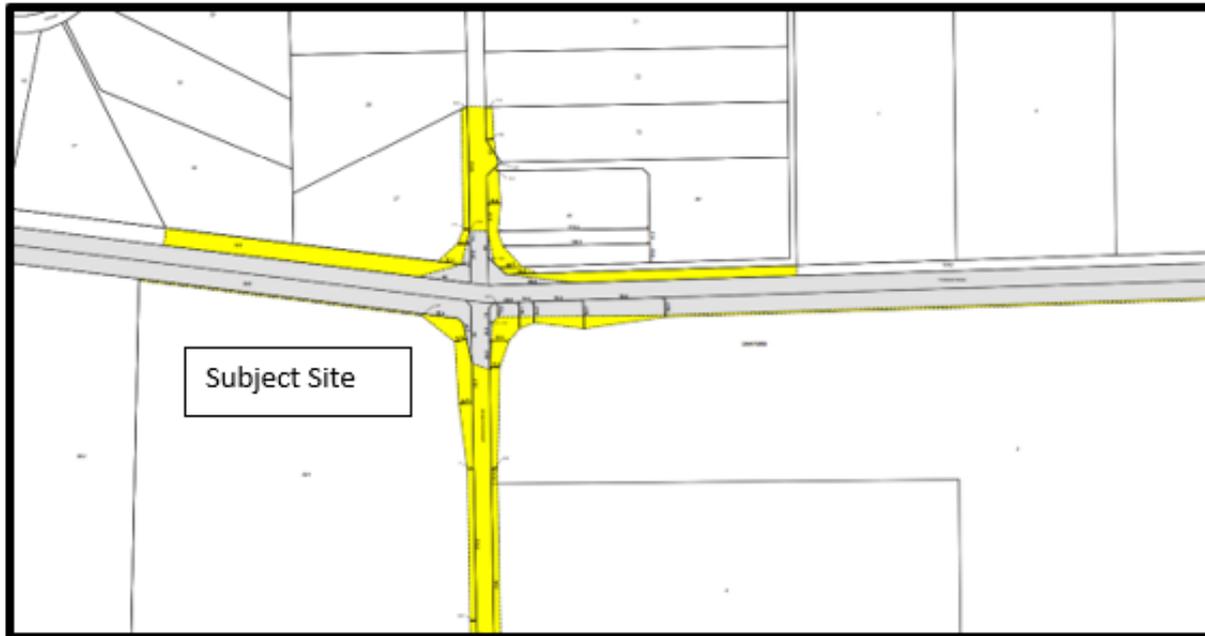
Figure 1: Location Plan

A similar development was approved by Council in 2013, however at this meeting a full suite of conditions were not imposed. The matter was presented to Council again in 2014 with a list of recommended conditions and the application was approved. It was never implemented.

In 2015, an approval was granted by Council to extend the commencement timeframe of this development. Following consultation with Main Roads Western Australia (MRWA) in relation to the intersection upgrade at Kargotich Road/Thomas Road, the applicant amended the site layout which was approved by Council in 2018. This approval lapsed also, as it was not substantially commenced within the required two years.

An application was then made to extend its commencement timeframe for a further two years, and this was refused by Council on 23 June 2020 for its inconsistency with Local Planning Scheme No.3 (LPS3) and the Local Planning Strategy (LPS). The current proposal is a new application.

Since the previous approvals, the Western Australian Planning Commission (WAPC) have placed a Planning Control Area (PCA) over land surrounding the intersection of Thomas Road and Kargotich Road. The purpose of this PCA is to protect a section of Thomas Road for future upgrades in line with its freight and regional road functions. No development should be undertaken on this land which may prejudice its purpose prior to it being reserved for Primary Regional Roads under the Metropolitan Regional Scheme. The PCA area is shown in yellow below and discussed further later in the report.



Recently, as part of the Westport Project, plans have been released which seek to transform the Thomas Road and Anketell Road link and a freight standard freeway. A grade separated interchange is the most likely intersection configuration that will be required at the intersection of Thomas Road and Kargotich Road. This is also discussed in the report following.

### **Legislation and Policy:**

#### Legislation

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- *Environmental Protection (Noise) Regulations 1997;*

#### State Government Policies

- Draft South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million;
- State Planning Policy 2.5 – Rural Planning;
- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- Environmental Protection Authority Draft Environmental Assessment Guideline for Separation Distances Between Industrial and Sensitive Land Uses;

#### Structure Plans/Activity Centre Plans

N/A

#### Local Policies

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2;
- Local Planning Strategy
- Draft Local Planning Scheme No.3
- Local Planning Policy 4.11 - Advertising
- Local Planning Policy 1.4 – Consultation for Planning Matters

**Consultation:**Public Consultation

The application was advertised to landowners within a 500m radius of the site from 19 April 2022 to 10 May 2022, in accordance with Local Planning Policy 1.4 - Consultation for Planning Matters. During this period no submissions were received.

Referrals/consultation with Government/Service AgenciesWestern Australian Planning Commission (WAPC)

The application abuts a Planning Control Area and has also received an objection from MRWA. As such the application has been referred to the WAPC as a Responsible Authority in accordance with Clause 29(1)(c) of the Metropolitan Region Scheme.

The DPLH has also confirmed *“In its current form, DPLH does not support the proposed application from a regional road planning perspective, as it does not make provision for the land required for the proposed freight corridor. The proposed access arrangements are also likely to need to be modified to the satisfaction of MRWA, reflecting the significance of the future freight corridor.”*

Main Roads Western Australia (MRWA)

MRWA provided a submission objecting the proposal. The reasons for the objections are summarised below and discussed as part of the Traffic and Access section of the report:

- The proposed development poses an unacceptable impact to future upgrades for the intersection of Thomas Road/Kargotich Road;
- The northernmost crossover would be located in the functional area of the future roundabout contrary to Main Roads Driveways Guidelines resulting in potential traffic safety impacts; and
- The subject site abuts Planning control Area 161 with the purpose of protecting land for future upgrades of Thomas Road to achieve its freight and regional road functions. Design work is currently underway for the ultimate intersection configuration which has identified that a grade separation interchange is likely which will result in the reconsideration of the land requirements. The ultimate configuration will impact on the future to develop the subject site.

A full copy of the submission with the applicant and Officer responses and is contained within **attachment 3**.

Design Review Panel Advice

N/A

Swan Valley Planning

N/A

Other Advice

N/A

**Planning Assessment:**Land Use

In determining whether this application is capable of approval under TPS2 it is necessary to consider the appropriate land use classification with reference to the definitions provided for in Appendix 1 of TPS2.

Within the use classes defined in TPS2, the following use has been considered:

‘Service Station’:

*“land and buildings used for the supply of petroleum products and motor vehicle accessories and for carrying out greasing, tyre repairs and minor mechanical repairs and may include a cafeteria, restaurant or shop incidental to the primary use; but does not include transport depot, panel beating, spray painting, major repairs or wrecking.”*

The proposal would be used for the supply of petroleum products and it is reasonable to consider that motor vehicle accessories will also be sold within the retail component. The proposal also includes a dining area and shop and does not include any of the facilities listed above that are expressly excluded. The definition does require *“carrying out greasing, tyre repairs and minor mechanical repairs”*.

If the proposal was not considered a ‘service station’, it could possibly be considered a ‘use not listed’. In considering this, it is noted that Clause 3.2.5 of TPS2 states that:

*“If the use of land for a particular purpose is not specifically mentioned in the zoning table and cannot reasonably be determined as falling within the interpretation of one of the use categories the Council may:*

- a) determine that the use is not consistent with the objectives and purpose of the particular zone and is therefore not permitted; or*
- b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of Clause 64 of the Deemed Provisions in considering an application for planning consent.”*

This clause requires that for a development to be classified as a ‘use not listed’ it should only be done so where the use *“cannot reasonably be determined as falling within the interpretation of one of the use categories”*.

Whilst the ordinary principles of statutory interpretation apply and the word ‘and’ means both parts of the sentence are required and it is not an alternative, on reviewing decisions of the State Administrative Tribunal (SAT) they have adopted the approach described by Wilson DCJ in *Chiefari v Brisbane City Council (2005) QPELR 500, at {9}*:

*“These definitions are included in [sic] to provide an explanation of the meaning of terms used in the Scheme. They will ordinarily be construed in a manner which acknowledges that planning schemes are largely the work of town planners, not parliamentary counsel; ergo, they should be read as a whole and applied in a practical and common sense, and not an overly technical way, and in a fashion which will best achieve their evident purpose”.*

The SAT’s approach is generally where a proposal could fall within more than one land use, the ‘best fit’ option is adopted. Given that schemes are drafted by town planners and not parliamentary counsel, it is considered that the term ‘service station’ should be taken as the ordinary and common understanding. The general dictionary definition of service station is *“an establishment beside a road selling petrol and oil and sometimes having the facilities to carry out maintenance”*.

Based on this, it is considered that the proposal can reasonably fit with the land use of ‘Service Station’, with a primary purpose of selling petroleum, under TPS2 and therefore should be treated as such. This has been mentioned as having incidental components also, which is discussed following.

In determining that this is the sole land use applicable to the proposal, Council is required to be satisfied that the retail and dining areas are ‘incidental’ and ‘ancillary’ to the primary use of petroleum sales and does not constitute an additional use of ‘restaurant’, ‘shop’ or ‘fast food takeaway’. There are number of SAT cases that have dealt with this issue and it is a matter of

fact and degree of each individual case. In the case of West Coast Enterprises and Shire of Exmouth [2007] WASAT 316, the court held that ancillary uses are those that *"grow out of or develop from the primary use"* and are intended to enhance it, such as *"the sale of convenience goods [which] has come to be accepted as being ancillary to a petrol station"*.

In this case, Officers consider that the retail and dining areas are incidental to and part of the service station use and are expressly mentioned as being such in the definition. Given the layout of the proposal and the scale, particularly of the dining area, they are considered elements that are subservient to the primary use of petroleum sales that do not operate independently of each other as separate uses.

A 'Service Station' is an 'SA' use under TPS2, which means that *"Council may, at its discretion, permit the use after notice of the application has been given in accordance with Clause 64 of the deemed provisions"*.

With regard to the veterinary clinic and rural supplies store, the following definitions are considered appropriate:

'Veterinary Establishment':

*land and buildings used for, or in connection with, the treatment of sick animals and includes accommodation of sick animals*

'Produce Store':

*land and buildings where in fodders, fertilisers and grain are displayed and offered for sale"*

The veterinary clinic will provide animal health care which falls within the above definition of 'Veterinary Establishment' which is an 'AA' use, which means that *"Council may, at its discretion, permit the use."*

The rural supplies store will provide rural supplies which falls within the above definition of 'Produce Store' which is an 'AA' use, which means that *"Council may, at its discretion, permit the use"*.

Council is required to exercise its discretion to grant development approval in accordance with the Deemed Provisions.

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

Clause 5.10.1 of TPS2 states *"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"*. TPS2 does not define a 'rural pursuit' however, the SAT consistently define a rural pursuit as something that is *'relating to, or a characteristic of the country'*. Service Stations are found in both urban and rural areas are not considered to be something that characterises the countryside.

#### Draft Local Planning Scheme No.3 (LPS3) and Local Planning Strategy (LPS)

The site is proposed to remain zoned 'Rural' under LPS3. Under the approved LPS, it is identified as Rural. It is considered that LPS3, as a seriously entertained and certain planning document, will introduce a Rural zone for the land.

The 'Service Station' land use under LPS3 is defined as:

*"premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for -*

- (a) *the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or*
- (b) *the carrying out of greasing, tyre repairs and minor mechanical repairs to motor vehicles.”*

It is considered that the proposal falls within this land use classification and the retail area is considered to be included within the sale of ‘goods of an incidental or convenience nature’ as is considered under TPS2.

Under LPS3 the land use of ‘Service Station’ is a prohibited land use in the ‘Rural’ zone under draft LPS3. This proposal would be incapable of consideration under LPS3.

The objectives of the ‘Rural’ zone under LPS3 are:

- *“To provide for the maintenance or enhancement of specific local rural character.*
- *To protect and accommodate broad acre agricultural activities such as cropping and grazing and intensive uses such as horticulture as primary uses, with other rural pursuits and rural industries as secondary uses in circumstances where they demonstrate compatibility with the primary use.*
- *To maintain and enhance the environmental qualities of the landscape, vegetation, soils and water bodies including groundwater, to protect sensitive areas especially the natural valley and watercourse systems from damage.*
- *To provide for the operation and development of existing, future and potential rural land uses by limiting the introduction of sensitive land uses in the Rural zone.*
- *To provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with surrounding rural uses.”*

The objectives of rural land under the LPS are to provide for a full range of rural uses, tourism, rural enterprise and the preservation of the rural character. The LPS emphasises the importance of protecting large rural lot sizes for agriculture.

It is considered that the proposal is inconsistent with the objectives of the ‘Rural’ zone under the LPS and LPS3. It is also a prohibited use, incapable of approval.

LPS3 has introduced the use class of a ‘Road House’, which is defined as:

*“premises that has direct access to a State road other than a freeway and which provides the services or facilities provided by a freeway service centre and may provide any of the following facilities or services -*

- (a) *a full range of automotive repair services;*
- (b) *wrecking, panel beating and spray painting services;*
- (c) *transport depot facilities;*
- (d) *short-term accommodation for guests;*
- (e) *facilities for being a muster point in response to accidents, natural disasters and other emergencies.”*

The freeway service centre is defined as:

*“premises that has direct access to a freeway and which provides all the following services or facilities and may provide other associated facilities or services but does not provide bulk fuel services -*

- (a) *service station facilities;*
- (b) *emergency breakdown repair for vehicles;*
- (c) *charging points for electric vehicles;*
- (d) *facilities for cyclists;*
- (e) *restaurant, cafe or fast food services;*

- (f) *take-away food retailing;*
- (g) *public ablution facilities, including provision for disabled access and infant changing rooms;*
- (h) *parking for passenger and freight vehicles;*
- (i) *outdoor rest stop facilities such as picnic tables and shade areas.”*

‘Road House’ is an ‘A’ use in the ‘Rural’ zone under LPS3 and therefore is capable of approval subject to advertising. Based on its definition, for a development to be considered a ‘road house’ it must have direct access from a state road and provide the services or facilities provided by a freeway service centre, as listed above.

There is no definition of state road however MRWA define it as as ‘A road declared under the Main Roads Act 1930 to be a highway or a main road.’ In the plan of the proposed crossover for Lot 9002 Thomas Road, the northernmost crossover connects with the existing MRS Primary Regional Road relating to Thomas Road. The MRS reservation extends both northwards and southwards of the Thomas Road Reserve, into the Kargotich Road Reserve. It is therefore reasonable to accept that the section of Kargotich Road to which the crossover connects is a State road for the purposes of LPS3. It is however worth noting that MRWA has objected to this crossover and as such if the proposal cannot take access from a State Road it cannot be considered a ‘road house’.

Officers consider the definition of ‘Service Station’ best fits the proposal under both TPS2 and LPS3. Given the latter prohibits the use, and the latter is a serious document being considered for adoption and is at an advanced stage, it is a relevant consideration in the merits based assessment of the matter.

The veterinary clinic component and rural supplies store component are considered to fall within the land uses of ‘Veterinary Centre’ and ‘Trade Supplies’ respectively under Draft LPS3. These land uses are both discretionary uses requiring advertising.

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

SPP3.7 seeks to implement effective risk based planning and development to preserve life and reduce the impact of bushfires on property and infrastructure. As the site is designated as bushfire prone, a Bushfire Management Statement (BMS) has been submitted as part of the application.

The BMS has mapped and classified vegetation within 150m of the proposal and identified a Bushfire Attack Level (BAL) rating of BAL-12.5. The BMS also provides an assessment against the criteria in the *Guidelines for Planning in Bushfire Prone Areas* in relation to location, siting, vehicular access and water, as required under SPP3.7.

The BMS considers the bushfire risk manageable through the implementation of a number of measures outlined in the plan. These measures include the installation of a 10,000 litre water tank and driveway access; maintenance of an asset protection zone and compliance with firebreak notices. It is considered that the BMS satisfactorily demonstrates that bushfire risk can be managed, consistent with SPP3.7.

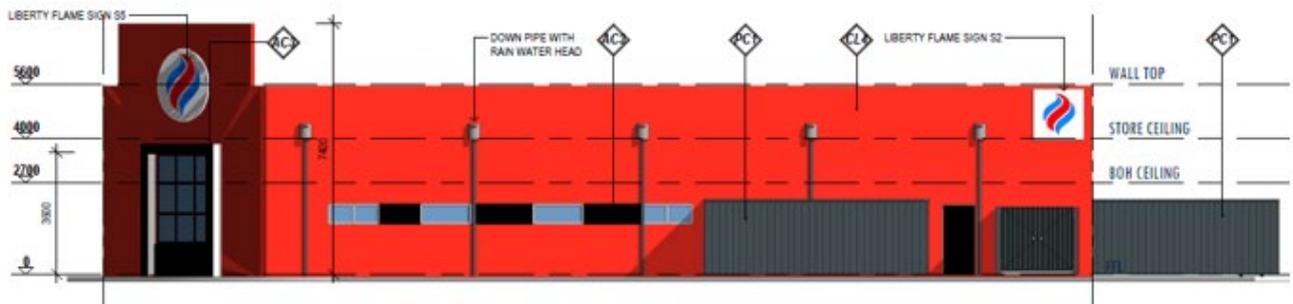
#### Form of Development and Amenity

The subject site is in a prominent location for traffic entering Byford from the west as well as increased freight traffic subsequent to Westport, as the Thomas Road and Anketell Road linkage progresses. Notwithstanding the future road upgrades, the present character of the locality is rural in nature with a mixture of open fields and tree lined verges. The form and appearance of the proposal should therefore reflect the rural character of the locality. The character of the

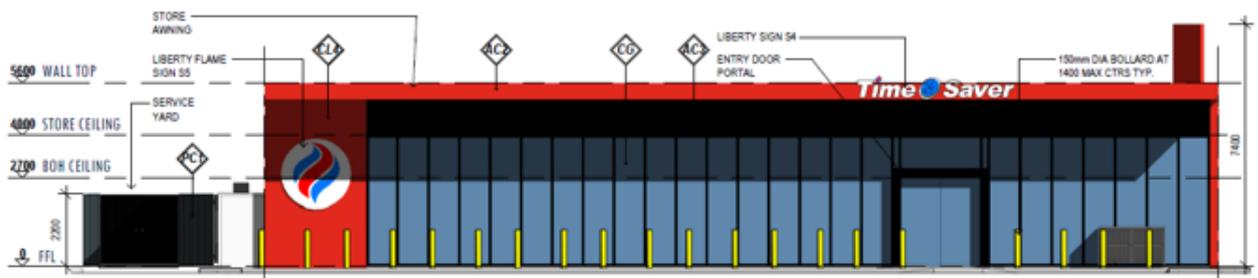
locality is depicted in the image below as viewed on the approach to the intersection from the east.



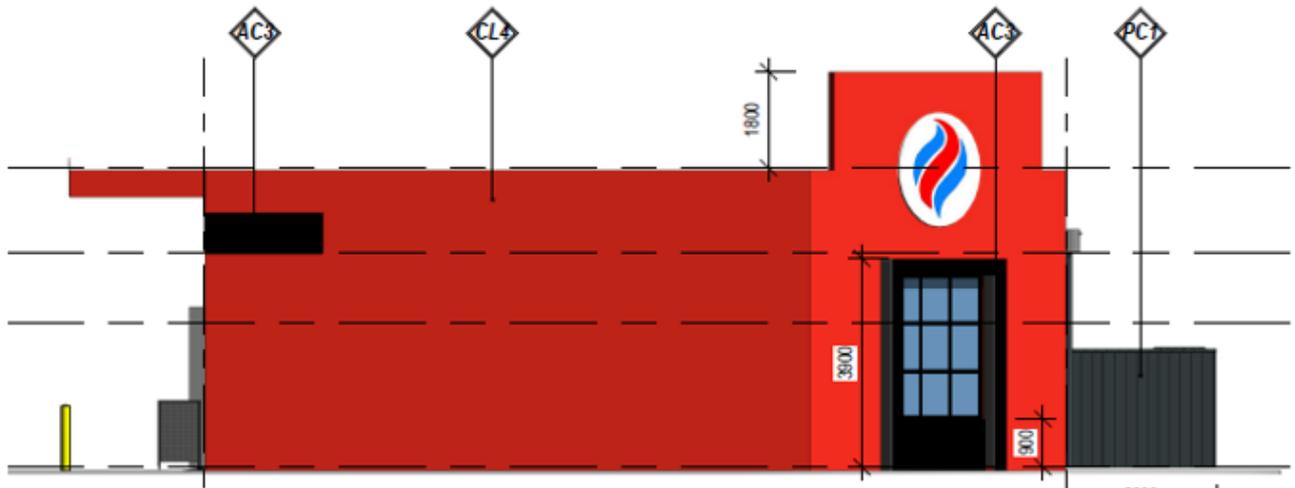
The retail component of the service station, as initially proposed, presented as a tilt up concrete building of simple form, coloured red. The entrance to the building faced south with the majority of this elevation being glazed. The other elevations were proposed relatively blank with a 'feature wall' protruding above the roof line facing the corner of the lot, facing the intersection. The building would have been 5.6m in height with the 'feature wall' having an additional 1.8m in height. The fuel bowsers and canopy would be located to the south of this building with a total height of 6.5m. The elevations are depicted below:



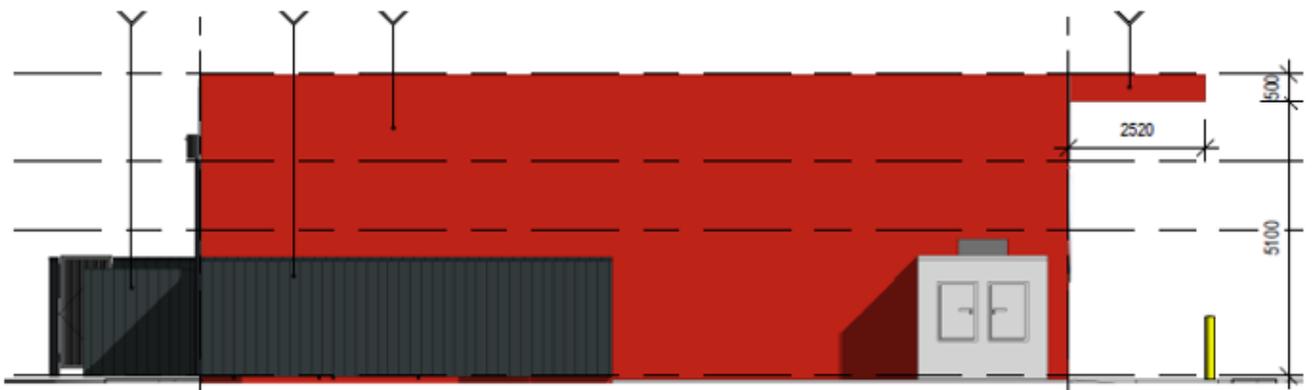
North Elevation



South Elevation



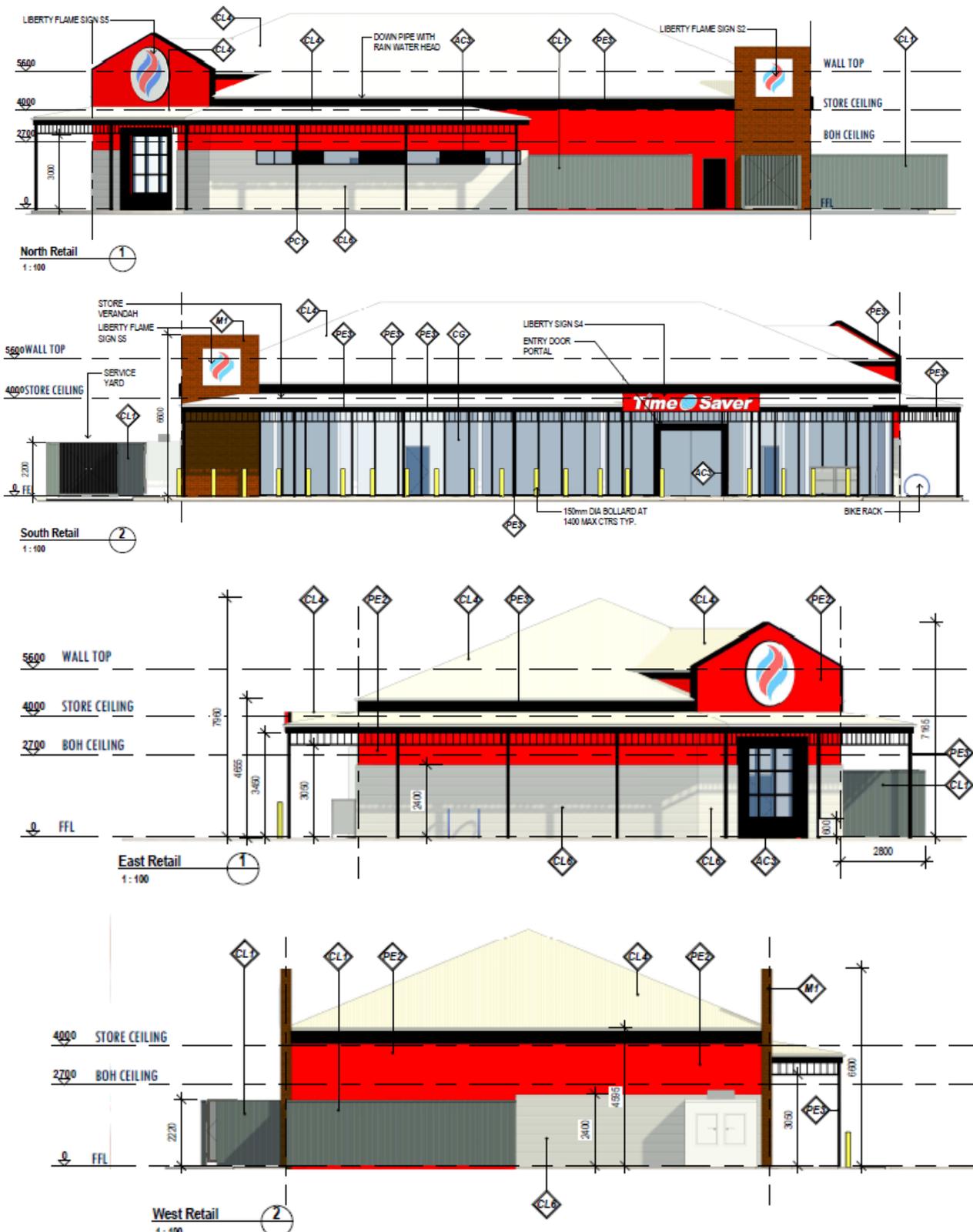
**East Elevation**



**West Elevation**

It is considered that the use of colours and materials for this design would have a stark presentation within a rural setting. The colours and materials do not reflect the natural tones of the rural landscape and the building lacks visual interest and articulation. It is particularly dynamic and modern to the detriment of more simple, enriching and reassuring rural building forms in the landscape.

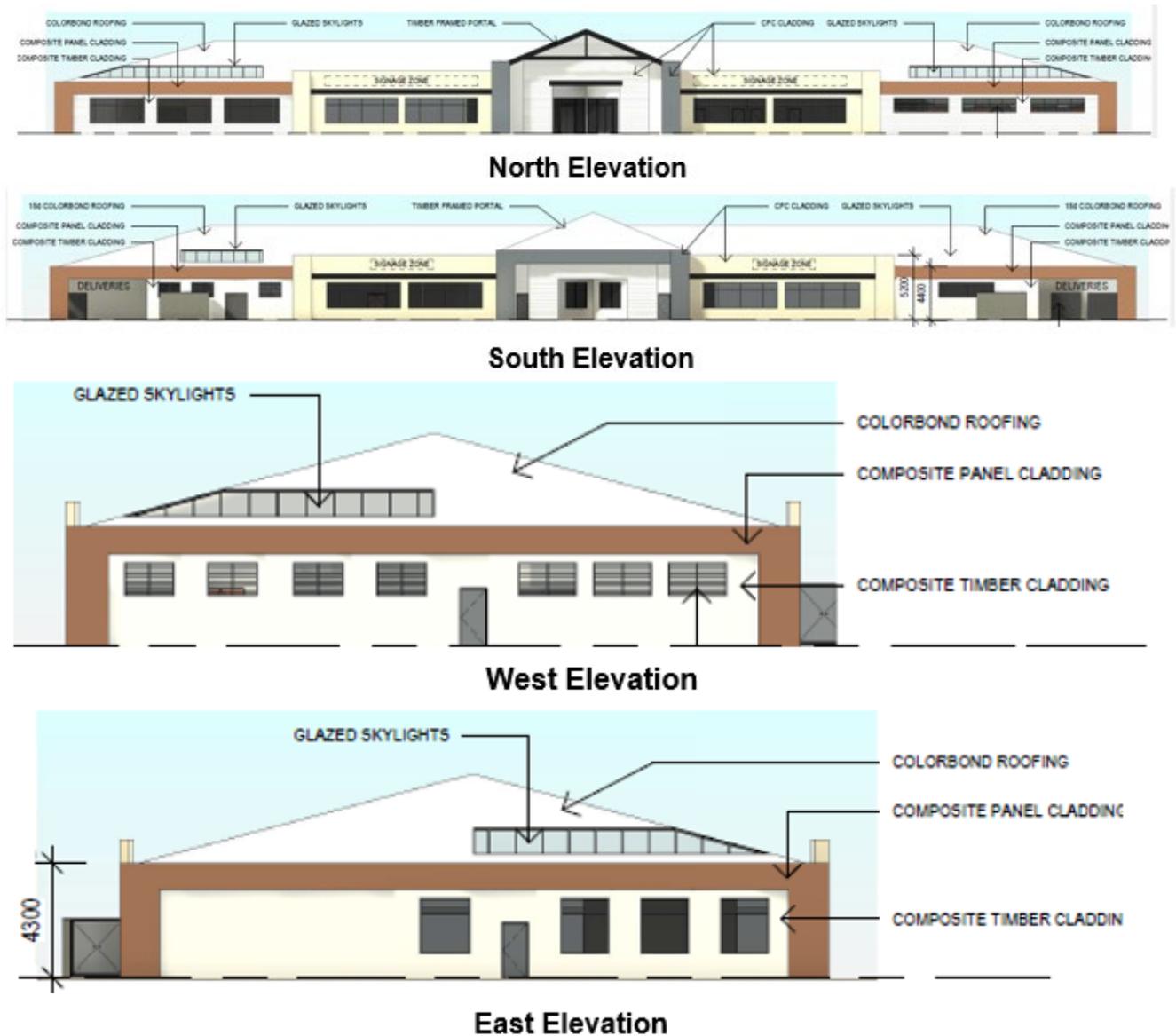
Given the prominence of this building and the character of the locality, the applicant amended the design with the suggestion of the use of vertical/horizontal articulation incorporating natural timbers and stone work to better reflect the locality. The amended elevations are depicted below:



The building would be set back 34.5m from the existing eastern lot boundary (Kargotich Road) and approximately 45.6m from the existing northern lot boundary (Thomas Road). The amended design incorporates a hipped roof and verandah to better reflect the form of a rural building. The building also features a brick feature wall, utilising materials more consistent with the Shire’s rural character.

Whilst these amendments go further to reflect the rural character of the area and improve the design, it is considered that the 'surfmist' (off white) coloured roof and the choice of cladding is not consistent with the rural character of the area.

The rural supplies store and veterinary clinic would be located to the west of the service station fronting Thomas Road. The building would be set back approximately 45.5m from the northern lot boundary with the parking bays and building entrance provided to the front. The building would be clad and have a colorbond roof. The entrance would be located centrally for both tenancies and have a pitched roof timber framed entrance way. The elevations include composite panel cladding framing the windows and composite timber cladding. There would be skylight windows adding an element of visual interest to the hipped roof. The elevations are depicted below:



It is considered that the form and design of this building is consistent with development expected in a rural area and generally reflects the rural character of the locality, with a degree of simple, symmetrical form.

Signage

The proposal includes the following signage as depicted on the elevations:  
Service Station:

- 7.2m x 2.4m “Liberty” pylon sign
- 2.12m x 2.12m “Liberty Logo” wall sign
- 1.5m x 1.5m “Liberty Logo” wall sign
- 0.88m x 3.1m “Liberty” wall sign
- 1.415m x 5.0m “Liberty” wall sign

#### Veterinary Clinic:

- 0.75m x 5.0m corporate branding sign
- 0.75m x 3.9m “DELIVERIES” sign

#### Rural Supplies:

- 0.75m x 5.0m corporate branding sign
- 0.75m x 3.9m “DELIVERIES” sign
- 7.05m X 2.4m internally illuminated pylon sign for commercial tenancies.

Local Planning Policy 4.11 - Advertising (LPP4.11) sets out standards for different signage types. Table 1 of LPP4.11 sets out the permissibility of different sign types within particular zones. Both wall signs and pylon signs are not permitted in the ‘Rural’ zone under the LPP. These sign types would not typically be found within a ‘Rural’ zone.

#### Noise

The proposal would operate 24 hours per day, seven days a week. Due to the existing traffic volumes on both Kargotich and Thomas Road, it is considered that the proposal would not adversely impact on adjoining landowners by way of traffic noise due to the additional traffic numbers provided within the Traffic Impact Assessment.

It is acknowledged that additional noise would be resultant from the operations of the facility. The EPA Guidelines require a separation distance of 100m between service stations and sensitive receptors. In this case, the proposal is compliant with this requirement.

An Acoustic Assessment has been provided as part of the application detailing noise sources as Mechanical Services; Tyre Inflator beeper; Car and truck doors closing; and breakout noise from veterinary clinic. The closest sensitive receptors are detailed in the report as per the plan below:



The acoustic assessment uses a modelling programme to calculate noise levels from different sources to determine compliance. The tables below detail each noise source, the assigned level (acceptable level) and the level at each sensitive receptor as shown above.

**TABLE 6.2 – ASSESSMENT OF L<sub>A10</sub> NOISE LEVEL EMISSIONS  
MECHANICAL SERVICES**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A10</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
Residences to North	29	Night Period	41	Complies
Residence to East	32	Night Period	41	Complies

**TABLE 6.3 – ASSESSMENT OF L<sub>A1</sub> NOISE LEVEL EMISSIONS  
REFRIGERATED TRUCKS**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>A1</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
Residences to North	42	Day Period	61	Complies
		Sunday / Public Holiday Day Period	56	Complies
		Evening Period	56	Complies
		Night Period	51	Complies
Residence to East	38	Day Period	61	Complies
		Sunday / Public Holiday Day Period	56	Complies
		Evening Period	56	Complies
		Night Period	51	Complies

**TABLE 6.5 – ASSESSMENT OF L<sub>AMAX</sub> NOISE LEVEL EMISSIONS  
CAR DOOR**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>AMax</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
Residences to North	42	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies
Residence to East	47	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies

**TABLE 6.7 – ASSESSMENT OF L<sub>AMAX</sub> NOISE LEVEL EMISSIONS  
TRUCK DOOR**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>AMax</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
Residences to North	52	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies
Residence to East	55	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies

**TABLE 6.9 – ASSESSMENT OF L<sub>AMAX</sub> NOISE LEVEL EMISSIONS  
DOG BARK**

Location	Assessable Noise Level, dB(A)	Applicable Times of Day	Applicable Assigned L <sub>AMax</sub> Noise Level (dB)	Exceedance to Assigned Noise Level (dB)
Residences to North	39	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies
Residence to East	40	Day Period	71	Complies
		Sunday / Public Holiday Day Period	71	Complies
		Evening Period	61	Complies
		Night Period	61	Complies

The results show that compliance with the noise levels is achieved.

## Traffic and Access

Thomas Road is classified as a Primary Distributor and operates under the speed limit of 80km/h in the vicinity of the subject site. The speed limit is reduced to 70km/h to the east of the Kargotich Road intersection.

A Traffic Impact Assessment (TIA) has been submitted as part of the application which details that Thomas Road (west of Kargotich Road) carried approximately 17,846 vehicles per day (vpd) on a regular weekday in 2019/20 with the morning peak between 7:00am and 8:00am being 1,525vph. The afternoon peak was recorded at 1,792vph between 4:00pm and 5:00pm.

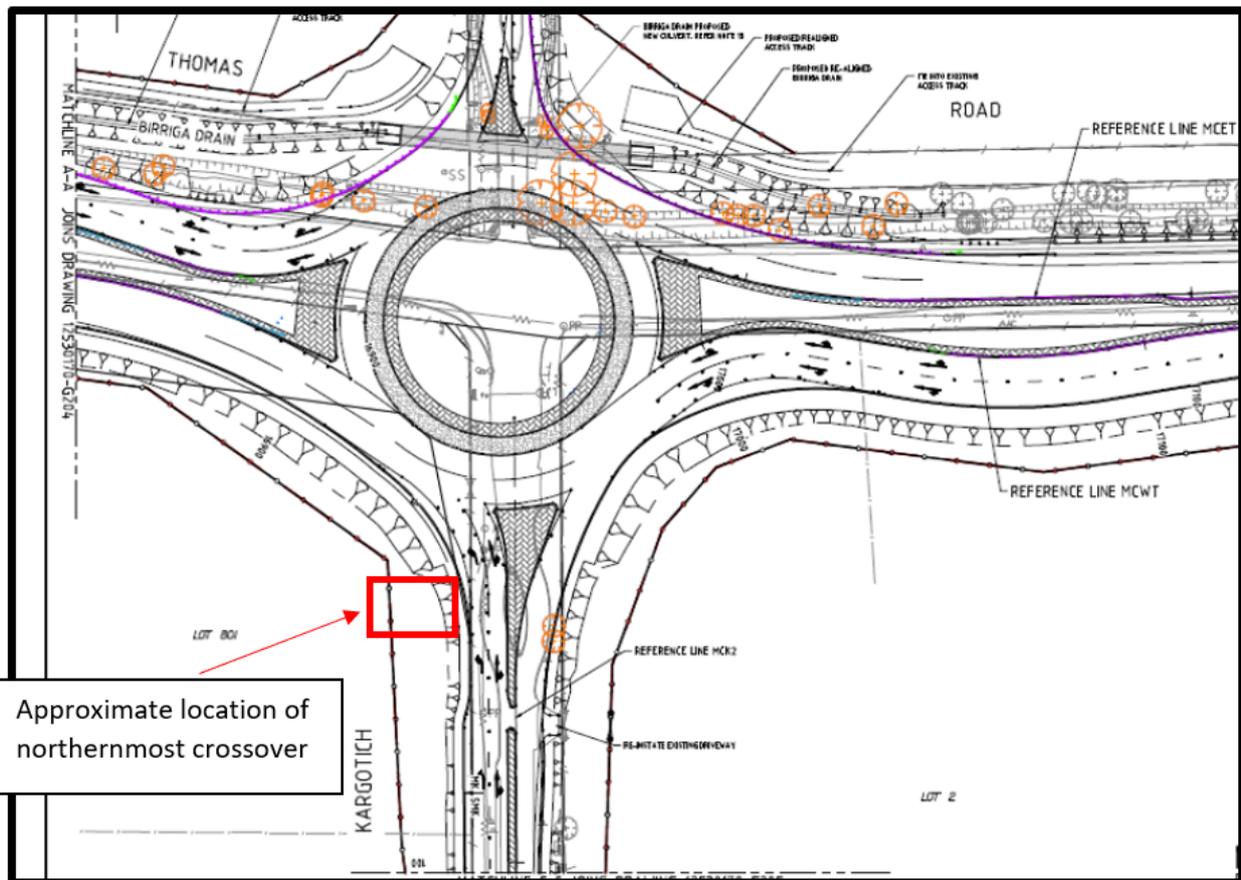
Kargotich Road is classified as a Regional Distributor with a speed limit of 90km/hr in the vicinity reducing to an advisory (yellow sign) 40km/h on the approach to the Thomas Road intersection and increasing to 80km/h to the north of the intersection. Kargotich Road carried approximately 3,272vpd on a regular weekday in 2019/20 with the morning peak of 261vph between 7:00am and 8:00am and the afternoon peak of 349vph between 4:00pm and 5:00pm.

According to MRWA mapping, Thomas Road is a RAV 7 network which can accommodate vehicles up to 36.5m in length and Kargotich Road is a RAV 3 network which can accommodate vehicles up to 27.5m in length.

The proposal provides one full movement crossover with separate left in/right in lanes for entry and separate left out/right out lanes for exit and one left turn only crossover on Kargotich Road.

### *Road Upgrades:*

Thomas Road is the subject of an 'under construction' safety project of MRWA which specific to this application includes the construction of a dual lane roundabout at the intersection of Thomas Road and Kargotich Road. The application details that the proposal has been designed to accommodate these upgrades. This work is anticipated by MRWA to commence later this year. As previously stated, MRWA have objected to the proposal, one of the reasons being the proposed northernmost crossover would be located within the functional area of this roundabout. The concept plan for the roundabout with the approximate location of the northernmost crossover is depicted below:



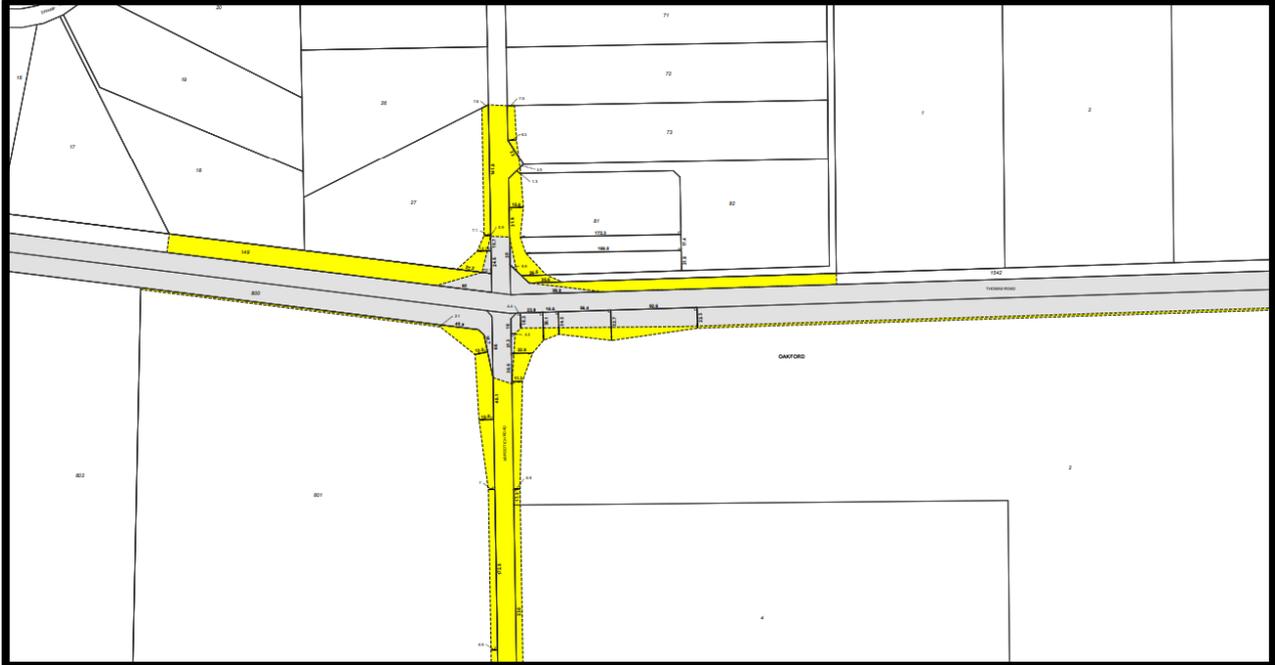
Section 2.4.4 of MRWA Driveway Guidelines requires driveways to be located “as far as practical from intersections to minimise points of conflict and confusion”. It also states that driveways shall not be permitted within the functional area of a future intersection where a roundabout will be required that is not signalised or planned to be signalised within 10 years of the development. The submission of MRWA states that “the siting of the northernmost driveway in proximity of the future intersection increases both the potential conflict points and decisions motorist must make, thereby decreasing safety in the vicinity of the intersection”.

The applicant has provided a response to this, contained within **attachment 4**, concerning outlining that the MRWA Guidelines only applies to driveways on State Roads and due to Kargotich Road not being a State Road, they do not apply. Officers disagree with this position. The MRS reservation extends both northwards and southwards of the Thomas Road Reserve, into the Kargotich Road Reserve. It is therefore reasonable to accept that the section of Kargotich Road to which the crossover connects is a State road. In any case, it would be a concern to disregard an issue of safety on an argument of applicability.

The applicant also details that this crossover is left-out only, and their view is it would not impact on safety.

Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out matters to be considered as part of the assessment of an application for development approval. Specifically, Clause 67(s) requires the consideration of the adequacy of the proposed means of access and egress. In this case, it is considered that the northernmost crossover within the functional area of the roundabout would increase the risk of traffic safety for road users and as such, is not supportable by Officers. Officers consider, as previously discussed, that this crossover is located onto a State Road which was the intent of its location to try to meet the land use definition of a ‘roadhouse’.

MRWA also raised concerns in relation to the impact the proposal would have on Planning Control Area 161 (PCA 161). This PCA has been declared as shown in yellow on the plan below.



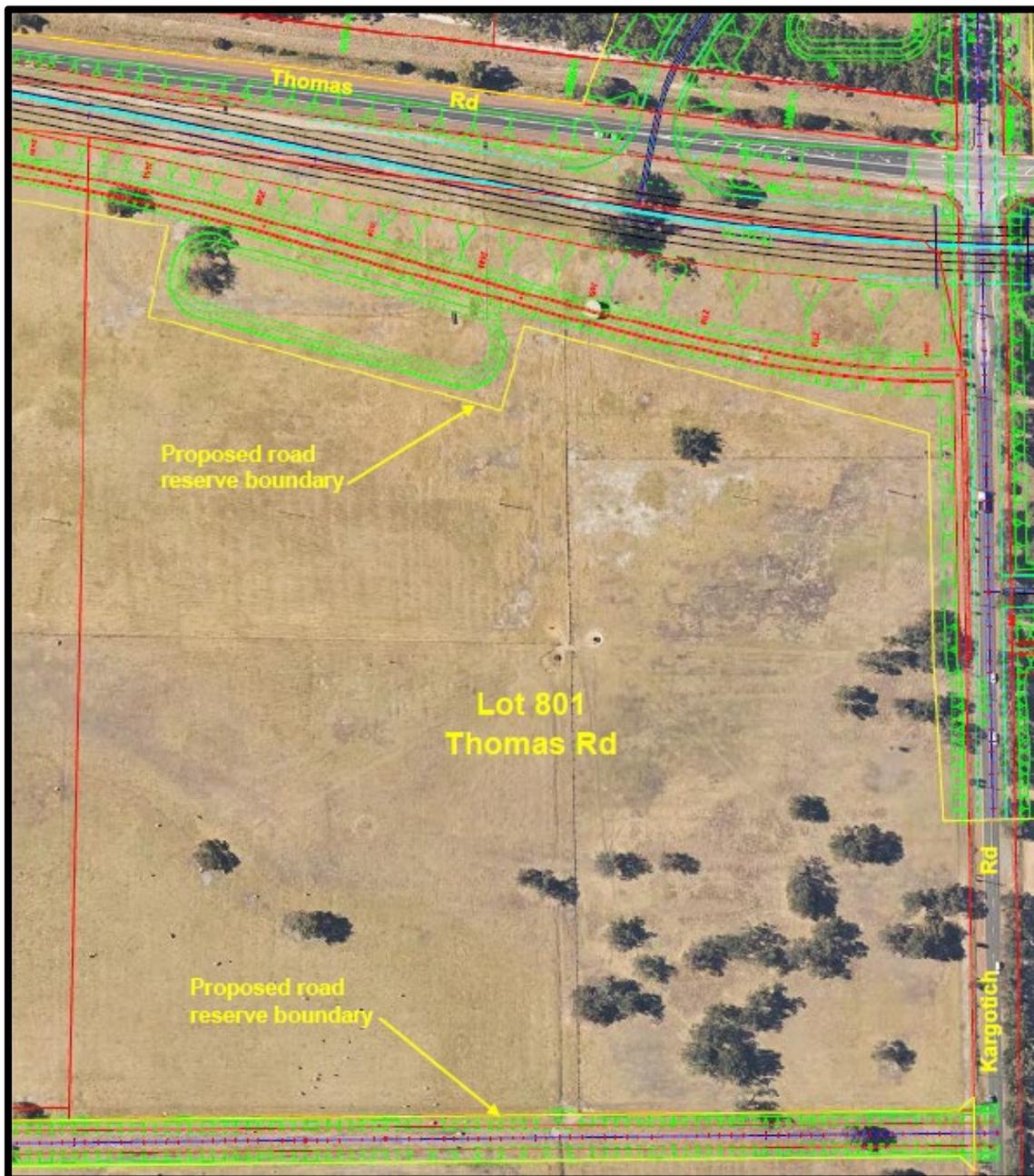
The purpose of this area is to protect land for future road upgrades to allow Thomas Road to achieve its freight and regional functions. The WAPC considers that the PCA is required to ensure that no development occurs on this land which might prejudice this purpose until it may be reserved for Primary Regional Road under the MRS.

As part of the Westport Project which seeks to improve freight linkages from Kwinana, concept plans for the project have identified a grade separated interchange is the most likely intersection configuration that will be required at the intersection of Thomas Road and Kargotich Road. The concept of this is depicted below:



The grade separated intersection would allow uninterrupted flow of freight vehicles whilst maintaining local road connections supporting the growth of industry. MRWA have advised, as part of their submission, that this will require reconsideration of the land requirements identified for the PCA which in turn will directly impact on the future development of the subject site, both

in terms of the access location and developable area. The preliminary land impacts sketch provided by MRWA is depicted below:



It is the opinion of MRWA that as currently proposed, the development is likely to impede the planned regional road functions of Thomas Road by way of the accesses proposed and the developable area. Council should note that prior to development going ahead, works would likely require both the approval of the WAPC and MRWA.

The applicant considers that this design is only at concept stage, is not a 'seriously entertained planning proposal' and *"has no basis in the planning framework applicable to the subject site"*. Officers disagree. Officers consider, it would be contrary to the principles of orderly and proper planning to approve development that is highly likely to impact such a significant project, given there is already a level of certainty in relation to the further land that would be required to facilitate it. It is therefore considered inconsistent with the principles of orderly and proper planning to approve the development that is likely to not be able to be undertaken.

### Traffic Impact

With regard to traffic impacts of the proposal, the TIA assumes that 80% of light vehicles for the service station are passing vehicles, 100% of heavy vehicles are passing vehicles and 100% of vehicles for the rural supplies and vets are non-passing vehicles. The TIA details the net additional traffic as shown in the table below.

**Table 2. Estimated peak hour trips for the proposed development**

Land use	Passing Trade	Daily Trips	AM		PM		Non-passing Traffic	Daily Trips	AM		PM	
			IN	OUT	IN	OUT			IN	OUT	IN	OUT
Roadhouse (light vehicles)	80%	3394	103	103	118	118	20%	848	26	26	30	29
Roadhouse (heavy vehicles)	100%	660	26	26	26	26	0%	0	0	0	0	0
Rural Supplies -	0%	0	0	0	0	0	100%	151	7	7	10	10
Veterinary	0%	0	0	0	0	0	100%	191	16	16	16	16
<b>Total</b>		<b>4054</b>	<b>129</b>	<b>129</b>	<b>144</b>	<b>144</b>		<b>1190</b>	<b>49</b>	<b>49</b>	<b>55</b>	<b>55</b>

To inform the TIA, a SIDRA analysis was undertaken for both post development (2022) and 10 years post development (2032). Post development, the roundabout intersection would operate at good Level of Services during both typical AM and PM peak hours with the maximum of approximately a three vehicle queue in the eastbound direction of Thomas Road in AM peak hour and a four vehicle queue in the westbound direction of Thomas Road in PM peak hour.

The TIA considers that 10 years post development the intersection would still operate at good Level of Services during both typical AM and PM peak hours. The maximum queues reported are approximately four vehicles in the eastbound direction of Thomas Road in AM peak hour and seven vehicles in the westbound direction of Thomas Road in PM peak hour.

Based on the information provided in the TIS, it is considered that the traffic operations of the proposed development are acceptable and can be satisfactorily be accommodated by the surrounding road network.

The TIA also includes turn path analysis for 27.5m trucks, 19m fuel tanker and 8.8m service delivery trucks which demonstrate satisfactory access, circulation and egress. It is anticipated that fuel delivery and waste collection will be undertaken outside of peak operating times.

The TIA reports that both crossovers would operate at a good level of service however reports that that 95% queue on Kargotich Road northbound in PM peak hour is 31.1m which will extend past the left turn exit only crossover (crossover 2) on Kargotich Road. Further, it should be noted that 95% of time during the PM peak hour, the queue would be less than that reported in SIDRA and therefore the reported queue length would only occur during 5% of this peak hour which is equivalent to three minutes only. The reported average queue length (50% of the peak hour time) on this approach is 12.5m which does not extend to crossover two. Officers have already raised concerns in relation to this northernmost crossover and proximity to the roundabout and

consider that the queueing of traffic passed the crossover increases the potential safety impact of the proposal.

#### Local Planning Policy 1.6 - Public Art (LPP1.6)

The objectives of LPP1.6 is to facilitate public art to enhance public enjoyment, engagement and understanding of places through the integration of public art. The policy sets out the requirements for physical and financial contributions for public art for any development valued at \$1 million or greater. A condition should be imposed requiring the applicant to contribute towards public art in accordance with the policy in the event of an approval.

#### **Conclusion:**

The application seeks approval for a 'service station', 'rural supplies store' and 'veterinary clinic' within the 'rural' zone. The draft Local Planning Scheme of which approval is imminent, designates a 'service station' as a prohibited use in the zone. It is considered contrary with the principles of orderly and proper planning to permit a use that would imminently be prohibited.

The surrounding road network is linked to safety improvement projects as well as part of the Westport project which would involve the construction of a roundabout at the intersection of Thomas Road and Kargotich Road with further planning to include grade separation for the ultimate arrangement as part of Westport. The proposal encroaches in the likely PCA for MRWA concept for the future upgrades. It is considered inconsistent with the principles of orderly and proper planning to support a proposal inconsistent with the future plans of the road network and that of MRWA who will ultimately be required to approve works in relation to the access.

The access arrangements, specifically the northernmost crossover, is in the functional area of the roundabout which has the potential to result in traffic safety issues, contrary to MRWA Guidelines.

#### **Officer Recommendation**

It is recommended that the Metro Outer JDAP resolves to:

**Refuse** DAP Application reference DAP/22/02211 and accompanying plans (PA22/297) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No.02 for a proposed Service Station (with incidental components), Rural Supplies Store and Veterinary Clinic at Lot 9002, 1780 Thomas Road, Oakford

#### **Reasons**

- 1 The land use of 'service station' is a prohibited use in the 'Rural' zone under draft Local Planning Scheme No. 3. It is contrary to the principles of orderly and proper planning to grant approval for a use which is imminently designated to become a prohibited use in the zone under the new Scheme.
- 2 The land use of 'service station' is inconsistent with the objectives of the 'Rural' zone in draft Local Planning Scheme No. 3 and the Local Planning Strategy as it is an inappropriate non-rural use.
- 3 The 'service station' by way of its design and external appearance would adversely impact on the rural character and amenity of the locality.
- 4 The development, by way of its siting, would impact future road network projects, contrary to the principles or orderly and proper planning.

- 5 The proposal, by way of the northernmost crossover, would adversely impact on traffic safety due to its location in the functional area of the proposed roundabout

**Reasons for Officer Recommendation**

Detailed Above.