

Deemed Provisions – CI 67 Matters to be considered by local Government

Land Use:

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>																				
<p>Comment: <u>Land Use</u> In relation to land use under TPS 2, refer to Council report and RAR for the item.</p> <p><u>Objective</u> 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 a something that characterises the countryside.</p> <p><u>Car Parking:</u> Table V – Car Parking of TPS2 provides minimum standards for car parking bays dependant on land use which have been calculated in the table below. It is worth noting that there are no standards for a ‘Produce Store’ however the standard for ‘Shop’ has been used as a guide to determine whether adequate parking has been provided.</p> <table border="1"> <thead> <tr> <th>Land Use</th> <th>TPS2 standard</th> <th>Bays Required</th> <th>Bays proposed</th> </tr> </thead> <tbody> <tr> <td>Service Station</td> <td>1.5 spaces per service bay plus 1 space per employee</td> <td>4 bays</td> <td>10 bays plus 8 bays for picnic area</td> </tr> <tr> <td>Veterinary Establishment</td> <td>6 spaces per practitioner</td> <td>60 bays</td> <td>126 bays</td> </tr> <tr> <td>Shop</td> <td>1 bay per 15m² of GLA</td> <td>68 bays</td> <td></td> </tr> <tr> <td>Total</td> <td></td> <td>132</td> <td>144</td> </tr> </tbody> </table> <p>The table shows that adequate parking has been provided and the minimum standards have been met with 12 surplus bays.</p>				Land Use	TPS2 standard	Bays Required	Bays proposed	Service Station	1.5 spaces per service bay plus 1 space per employee	4 bays	10 bays plus 8 bays for picnic area	Veterinary Establishment	6 spaces per practitioner	60 bays	126 bays	Shop	1 bay per 15m ² of GLA	68 bays		Total		132	144
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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 checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p>Comment: 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: <i>“premises other than premises used for a transport depot, panel beating, spray painting, major repairs or wrecking, that are used for –</i> <i>(a) the retail sale of petroleum products, motor vehicle accessories and goods of an incidental or convenience nature; or</i></p>			

(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.

c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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Comment:

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 10,000l 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.

d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d)	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
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Comment:

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

f) any policy of the State	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
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Comment:

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

LPP4.11 – Advertising – the proposal is generally consistent with the standards however having 2 pylon signs is considered to impact on the streetscape and rural character of the area. The report recommends that a signage strategy is provided should the MODAP approve the application.

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

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"/>
Comment: •			

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"/>
Comment:			

Development:

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"/>
Comment:			

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"/>
Comment:			

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"/>
<p>Comment: 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.</p> <p>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.</p> <p>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.</p>			

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 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 cladded 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. 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.

n) the amenity of the locality including the following –	YES	NO	N/A
I. Environmental impacts of the development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
II. The character of the locality			
III. Social impacts of the development			
<p>Comment:</p> <p>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.</p> <p>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.</p> <p>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:</p>			



The acoustic assessment uses a modelling programme to calculate noise levels from different sources to determine compliance. The results show that compliance with the noise levels is achieved.

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



NO



N/A



Comment:

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



NO



N/A



Comment:

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



NO



N/A



Comment:

r) the suitability of the land for the development taking into account the possible risk to human health or safety

YES



NO

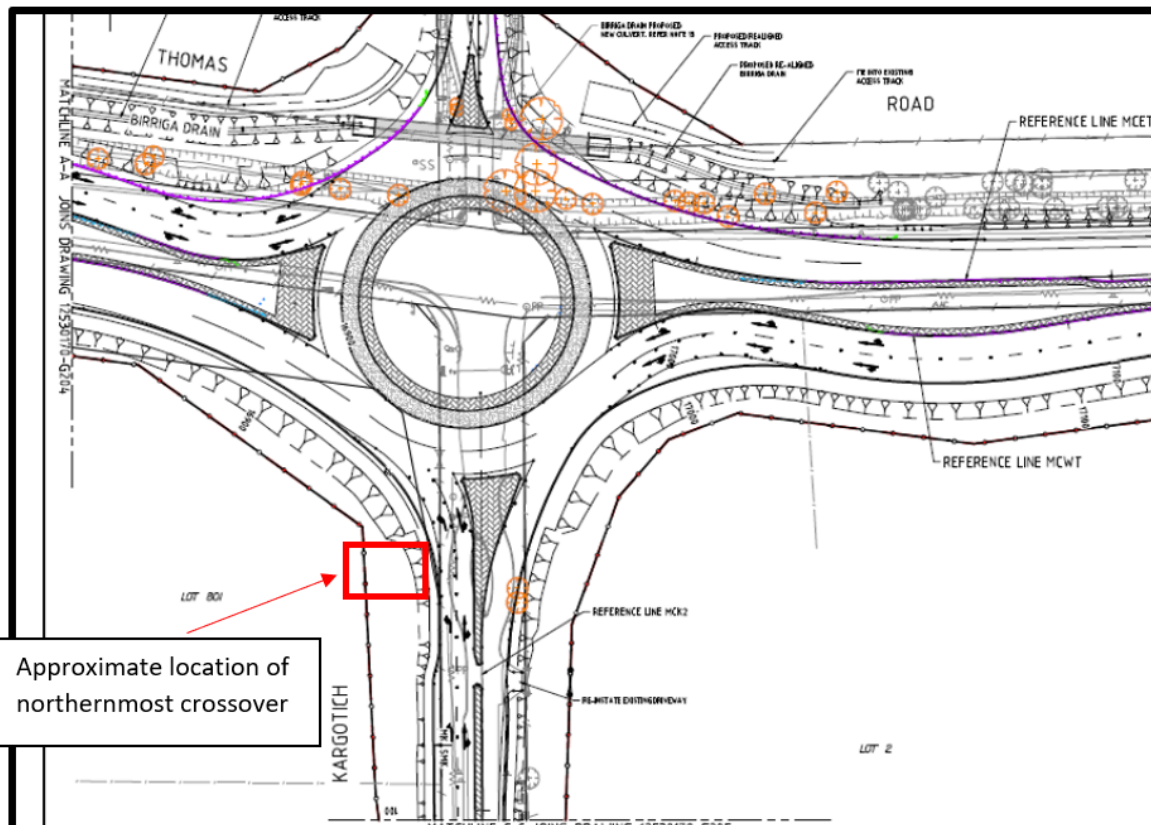


N/A



Comment:			

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

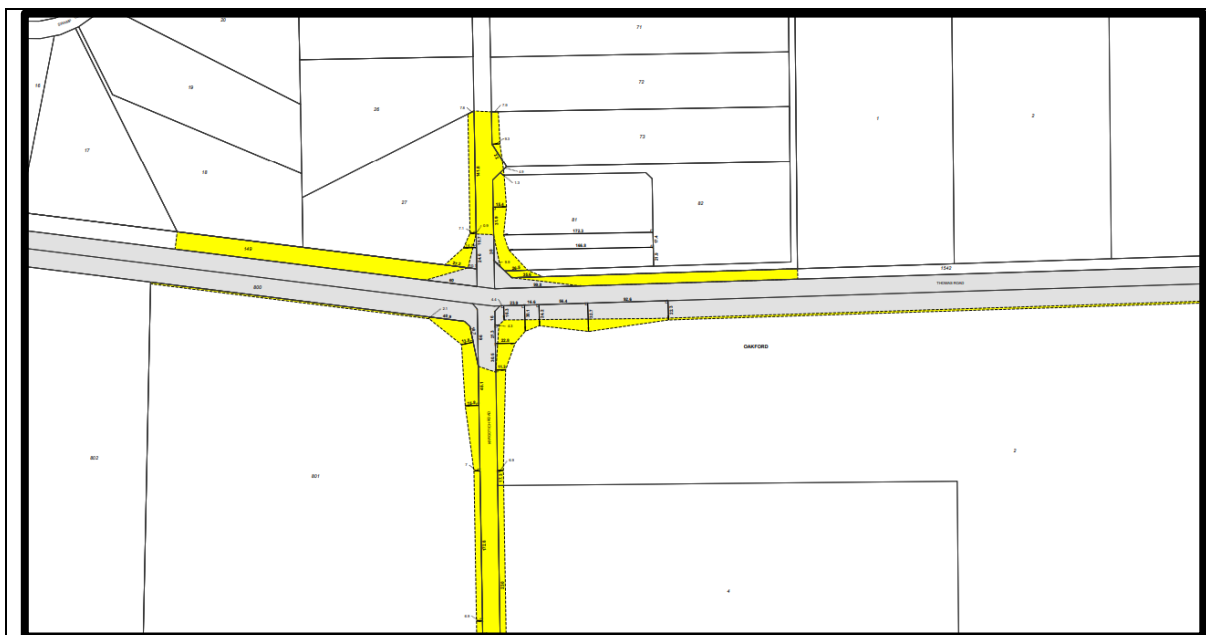


Section 2.4.4 of MRWA Driveway Guidelines requires driveways to be located *“as far as practical from intersections to minimise points of conflict and confusion”*. It also states that driveways shall not be permitted within the functional area of a future intersection where a roundabout will be required 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 6**, 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.

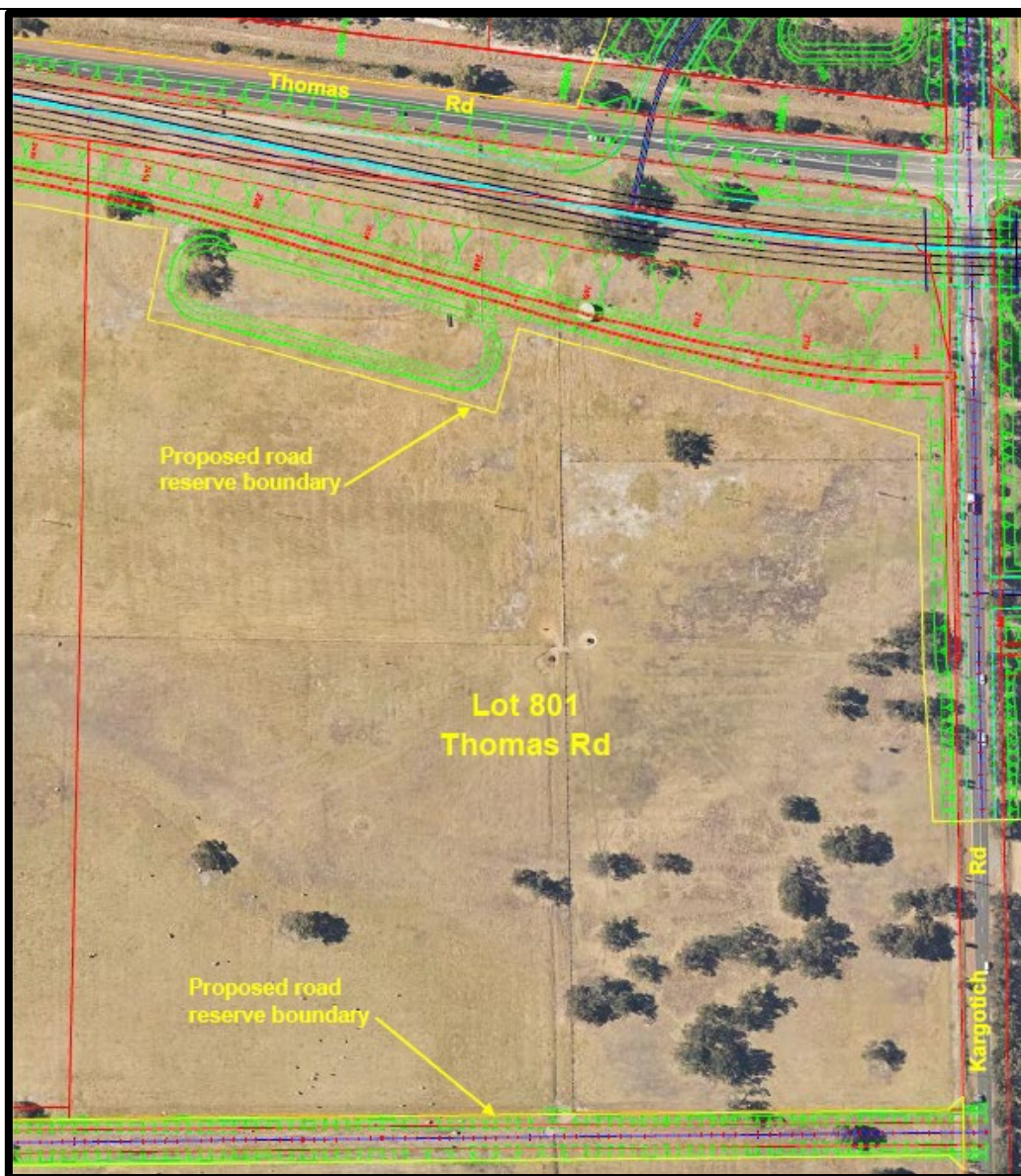


The purpose of this area is to protect land for future road upgrades to allow Thomas Road to achieve its freight and regional functions. The WAPC considers that the PCA is required to ensure that no development occurs on this land which might prejudice this purpose until it may be reserved for Primary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

As part of the West port 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 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. In any case the physical works cannot be undertaken without the approval of MRWA and it is therefore considered inconsistent with the principles of orderly and proper planning to approve development that cannot be undertaken.

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 checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
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Comment: 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
Total		4054	129	129	144	144		1190	49	49	55	55

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 3 vehicle queue in the eastbound direction of Thomas Road in AM peak hour and 4 a 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 4 vehicles in the eastbound direction of Thomas Road in AM peak hour and 7 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 3 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 2. 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.

u) the availability and adequacy for the development of the 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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			

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	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			

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

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			

y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			

Za) the comments or submissions received from any authority consulted under clause 66	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
Comment:			

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