

<b>Technical Report</b>			
<b>TRIM Number:</b>	<b>PA22/1097</b>	<b>Synergy Number:</b>	<b>PA22/1097</b>
<b>Lodgement Date:</b>	<b>19/12/2022</b>	<b>DAU Date:</b>	
<b>Address:</b>	<b>L1, 153 Craddon Road, Oakford</b>		
<b>Proposal:</b>	<b>Commercial Vehicle Parking</b>		
<b>Land Use:</b>	<b>Commercial Vehicle Parking</b>	<b>Permissibility:</b>	
<b>Owner:</b>	<b>John Westwood</b>		
<b>Applicant:</b>	<b>Craig Fraser</b>		
<b>Zoning:</b>	<b>Special Rural</b>	<b>Density Code:</b>	<b>R2</b>
<b>Delegation Type:</b>	<b>12.1.1</b>	<b>Officer:</b>	<b>Ryan Fleming</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:**

The purpose of this report is for Council to consider a development application for proposed 'Commercial Vehicle Parking' at Lot 1, 153 Craddon Road, Oakford.

The application is presented to Council as two objections were received during the advertising process. Officers do not have delegated authority to determine development applications where objections cannot be addressed by way of amendments or through the imposition of planning conditions, in accordance with Delegated Authority 12.1.1 – Determination of Development Applications.

For the reasons outlined in the report, it is recommended that Council approve the development application.

### **Background:**

#### Existing Development:

The subject site of 2.05ha is located within a rural residential area of Oakford. Existing development on site includes a single house, water tank and outbuildings. The site has two existing crossovers to Craddon Road. The site also features a large area covered by vegetation.



**Figure 1: Site Aerial Imagery**

Proposed Development:

The application seeks approval for the parking of a food trailer, used to sell hot dogs and other food products offsite at public events. The applicant seeks to park the trailer at the subject property when it is not in use. The frequency of movements associated with the trailer would be four times a week. The trailer would leave site at approximately 11:00am to attend events and arrive back to the site at approximately 8:00pm. No other works, storage or activities associated with the trailer are proposed to be undertaken from the subject site. The trailer is 4m long by 2.25m wide, being similar to a caravan in size. This is shown following:





**Figure 2: Image of the trailer while in fabrication**

The trailer would be parked towards the rear of the property adjacent to the existing outbuilding, as depicted following. It would be accessed via the emergency access track to the east of the site which is a registered easement.



**Figure 3: Site plan showing area in which the trailer would be parked**

### **Community / Stakeholder Consultation:**

The application was advertised for a period of 14 days from 19 December 2022 to 10 January 2023 to adjoining landowners, in accordance with LPP1.4 – Consultation for Planning Matters. At the conclusion of the consultation two submissions were received, either objecting or raising concerns with aspects of the proposal. The submissions are summarised as follows:

- Noise;
- Dust;
- Land use;
- Fire risk and emergency access.

These matters have been addressed in the relevant sections of the report.

### **Statutory Environment:**

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- *Shire of Serpentine Jarrahdale Local Planning Strategy (LPS)*
- *Shire of Serpentine Jarrahdale Town Planning Scheme No.2 (TPS2)*
- *Shire of Serpentine Jarrahdale Draft Local Planning Scheme No.3 (LPS3)*

### **Planning Assessment:**

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

### **Orderly and Proper Planning:**

Clause 67 of the *Regulations*, specifically A – J, considers state and local planning policy frameworks including draft schemes, strategies, state planning policies, local planning policies and the like. These frameworks provide guidance in order to establish if a development is consistent with orderly and proper planning.

### **Land Use**

The definition of a 'Commercial Vehicle' in TPS2 is as follows:

*"means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession, and without limiting the generality of the foregoing includes any van, truck, trailer, tractor and any attachment to any of them or any article designed to be an attachment to any of them, and any bus or any other passenger vehicle, or any earth moving machine whether self-propelled or not, but the term shall not include a vehicle designed for use as a passenger car or a trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or a light truck which is rated by the manufacturer as being suitable to carry loads of not more than three (3) tonnes."*

The subject trailer being fitted for commercial purposes is a 'Commercial Vehicle' and the proposal falls within the land use of 'Commercial Vehicle Parking' defined under TPS2 as:

*"(a) The parking of one or more commercial vehicles on any land within the Scheme Area. A vehicle shall be parked for the purpose of this definition if it is present on the subject land for more than two hours and is not in that time being used to load or unload anything, or in connection with building or development work carried on with all necessary Council approvals."*

The subject site is zoned 'Special Rural' under TPS2. 'Commercial Vehicle Parking' is an 'SA' or discretionary land use requiring advertising to surrounding properties. This means it can be considered for approval subject to a merits-based assessment.

A concern was raised during the consultation period querying whether multiple commercial vehicles are also being kept on the site. Officers verified the concern with the applicant and are satisfied that the trailer is the only commercial vehicle proposed to be parked onsite used in association with the applicant's business. The applicant has advised however, that a trailer used for domestic/personal use is also kept on the site. This trailer does not require approval or form part of this report.

### Draft Local Planning Scheme No.3 (LPS3)

The site would be rezoned to 'Rural Residential' in draft LPS3, in which the proposal would still constitute a 'Commercial Vehicle Parking' land use. This would be an 'A' land use, which is discretionary and requires advertising. The permissibility of the proposed development would not change under LPS3 and so the proposal is not considered to adversely prejudice the implementation of LPS3.

### Amenity

Clause 67(2)(n) of the Deemed Provisions requires consideration of the compatibility of the development with the character and amenity of the locality. This includes consideration of potential impacts to amenity including visual impact, noise and dust.

#### *Visual Impact*

The trailer is considered to be of a size and scale that is consistent with expected land uses in the locality. Within the locality it is not uncommon to have horse trailers for equine activities or trailers to tow personal items. The proposed trailer is smaller than a standard horse float. The vehicle is to be parked away from neighbouring boundaries and would be screened by existing vegetation. Officers consider that the presence of the vehicle would maintain the character and amenity of the locality.

#### *Noise Management*

During the consultation, a concern was raised regarding potential noise impacts from the trailer movements. Specifically, this relates to the trailer arriving late at night when nearby residences are more sensitive to noise. Due to the trailer attending a variety of events, the applicant advises that it would leave site at 11:00am and arrive back around 8:00pm on event days. The arrival times may differ depending on the event.

Noise generated by the vehicle is considered to be consistent with that of a standard passenger vehicle that would tow the trailer. The trailer is not self-propelled and so would not generate any engine noise. Due to the minor nature of the trailer, no reversing beepers are required to be installed. It is common for larger passenger vehicles such as 'four-wheel drives' or 'utes' and even small trucks to be in rural residential areas of the Shire. Therefore, Officers consider the noise generated by the proposed trailer would not be any greater than expected within the remit of a standard 'Residential – Single House' land use activity. Officers are therefore satisfied that the amenity of the locality would not be adversely impacted upon by way of noise.

#### *Dust Management*

Another concern raised during the consultation period was dust resulting from vehicle movements along the access track on the eastern side of the property. The nearest building to the access track is a non-habitable outbuilding on the neighbouring property to the east. There are no dwellings in close proximity to the access track, the closest being more than 50m away and separated by the outbuilding, as depicted on the plan below:





**Figure 4: Depiction of the distance from the access track to the nearest dwelling**

The access track itself is constructed of a limestone material. This would generate less dust than a sand or dirt access track. The vehicle would also not traverse the limestone track at a high speed, ensuring that dust is not generated by quick vehicle movements and movements would be infrequent (four times a week). In summary, the infrequent movement of the trailer, the slow speed of the vehicle and the limestone track material ensures that the proposal would not adversely impact the amenity of the locality by way of dust.



**Figure 5: At the time of a site visit there was no dust rising from the driveway after a vehicle had traversed it on a hot day**

### Emergency Access

Clause 67(2)(q) of the Deemed Provisions requires consideration of bushfire risk. Specifically means of emergency access and egress from the site during a bushfire event. Concern was raised during the advertising period regarding:

- The potential of an increase to fire risk; and
- Parking of the trailer may conflict with the use of the emergency firebreak situated on the eastern side of the property.

Regarding the potential for fire risk from the presence of the trailer, there is to be no cooking activities occurring on site. Officers consider that there are no flammable or combustible items kept in the trailer that would not ordinarily be kept within a 'Single House'. Furthermore, there is no other storage of items outside of the trailer associated with this proposal. Therefore, Officers do not consider the presence of the trailer would cause an increased fire risk.

Regarding the use of the emergency firebreak, it is considered that the potential for conflict is low due to the infrequent number of movements associated with the proposed trailer. The applicant has also confirmed that the trailer would not be parked on the firebreak easement and that it would always be kept clear. This is also a requirement of the easement protecting such land. Officers are satisfied that the parking of the commercial vehicle on the site would not compromise emergency access or increase bushfire risk. Furthermore, enabling the use of this firebreak for the trailer would ensure the owner maintains it as required for emergency access purposes.

### **Options and Implications:**

Option 1: DAU may resolve to approve the application subject to conditions.

Option 2: DAU may resolve to refuse the application subject to reasons.

Option 1 is recommended.

**Conclusion:**

The application seeks approval for the parking of a 'Commercial Vehicle'. Objections to the proposal by way of land use, emergency access, noise and dust impacts were received during the advertising process. For the reasons outlined in the report, Officers consider that the proposal being of a minor nature would not adversely impact the locality by way of noise or dust or the purpose of the emergency access. Notwithstanding the objections, the proposal is recommended for approval subject to conditions.

**Attachments:**

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

**Land Use:**

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Refer to TPS2 section</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	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Refer to LPS3 section</b>			

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

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

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

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



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

## 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"/>
<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: Refer to planning assessment section</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"/>
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**Comment: Refer to planning assessment section**

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: Refer to planning assessment section**

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: Refer to planning assessment section**

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**

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**NO**

☐

**N/A**

☐

**Comment: Refer to emergency access section**

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**

☒

**NO**

☐

**N/A**

☐

**Comment: Refer to emergency access section**

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**

☐

**NO**

☐

**N/A**

☒

**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**

☐

**NO**

☐

**N/A**

☒

**Comment:**

w) the history of the site where the development is to be located

**YES**

☐

**NO**

☐

**N/A**

☒

**Comment:**

x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals

**YES**

☐

**NO**

☐

**N/A**

☒

**Comment:**

y) any submissions received on the application

**YES**

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**NO**

☐

**N/A**

☐

**Comment: Submissions received and considered**

Za) the comments or submissions received from any authority consulted under clause 66

**YES**

☐

**NO**

☐

**N/A**

☒

**Comment:**

Zb) any other planning consideration the local government considers appropriate

**YES**

☐

**NO**

☐

**N/A**

☒

**Comment:**