

## Deemed Provisions – CI 67 Matters to be considered by Local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p><b>Comment:</b> The application details that the proposal falls within the land use of ‘Transport Depot’ which is defined under Town Planning Scheme No. 2 (TPS2) as <i>“land or buildings designed or used for one or more of the following purposes:</i></p> <p style="padding-left: 40px;"><i>(a) The parking or garaging of more than one commercial vehicle used or intended for use for the carriage of goods (including livestock) or persons.</i></p> <p style="padding-left: 40px;"><i>(b) The transfer of goods (including livestock) or passengers from one vehicle to another vehicle.</i></p> <p style="padding-left: 40px;"><i>(c) The maintenance, repair or refuelling of vehicles referred to in (a) or (b) above.</i></p> <p><i>The above uses (a) to (c) inclusive, singularly or collectively may, with Council’s planning consent, include as an incidental use overnight accommodation of patrons of the facilities.”</i></p> <p>The proposal including the parking of the two trucks is capable of consideration as a ‘Transport Depot’, through meeting (a) and/or (b) above.</p> <p>In order to demonstrate this, the applicant provided information in relation to the operations of the site to assist in demonstrating that the storage component is incidental to the ‘Transport Depot’. The applicant provided the following scenarios in order to demonstrate the incidental nature of the storage:</p> <p><b>Scenario 1:</b> Truck drivers to arrive at the Depot in the morning to collect empty trucks (50 tonne) and drive to Able Westchem’s storage facility in Bayswater to load and subsequently deliver goods to various locations. The trucks will then return empty or loaded dependant on schedule to the depot at the end of the day. No storage occurs.</p> <p><b>Scenario 2:</b> Trucks (50 tonne) to depart Tunney Road Depot empty in the morning to Able Westchem’s storage facility in Bayswater to load and subsequently deliver goods to various locations. The trucks will then return to Able Westchem’s storage facility to get reloaded and proceed to the depot. The trucks will be parked overnight at the Tunney Rd depot in ‘shed 4’ and ‘shed 5’ for delivery to locations within the southern corridor the following morning. No storage occurs.</p> <p><b>Scenario 3:</b> Trucks to depart from the Depot empty in the morning to Able Westchem’s storage facility in Bayswater to load and subsequently deliver goods to various locations. The trucks will then return to the Bayswater location to get reloaded and proceed to the depot and offload goods into ‘shed 3’. The goods will then be transferred to a smaller (4 tonne) truck that will deliver the goods in batches to locations in the southern corridor that cannot accommodate larger trucks. Only incidental storage, with associated transfer.</p> <p>It is considered that, based on the scenarios provided, the proposal would best fit within the TPS2 land use of ‘Transport Depot’ and that the storage component of the application is incidental to the parking of the vehicles and transfer of goods.</p> <p>The subject site is proposed to be rezoned entirely to ‘Rural’ under draft Local Planning Scheme No. 3 (LPS3). Within LPS3, the land use definitions for ‘Transport Depot’ is as follows:</p> <p><i>‘Transport Depot means premises used primarily for the parking or garaging of two (2) or more commercial vehicles including -</i></p> <p style="padding-left: 40px;"><i>(a) any ancillary maintenance or refuelling of those vehicles; and</i></p> <p style="padding-left: 40px;"><i>(b) any ancillary storage of goods brought to the premises by those vehicles; and</i></p> <p style="padding-left: 40px;"><i>(c) the transfer of goods or persons from one vehicle to another.’</i></p>			

A 'Transport Depot' is an 'A' use in the 'Rural' zone under LPS3 and therefore a discretionary use that is capable of approval subject to advertising.

The subject site is zoned 'Rural' and 'Rural Groundwater Protection' under TPS2 as delineated below"

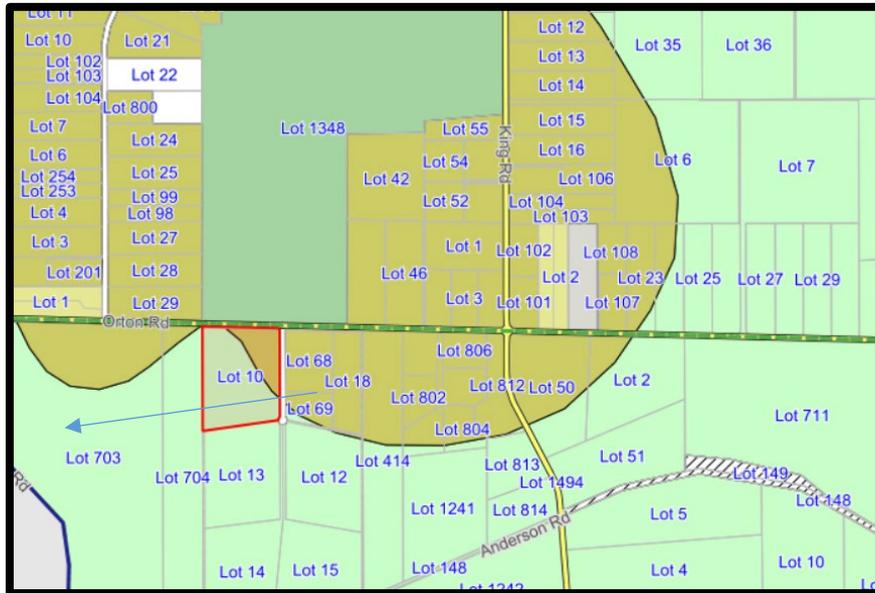


Figure 3: TPS2 Zoning

The proposal would be solely located within the 'Rural' zoned portion of the lot. The objective of the zone under TPS2 is to "allocate land to accommodate a full range of rural pursuits and associated activities conducted in the Scheme Area". While TPS2 does not define a 'rural pursuit' it is consistently defined, as established in the SAT case of *Moodie v Shire of Serpentine Jarrahdale* as something that is relating to or a characteristic of the country.

The application details that the proposal involves the storage and distribution of agricultural chemicals and has provided the table below to demonstrate how the listed chemicals are used in agriculture:

Chemical Type	Use
Able Tryeseal Concentrate	Used to prevent corrosion & tyre pressure losses for farming equipment
Greens Adjuvant	Crop spray – improves effectiveness of herbicides & other agricultural chemicals
Hook Oil	Abattoir machinery lubricant
Liquid Sucrose	Abattoir treatment ponds
Dust Stop	Agricultural road stabilisation product
Hydrasafe BIO 4668	Machinery hydraulic fluid

Eco Break – Eco Degreaser	Water based degreaser used for degreasing farming machinery & industries associated with agricultural pursuits.
SACOA Liquid AMS	Crop improver feed.
SACOA Lure H2O & SACOA Lure H2O Turf Ultra	Crop improver.
SACOA SE14 Moisture Retention Agent	Soil wetter
SACOA Spray Grade Ammonium Sulphate Herbicide Adjuvant	Herbicide
SACOA Wetter 1000	Wetter
SACOA X-seed Spray Oil	Broadacre cropping chemical

The goods distributed are considered associated with rural pursuits, as detailed above. It is considered that the proposal is therefore consistent with the objective of the zone as it supports rural pursuits within the Scheme area.

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 *Planning and Development (Local Planning Schemes) Regulations 2015* or any other proposed planning instrument that the local government is seriously considering adopting or approving

YES



NO



N/A



**Comment:** The subject site is located within the Rural area of the LPS. Within the Rural policy area, the Strategy seeks to protect and promote traditional agricultural uses and protect the landscape. The subject site is a relatively small lot for land zoned Rural, being 10ha in area. The majority of the site has been developed for housed poultry farming and features five large poultry sheds. Three of the poultry sheds measure approximately 14m by 100m and the other two measure approximately 20m by 100m. Including outdoor areas for chickens to range, the Poultry Farm area covers approximately 16,000m<sup>2</sup> of the lot. The proposal would see this development cease operations in favour of a business for the storage and distribution of chemicals.

Officers consider that whilst a poultry farm is conducive to a rural area entailing food production, the small lot size of the subject land and closer proximity to surrounding allotments results in a degree of incompatibility. Particularly, given the risk of odour and noise impacts being experienced as part of the poultry farm.

The development would utilise three existing buildings on site for storage of materials and parking of trucks and would not adversely impact upon the existing rural landscape. The other two sheds and land external to the sheds would also still be able to be used for rural pursuits.

The LPS includes information on land capability for agriculture including annual and perennial horticulture, dryland cropping and grazing. The subject site is identified as having more than 70% of land that has low capability for these types of agriculture. The proposal would therefore not remove high quality agricultural land from being used as such.

c) any approved State planning policy	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<p><b>Comment:</b>  <b>SPP2.5 - Rural Planning</b>  The intent of SPP2.5 is to “<i>protect and preserve Western Australia’s rural land assets due to the importance of their economic, natural resource, food production, environmental and landscape values</i>”. The relevant objectives are as follows:</p> <ul style="list-style-type: none"> <li>• <i>support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food;</i></li> <li>• <i>provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses;</i></li> </ul> <p>As previously stated, the subject site is not identified as high-quality agricultural land and it is considered that the proposal would support existing and future primary production and rural uses within the Scheme area.</p> <p><b>State Planning Policy 3.7 - Planning in Bushfire Prone Areas (SPP3.7)</b>  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 Plan (BMP) has been submitted as part of the application.  The BMP has mapped and classified vegetation within 150m of the proposal and identified a Bushfire Attack Level (BAL) rating of BAL-12.5. The BMP also provides an assessment against the criteria in the <i>Guidelines for Planning in Bushfire Prone Areas</i> in relation to location, siting, vehicular access and water, as required under SPP3.7.  The BMP considers the bushfire risk manageable through the implementation of a number of measures outlined in the plan. These measures include the compliance with the Shire’s Firebreak Notice, maintenance of buildings and provision of a maintained water supply in a dedicated firefighting water tank. It is considered that the BMP satisfactorily demonstrates that bushfire risk can be managed, consistent with SPP3.7.</p>			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) –	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
g) any local planning policy for the Scheme area	YES <input 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>			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: the parking of vehicles and storage of chemicals would be located within existing buildings. The proposal is set back from Orton Road and screened from Tunney Road and neighbouring residents to the east and south by existing vegetation. The works proposed as part of this application include an area of hardstand, it is considered that this would not adversely impact upon the visual amenity of the locality.</b>			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: <u>Amenity</u></b> With regard to the amenity impacts of the proposal on the locality, the applicant relies on the fact that the site is currently operational as a poultry farm and the amenity impacts from the proposed 'Transport Depot' would be considerably less than this. It is acknowledged that the proposal would result in a significant improvement to the amenity of the locality particularly in relation to odour, and to a lesser extent, noise. The Environmental Protection Authority's Guidance Statement No.3 - Separation Distances between Industrial and Sensitive Land uses (Guidance Statement 3) defines particular land uses, the potential impacts of these uses and recommends a separation distance to sensitive receptors (dwellings). In this case the potential impacts from a Transport Vehicle Depot, these are identified as potential gaseous, noise, dust and odour. The Guidance Statement recommends a separation distance of 200m between such a use and sensitive receptors. The plan below shows the areas within a 200m radius of the lot boundaries of the subject site.			



**This area incorporates sensitive receptors located at Lot 69, 29 Tunney Road, Lot 13, 34 Tunney Road and Lot 12, 33 Tunney Road. Given the operations of the ‘Transport Depot’ are located on the western portion of the lot, these distances have been investigated further as depicted below:**



Based on the distance from the edge of the hardstand used for the 'Transport Depot', there is one sensitive receptor within the 200m separation distance located at Lot 13, 34 Tunney Road which is located approximately 130m from the subject development. Generally, it is considered that the overall level of amenity afforded to this neighbouring property would be improved upon following the closure of the poultry farm and the commencement of the subject application. Potential amenity impacts resultant of the proposal are discussed further below.

**Noise:**

Noise generation from the development would be from truck movements and the loading and unloading of product. An Acoustic Assessment was provided to accompany the application which demonstrates that compliance with the *Environmental Protection (Noise) Regulations 1997* would be achieved during the day time only, as detailed below:

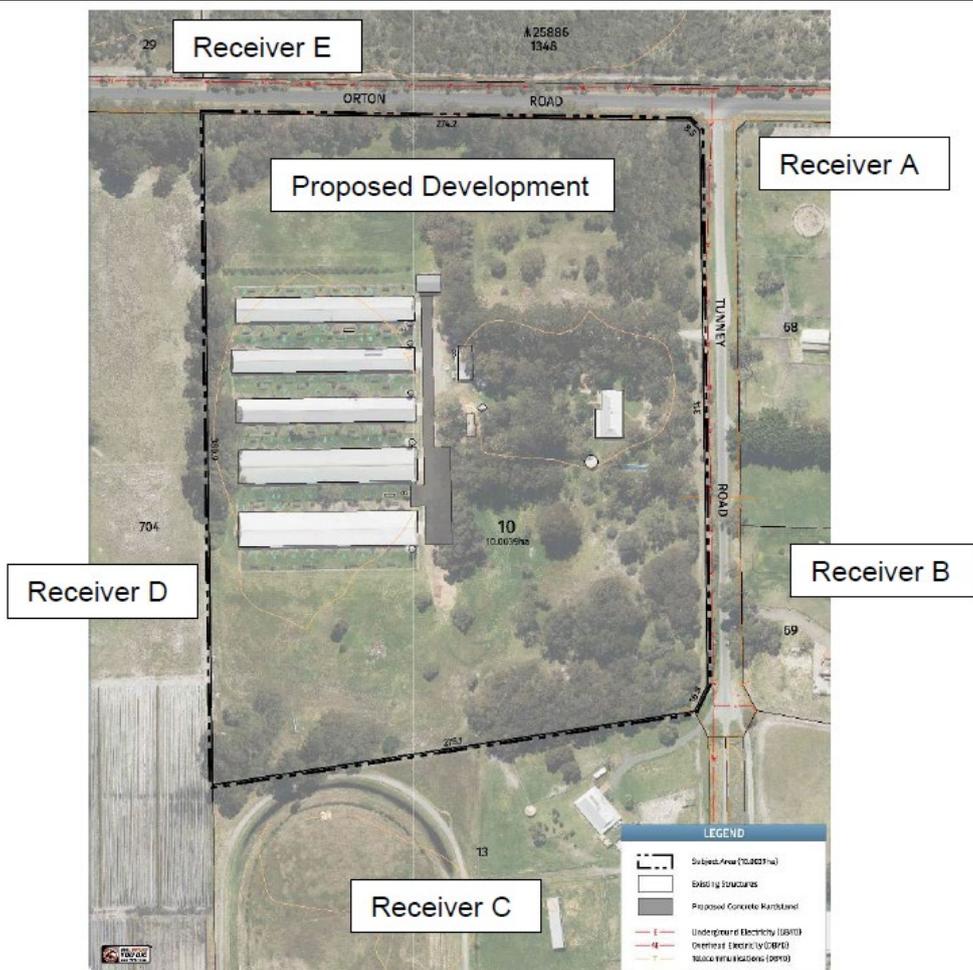


FIGURE 3.1 – NEIGHBOURING LOTS

TABLE 6.2 – ASSESSMENT OF LA10 NOISE LEVEL EMISSIONS, SCENARIOS 3 – ALL HOURS

Location	Assessable Noise Level dB(A)	Time Period	Applicable Assigned Noise Level (dB(A))	Exceedance to Assigned Noise Level
Receiver A	45	Day	47	Complies
		Evening	42	+3
		Night	37	+8
Receiver B	41	Day	47	Complies
		Evening	42	Complies
		Night	37	+4
Receiver C	42	Day	47	Complies
		Evening	42	Complies
		Night	37	+5
Receiver D	36	Day	47	Complies
		Evening	42	Complies
		Night	37	Complies
Receiver E	35	Day	47	Complies
		Evening	42	Complies
		Night	37	Complies

In light of this, the assessment recommends that the ‘Transport Depot’ only operate between the hours of 7:00am to 7:00pm, Monday to Saturday. This is in line with the proposed hours of operation, and should Council resolve to approve the application, it is recommended that a condition be imposed restricting the hours of operation accordingly.

<b>Dust and Odour:</b> Dust and Odour are listed as potential impacts arising from a 'Transport Depot' under the Guidance Statement. In this instance, given the chemicals and trucks are proposed to be contained within a shed, it is considered that there would not be an adverse impact by way of dust or odour. It is also noted that the hardstand would ensure that dust generation from vehicles is mitigated.			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: Spill Management Measures are required to be provided through recommended conditions to ensure the water resource is not adversely impacted upon</b>			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b>			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b>			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: Chemicals are required to be stored in accordance with spill management measures and DWER's WQPN.</b>			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b>			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: the traffic generation is low and capable of being accommodated on the road network</b>			
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 type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

may result from economic competition between new and existing businesses			
<b>Comment:</b>			
w) the history of the site where the development is to be located	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment:</b>			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: Refer to amenity section</b>			
y) any submissions received on the application	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: refer to Officer report</b>			
Za) the comments or submissions received from any authority consulted under clause 66	<b>YES</b> <input checked="" type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input type="checkbox"/>
<b>Comment: no objections</b>			
Zb) any other planning consideration the local government considers appropriate	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			