



Shire of  
Serpentine  
Jarrahdale

**Public**

**Special Council Meeting**  
**CONFIRMED**  
**MINUTES**

**7.00pm**

**Tuesday 13 March 2018**

- Purpose:**
1. Proposed Service Station and Fast Food/Take Away – Lot 30 (801) and 31 (803) South Western Highway, Byford
  2. Proposed Service Station – Lot 2 (640) South Western Highway, Byford
  3. Confidential Item - Recruitment of Director Infrastructure Services

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**Contact Us**

**Enquiries**

Call: (08) 9526 1111  
Fax: (08) 9525 5441  
Email: [info@sjshire.wa.gov.au](mailto:info@sjshire.wa.gov.au)

**In Person**

Shire of Serpentine Jarrahdale  
6 Paterson Street, Mundijong WA 6123  
Open Monday to Friday 8.30am-5pm (closed public holidays)



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The purpose of this Council Meeting is to discuss and, where possible, make resolutions about items appearing on the agenda. Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a Member or Officer, or on the content of any discussion occurring, during the course of the meeting. Persons should be aware that the provisions of the *Local Government Act 1995* (Section 5.25(1)(e)) and *Council's Standing Orders Local Law 2002 (as amended)* – Part 14, Implementing Decisions. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Serpentine Jarrahdale expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a Member or Officer, or the content of any discussion occurring, during the course of the Council meeting.



Minutes of the Special Council Meeting of the Shire of Serpentine Jarrahdale held on Tuesday 13 March 2018 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong.

The Shire President, Cr Rich declared the meeting open at 7.00pm and welcomed Councillors, Staff and members of the gallery, and acknowledged that the meeting was being held on the traditional land of the Noongar People and paid her respects to their Elders past and present.

The Shire President acknowledged Freeman Mr J Kirkpatrick.

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## Minutes

### 1. Attendances and apologies (including leave of absence):

#### In Attendance:

**Councillors:** M Rich ..... Presiding Member  
D Atwell  
M Byas  
R Coales  
B Denholm  
D Gossage  
K McConkey  
J See

**Officers:** Mr K Donohoe ..... Chief Executive Officer  
Ms H Sarcich ..... Deputy CEO / Director Community Services  
Mr A Schonfeldt ..... Director Development Services  
Mr R Davy ..... Acting Director Infrastructure Services  
Ms A Liersch ..... Agendas and Minutes Officer (Minute Taker)

#### Leave of Absence:

**Apologies:** Cr S Piipponen,

#### Observers:

Members of the Public – 5

Members of the Press – Nil

Shire Officers – Mrs K Bartley, Manager Corporate Services  
Mr A Nair, Manager Planning & Compliance  
Mr H Ruse, Statutory Planning Officer

### 2. Public question time:

#### 2.1 Response to previous public questions taken on notice

Nil



## 2.2 Public questions

**Public question time commenced at 7.01pm.**

**Mr J Kirkpatrick, 77 Mead Street, Byford WA 6122**

In the planning assessment on item SCM002/03/18 it would appear from the language in the assessment on page 6 that the officers are taking the regulations and rules to the maximum to pander to the developers.

### Question 1

Why are the officers recommending that the rules could be made to fit the requirements of the developers and could the ratepayers be assured that the officers would support the residents and ratepayers to the maximum in any appeal that may result from tonight's decision.

### *Response:*

*Officers professional recommendation considered the nature of the use against the Local Planning Framework and are supportive of a variation because of the proposed nature of the use. In general, should Council not support the Officers Recommendation, and the application be appealed, then the Council may appoint Consultants to defend Council's decision. The applications presented tonight are JDAP applications, which means Council is not the ultimate decision maker and the decision of JDAP would be appealable by the applicant. The JDAP will be responsible to defend its decision.*

**Public question time concluded at 7.03pm.**

## 3. Public statement time:

**Public Statement time commenced at 7.03pm.**

**Mr J Kirkpatrick, 77 Mead Street, Byford WA 6122**

I would ask for indulgence from the CEO and Shire President to raise concerns about the two planning matters to be raised tonight and ask that Councillors and the Shire Officers ensure that these issues be raised at the J-Dap meeting.

I would point out that a family member is employed by Urbis, the Proponent of item SCM002/03/18.

I have no objections to the type of proposal being considered as that is purely a commercial decision.

The land is zoned Highway commercial so in that they comply. Even though these are two separate blocks of land and should be considered as two separate developments, not one just to avoid Council being able to make a decision on the matter.

We have a history in this Shire and in the old part of Byford of exempting developers of what they should provide. There is a history of this part of Byford not providing the required necessities for the area.

It is noted in the proposed development that variations to car parking, landscaping, signage, built form and access be considered.

Remember that the car parking of the shopping Centre that contains the Bendigo Bank and Subway is already deficient of about 16 parking bays and made no allowance of land or in kind for POS and there is no money in the Shire to purchase any.



1 Parking

This proposal is 20 parking bays short of the recommended requirements with no money to be provided to supply the parking off site. (it may be possible to lease some land from PTA in the short term prior to a railway station being required). No disabled parking is proposed even though there is only one disabled bay along the current shops. No Bicycle parking or disabled access.

2 The Facade

Does not comply either in colour or material along with the maximum signage allowable

3 Entry and Exit

Main Roads policy is for entry only from S/W Highway and exit onto George Street or Evans Way.

The Median strip in the Highway should not have a break in it as SW Highway is designated for High Wide Loads up to 6.5m high and 8m wide and the upgraded bridge over the creek by Hungry Jacks is rated at 400t capacity so is designed for very large loads.

4 Contributions to George Street.

Contributions to George Street have been recommended by the Officers but remember the two commercial developments North of Pitman Way paid toward the construction of that section of George Street, one under the instruction of SAT. The Doctors surgery has already made a contribution to construction of George Street.

The developers should pay for the roads for their development not the ratepayers. If you bought a new house in Byford you paid for the road about \$13,000.00 per block. The last figure I saw for George Street was about \$1,7,000,000.00 about what we gave as a donation to the Country Club.

POS

There is no mention of POS or a payment in Lieu ,and remember that a proposed area Zoned POS on the Comer of Pitman and George street was rezoned Highway commercial to allow the construction of a Dome Cafe by the previous Council. So there is no POS along that section of Byford only the Creek line by Coles.

5 This land currently falls outside the developer contribution scheme and needs to be included.

Items included in attachment SCM002 2.2/023/17 should be part of the recommendation and not just endorsed so they will be enforced.

SCM003/03/18

The officer's recommendation to refuse the application is sound when one reads the officers reports as in the agenda tonight.

A couple of matters that do not appear in the reports are that a McDonalds Fast food outlet was refused by Council in this area a number of years ago as the basis of the impact that it would have on the urban development in the area and the change of usage to Hay Street this position was strongly supported at the time by the residents of the area. The Proponent of this never challenged this decision showing that it must have been right.

Also the impact on the entry to Byford that will be there for Generations we must decide do we give the impression that we care how we look and our lifestyle or are we just a service station



paradise. Never mind the quality of life the service stations may impose on us. Just fill up with fuel and race on through.

Remember, Thomas Road is a Shire Road not a Main Roads Road. At this stage, even if it is designated for high wide loads 6.5m high and 8m and max wide and 400t max capacity remember the upgraded bridges in Byford on S/W Highway and is the main road from Kwinana and Jervois Bay ports. To the mining hinterland next Port Bunbury.

The State Premier is currently talking to the Prime Minister and Treasurer as a matter of urgency on the railway issue along with our MLA Barry Urban.

Nothing should be done on these corners until a decision is made on how Thomas Road will cross the Railway. One has to go over the other but how?

**Public Statement time concluded at 7.10pm.**

#### **4. Petitions and deputations:**

Nil

#### **5. Declaration of Councillors and Officers interest:**

Nil

#### **6. Receipt of minutes or reports and consideration of adoption of recommendations from Committee meetings held since the previous Council meetings:**

##### **6.1 Reports for consideration:**

| <b>SCM002/03/18 – Proposed Service Station and Fast Food/Take Away – Lot 30 (801) and 31 (803) South Western Highway, Byford – PA17/1072</b> |  |
|--|--|
| <b>Author:</b>   | Haydn Ruse – Statutory Planning Officer  |
| <b>Senior Officer/s:</b>   | Ashwin Nair – Manager Statutory Planning and Compliance<br>Andre Schonfeldt – Director Development Services  |
| <b>Date of Report:</b>   | 2 March 2018   |
| <b>Disclosure of Officers Interest:</b>  | No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> . |

|                                    |  |
|------------------------------------|--|
| Proponent:                         | Metrowest c/- Urbis                          |
| Owner:                             | Premier Holdings Pty Ltd and Pamela Coughlin |
| Date of Receipt:                   | 11 December 2017                             |
| Lot Area:                          | 3,436m <sup>2</sup>                          |
| Town Planning Scheme No 2 Zoning:  | 'Urban Development'                          |
| Metropolitan Region Scheme Zoning: | 'Urban'                                      |



## **Introduction**

This report is presented to Council to endorse a Responsible Authority Report (RAR) to be presented to the Metro East Joint Development Assessment Panel (JDAP). As the estimated cost of development is between \$2 million and \$20 million the applicant has opted for the application to be determined by the JDAP in accordance with regulation 6 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

The RAR was due to be provided to the JDAP on 27 February 2018. Officers requested an extension of time under Clause 12(4) of the *Planning and Development (Development Assessment Panels) Regulations 2011* to allow pending information to be supplied by the applicant and a subsequent report presented to Council at its Ordinary Council Meeting of 29 March 2018. The applicant refused the requested 5 week extension of time, instead consenting to a modified 2 week extension, being 14 March 2018 to allow the pending information to be supplied and the RAR to be prepared.

As Officers do not have delegation to issue the RAR to JDAP, Council is required to endorse the RAR before forwarding it to the JDAP. Given the discrepancy in time between the due date for the RAR and the date of Council's next meeting, the RAR could only be endorsed by the due date through a Special Council Meeting. Officers recommend Council endorse the RAR which recommends the application be approved subject to conditions.

## **Background**

The subject site is bound by South Western Highway to the east, Evans way (unconstructed) to the north, George Street (unconstructed) and a rail reserve to the west and a medical centre and pharmacy to the south. The area to the east is primarily residential, the area to the north and south are primarily commercial and the area to the west is residential. The overall site area is 3,436m<sup>2</sup> and comprises of an existing dwelling and outbuilding and some remnant vegetation.



Location Plan

## Proposal

The application features a Service Station, Canopy, Fast Food/Take Away drive through and associated car parking. The Service Station consists of eight petrol bowsers, under the cover of a canopy and an ancillary shop and café. The Fast Food/Take Away is under the same roofline as the Service Station and features a small counter and waiting area for pedestrian customers as well as the drive through. The Development Plans have been included as attachment SCM002.1/03/18 to this report.

## Community / Stakeholder Consultation

Community consultation has been detailed in the RAR included as an attachment to this report. The schedule of submissions with the applicant's comment is included as attachment SCM002.3/03/18.

As the subject lot is adjacent to a Primary Regional Road the application was been referred to Main Roads WA in accordance with part IV of the Metropolitan Region Scheme (MRS) on 2 January 2018, comments being due by 13 February 2018. Officers have been in contact with Main Roads WA and afforded an extension to 5 March 2018; however, no formal comments have been provided to date. Verbal correspondence with Main Roads WA indicates an intent to recommend refusal; however, without a formal submission no reasons for refusal have been provided. As such, a recommendation must be made based on the information provided. Should Main Roads end up recommending refusal before or after the JDAP makes its decision, and where JDAP has approved the application then an approval from the Western Australian Planning Commission would also be required.





## Statutory Environment

### Legislation

- Planning and Development (Local Planning Schemes) Regulations 2015
- Planning and Development (Development Assessment Panels) Regulations 2011
- Metropolitan Region Scheme (MRS)
- Shire of Serpentine Jarrahdale Town Planning Scheme 2 (TPS2)

### State Government Policies

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- State Planning Policy 4.2 – Activity Centres for Perth and Peel

### Local Planning Framework

- Local planning Policy 4 – Revegetation (LPP4)
- Local Planning Policy 6 – Water Sensitive Design (LPP6)
- Local Planning Policy 24 – Designing Out Crime (LPP24)
- Local Planning Policy 27 – Stakeholder Engagement in Land Use Planning (LPP27)
- Local Planning Policy 31 – Byford Town Centre Built Form Guidelines (LPP31)
- Local Planning Policy 53 – George Street Construction Costs (LPP53)
- Local Planning Policy 56 – Fast Food Premises (LPP56)
- Local Planning Policy 58 – Bicycle Facilities (LPP58)
- Local Planning Policy 59 – Public Art Policy for Major Developments (LPP59)
- Local Planning Policy 67 - Landscape and Vegetation (LPP67)

## Planning Assessment

The subject sites are zoned 'Urban Development' and identified as 'Highway Commercial' under the Byford Town Centre Local Structure Plan. The proposed land uses are 'Service Station' and 'Fast Food/Take Away', which would be 'SA' and 'AA' uses respectively under the 'Highway Commercial' zone. Both land uses are discretionary; however, the proposed 'Service Station' requires advertising in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) and LPP27.

The proposed development seeks variations to both the TPS2 and Local Planning Policies in terms of car parking, bicycle facilities, landscaping, signage, built form and access; however, Officers consider that these variations could be supported. The full Planning Assessment is detailed within the RAR included as attachment SCM002.2/03/18 to this report, a summary of the variations is provided in the table below:



## Car Parking

| Planning Instrument  | Requirement  | Proposal  | Compliance  |
|--|--|---|---|
| Town Planning Scheme No. 2   | <p>Fast Food/Take Away:<br/>2 spaces per 10m<sup>2</sup> Gross Leasable Area (30 spaces)</p> <p>Service Station:<br/>1.5 spaces per service bay plus 1 space per employee (18 spaces)</p> <p>Overall spaces required:<br/>48 spaces</p>  | 32 spaces   | The proposal does not comply with the parking requirements under TPS2 and would result in a shortfall of 16 parking spaces.   |
| Local Planning Policy 31 – Byford Town Centre Guidelines                       | <p>1 space for every 20m<sup>2</sup> Gross Leasable Area:<br/>36 spaces</p>  | 32 Spaces   | The proposal does not comply with parking requirements under the BYTLSP and would result in a shortfall of 4 parking spaces.  |
| Local Planning Policy 31 – Byford Town Centre Guidelines - Location of parking | <p>Located to the side and rear of the development.<br/>Dedicated pedestrian paths are to be provided within car parking areas to avoid conflict with vehicle movements<br/>Designated handicapped parking bays and ramps are to be provided in accordance with the Building Code of Australia (BCA)</p> | <p>6 bays would be located to the front of the development, adjacent to South Western Highway.</p> <p>The proposal does not incorporate any internal pedestrian paths, connecting the car parking to the building.</p> <p>No handicapped parking bays have been proposed.</p> | <p>The location of 6 bays do not comply with the location requirements and do not have pedestrian paths connecting to the building.</p> <p>A condition has been recommended in the RAR requiring a handicapped parking bay be provided.</p> |



| Planning Instrument   | Requirement  | Proposal                    | Compliance   |
|---|--|-----------------------------|--|
| Local Planning Policy 56 – Fast Food Premises – Car parking   | <p>1 space per 5m<sup>2</sup> waiting area:<br/>3 spaces</p> <p>TPS2 requirement for Service Station:<br/>18 spaces</p> <p>Total required under LPP56:<br/>21 spaces</p> | 32 spaces                   | Car parking would be compliant if the variation accepted under LPP56 were accepted.  |
| Local Planning Policy 58 – Bicycle Facilities - Provision of bicycle parking spaces   | <p>1 long term space per 100m<sup>2</sup> Net Leasable Area<br/>(2 spaces)</p> <p>1 short term space per 50m<sup>2</sup> Net Leasable Area<br/>(3 spaces)</p>            | No bicycle parking proposed | The proposal does not comply with the requirement to provide bicycle parking. A condition has been recommended in the RAR to provide bicycle parking facilities on site. |
| <p>Car parking requirements under the current planning framework are conflicting and, whilst the proposal does not comply with the provisions of the Scheme or the relevant local planning policies, given the drive-through nature of the proposed development, variation of these standards could be supported in this instance. Therefore, due to the nature of the land use and the limited time that car parking bays would be in use, the variation to the car parking requirements is supported.</p> |  |                             |  |

### **Built Form**

| Planning Instrument  | Requirement                                     | Proposal  | Compliance  |
|--|---|---|---|
| Local Planning Policy 31 – Byford Town Centre Guidelines - Building Setbacks | A maximum 5m setback from South Western Highway | A minimum 9.3m setback to South Western Highway | <p>The proposal is technically not compliant. However, given the vehicular nature of the development Officers are supportive of the variation as it will be beneficial to have a greater setback to ensure sight lines for entering and existing vehicles are not impacted.</p> <p>As such, the variation is supported.</p> |



| Planning Instrument   | Requirement  | Proposal  | Compliance  |
|---|--|---|---|
| Local Planning Policy 31 – Byford Town Centre Guidelines - Building Orientation | Transparent elements for commercial premises should comprise of at least 60% of the ground level façade, the use of highly tinted glass is not permitted.  | It is unclear based on the provided elevation plans if the windows will be transparent or covered.  | The proposal is not compliant. A condition has been recommended that requires a minimum of 60% transparency at ground level façades addressing South Western Highway.   |
| Local Planning Policy 31 – Byford Town Centre Guidelines - Signage              | <p>Pylon signs are permitted where they are:</p> <ul style="list-style-type: none"> <li>• Located at least 10m from another pylon sign;</li> <li>• Provide a minimum height of 2.75m and maximum height of 5m above finished pavement level; and</li> <li>• The signage surface is a maximum of 4m<sup>2</sup>.</li> </ul> | <p>There are no pylon signs within 10m.</p> <p>The maximum height proposed is 8m</p> <p>The overall signage area would be 27.6m<sup>2</sup></p> | The proposed signage does not comply with the size and surface area for signage. The variation is considered excessive and likely to impact on the amenity of the surrounding area and streetscape. As such officer recommend that a condition be included on the approval to reduce the height of the sign to match the Canopy height. |
| Town Planning Scheme No. 2 - Landscaping  | A minimum 1.5m wide landscape area for car parking areas or 2m wide where the car parking area adjoins a street boundary.  | 1m wide landscaping area for all car parking areas.   | The proposal does not comply with the requirements for landscaping areas under TPS2. A Landscape Plan has been recommended as a condition of approval to ensure landscaped areas are of high quality.   |
| Local Planning Policy 56 – Fast Food Premises - Colour and materials            | Materials, colours and finishes shall be in muted colours, earthy tones, colours that integrate with surrounding built form or in accordance with any relevant policy  | Vibrant reds and blues proposed.  | Non-compliant; however, considered to be acceptable.  |



### Access and Road Upgrades

| Planning Instrument   | Requirement   | Proposal   | Compliance  |
|---|---|--|---|
| Local Planning Policy 31 – Byford Town Centre Guidelines - Access                           | Access must be provided from George Street.   | No access proposed from George Street.   | The proposed access does not comply. The lack of access from George Street will significantly impact the traffic flow of the development.<br>Officers recommend a condition be imposed that requires the construction or monetary contribution towards the construction and upgrade of George Street and Evans Way.     |
| Local Planning Policy 53 – George Street Construction Costs - Construction of George Street | The construction of George Street in accordance to the Shire's standards as stipulated in LPP53 or a contribution made to the construction.   | Construction of George Street is not proposed.   | The proposal indicates no intention to construct George Street.<br>Officers recommend a condition be imposed that requires the construction or monetary contribution towards the construction and upgrade of George Street and Evans Way.   |
| Local Planning Policy 56 – Fast Food Premises - Drive-throughs                              | Where a drive-through is proposed it shall be demonstrated that the drive-through will not impact on built form, the effective movement of vehicles on public roads and effective access and parking on site. | As George Street is not proposed to be constructed, the proposed fast food/take away may impact the effectiveness of access and parking on site, due to stacking and flow of traffic through the site. | Due to the proposal not addressing George Street the proposal is considered to be non-compliant. The condition recommended above would address this along with a condition requiring a Traffic Impact Assessment and Management Plan to be prepared and implemented to the Satisfaction of the Shire and Main Roads WA. |
| Local Planning Policy 31 – Byford Town Centre Guidelines - Stormwater Management            | Design and implementation of stormwater management practices shall be as per the requirements of the Byford Townsite Drainage and Water Management Plan and Byford Town Centre Local Water                    | A Stormwater Management Plan has not been submitted.   | A condition of approval is recommended requiring a Stormwater Management Plan to be prepared and implemented to the satisfaction of the Shire   |



| Planning Instrument | Requirement  | Proposal | Compliance |
|---------------------|--|----------|------------|
|                     | Management Strategy.   |          |            |
|                     | All water draining from roofs and other impermeable surfaces shall be directed to soakwells, bio-retention basins or rainwater tanks where climatic and soil conditions allow for the effective retention of stormwater on-site. |          |            |
|                     | Stormwater management measures must be detailed in an Urban Water Management Plan submitted with Development Applications.   |          |            |

Officers primary concern with the application relates to the proposed access arrangements and traffic flow and safety. Further information was requested by Officers on 8 February 2018 and received on 28 February 2018, the day after the RAR was initially due. The requested information relates to an updated intersection concept design, updated traffic report, updated SIDRA analysis and updated turning templates for service vehicles.

Officers support the proposed intersection concept in-principle, noting that any design would be subject to Main Roads WA approval as the intersection is within the South Western Highway Reserve. As no comments were received from Main Roads WA, an advice note has been recommended in the RAR advising the applicant to liaise with Main Roads in relation to the intersection design and approval.

### Options and Implications

Council may resolve to

1. Endorse the RAR; or
2. Endorse an alternative recommendation to the JDAP to be contained in the RAR, or
3. Not to endorse the RAR.



Should Council resolve not to endorse the RAR then no report will be presented to the JDAP. In accordance with the relevant Regulations, the JDAP could still inform themselves about relevant information pertaining to the application, including this report, or decide to ignore it and make a decision on the information available to them at the time. This option is not recommended as it would not provide Council the opportunity to provide input into the decision making process.

Should Council wish to endorse an alternative recommendation to the JDAP, the recommendation and Council's reasons for such an alternative will be included in the final RAR to be presented to the JDAP.

Officers recommend Council endorse the RAR report as attached.

### Conclusion

The proposed development does not comply with some aspects of the Shire's Local Planning Framework; however, the proposed variations are considered to be acceptable, mainly due to the particular nature of the proposal, or the variations could be addressed through conditions requiring the proposal to comply. Officers recommend Council endorse the RAR, which recommends approval subject to conditions and forward the RAR to the JDAP for consideration.

### Attachments

- [SCM002.1/03/18](#) – Development Plans (IN17/26290)
- [SCM002.2/03/18](#) – Responsible Authority Report (E18/1905)
- [SCM002.3/03/18](#) – Summary of Submissions (IN18/5506)
- [SCM002.4/03/18](#) – Clause 67 assessment (E18/2139)

### Alignment with our Strategic Community Plan

|                       |   |
|-----------------------|---|
| <b>Outcome 3.1</b>    | A commercially diverse and prosperous economy                         |
| <b>Strategy 3.1.1</b> | Actively support new and existing local business within the district. |
| <b>Outcome 4.2</b>    | A strategically focused Council                                       |
| <b>Strategy 4.2.1</b> | Build and promote strategic relationships in the Shire's interest.    |

### Financial Implications

Nil

### Risk Implications

The Shire is not the determining authority for this application. Should Council reject the RAR, the JDAP will consider the application and make a determination without a recommendation from Council. There is a risk that the JDAP will make an unfavorable decision if a determination is made without an assessment presented.



**Voting Requirements:** Simple Majority

**SCM002/03/18 COUNCIL DECISION / Officer Recommendation:**

**Moved Cr See, Seconded Cr Coales**

**That Council:**

- 1. Endorses the Responsible Authority Report contained in attachment SCM002.2/03/18; and**
- 2. Forwards the Responsible Authority Report to the Metro East Joint Development Assessment Panel.**

**CARRIED UNANIMOUSLY 8/0**





| <b>SCM003/03/18 – Proposed Service Station – Lot 2 (640) South Western Highway, Byford – PA17/1093</b> |  |
|--|--|
| <b>Author:</b>   | Haydn Ruse – Statutory Planning Officer  |
| <b>Senior Officer/s:</b>   | Ashwin Nair – Manager Statutory Planning and Compliance<br>Andre Schonfeldt – Director Development Services  |
| <b>Date of Report:</b>   | 6 March 2018   |
| <b>Disclosure of Officers Interest:</b>  | No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> . |

Proponent: Megara  
Owner: Estate of Thong Kie Tan  
Date of Receipt: 21 December 2017  
Lot Area: 4,052m<sup>2</sup>  
Town Planning Scheme No 2 Zoning: 'Urban Development'  
Metropolitan Region Scheme Zoning: 'Urban'

### Introduction

This report is presented to Council to endorse a Responsible Authority Report (RAR) to be presented to the Metro East Joint Development Assessment Panel (JDAP). As the estimated cost of development is between \$2 million and \$20 million the applicant has opted for the application to be determined by the JDAP in accordance with regulation 6 of the *Planning and Development (Development Assessment Panels) Regulations 2011*. Officers recommend Council endorse the RAR which recommends the application be refused.

The RAR was due to be provided to the JDAP on 8 March 2018. Officers requested an extension of time under Clause 12(4) of the *Planning and Development (Development Assessment Panels) Regulations 2011* to allow pending information to be supplied by the applicant and a subsequent report presented to Council at its Ordinary Council Meeting of 27 April 2018. The applicant refused the requested 7 week extension of time, instead consenting to a modified 2 week extension, being 22 March 2018 to allow a meeting to discuss the issues with the application prior to considering a further extension. The applicant has arranged this meeting on 13 March 2018, which is the same date as this Special Council Meeting.

As Officers do not have delegation for RAR's an item must be presented to Council to endorse the RAR before forwarding it to the JDAP. Given the discrepancy in time between the due date for the RAR and the date of Councils next meeting the RAR could only be endorsed by the due date through a Special Council Meeting, unless a further extension is granted. Officers recommend Council endorse the RAR which recommends the application be refused due to insufficient information and inconsistency with the local planning framework.

### Background

The subject site is bound by South Western Highway to the east, Thomas Road to the north, Hay Road to the west and a residential lot to the south. The area to the west and south is primarily residential and the area to the north and east is primarily rural residential land, as shown in the



location plan below. The site area is 4,052m<sup>2</sup> and is currently vacant, featuring some remnant vegetation.



Location Plan

### Proposal

The proposed development is for a Service Station and includes six petrol bowsers under two separate canopies and an incidental shop. The plans also indicate a future development to the southern portion of the site. The Development Plans have been included as attachment SCM003.1/03/18 to this report.

### Community / Stakeholder Consultation

Community consultation has been detailed in the RAR included as an attachment to this report. The summary of submissions with applicants comment is included as attachment SCM003.3/03/18.

As the subject lot is adjacent to a Primary Regional Road and Other Regional Road the application has been referred to Main Roads WA and the Western Australian Planning Commission (WAPC) respectively, in accordance with part IV of the Metropolitan Region Scheme (MRS). The site is also listed as a contaminated site and was referred to the Department of Water and Environment Regulation (DoWER). Officers have been in contact with Main Roads WA and the WAPC; however, no formal comments have been provided. Comments were received from DoWER on 23 February 2018 and further comments received on 7 March 2018.

Comments from DoWER recommend a stormwater and drainage management plan be prepared to the satisfaction of DoWER and the Shire to ensure potential downstream impacts from the



contaminated site are managed, this submission has been included as attachment SCM003.5/03/18 to this report. Verbal correspondence with Main Roads WA indicates an intent to recommend refusal; however, without a formal submission no reasons for refusal have been provided. As such, a recommendation must be made based on the information provided.

## **Statutory Environment**

### Legislation

- Planning and Development (Local Planning Schemes) Regulations 2015
- Planning and Development (Development Assessment Panels) Regulations 2011
- Metropolitan Region Scheme (MRS)
- Shire of Serpentine Jarrahdale Town Planning Scheme 2 (TPS2)

### State Government Policies

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas

### Local Planning Framework

- Local Planning Policy 4 – Revegetation (LPP4)
- Local Planning Policy 5 – Control of Advertising (LPP5)
- Local Planning Policy 6 – Water Sensitive Design (LPP6)
- Local Planning Policy 24 – Designing Out Crime (LPP24)
- Local Planning Policy 27 – Stakeholder Engagement in Land Use Planning (LPP27)
- Local Planning Policy 58 – Bicycle Facilities (LPP58)
- Local Planning Policy 67 - Landscape and Vegetation (LPP67)

## **Planning Assessment**

The subject site is zoned 'Urban Development' and designated as 'Residential' under the Byford District Structure Plan (BDSP). The proposed land use 'Service Station' would be a prohibited use under the 'Residential' zone, giving due regard to the BDSP and statutory planning framework the use is considered to be inappropriate in this location. In addition to this, the proposed development is considered to conflict with the surrounding established residential and rural residential amenity.

The proposed access and egress points from surrounding roads are not compliant with engineering standards and are considered likely to affect traffic safety due to proximity to intersections.

Officers are unable to undertake a full assessment of the potential impacts of the proposed development due to the lack of information relating to stormwater management, which is vital due to the lands classification as a contaminated site. Officers are not satisfied that stormwater and drainage can be managed satisfactorily on site without a concept plan indicating how proposed measures will comply with relevant DoWER water protection guidelines.

A more detailed Planning Assessment is contained within the RAR included as attachment SCM003.2/03/18 to this report, a summary of the variations is provided below:



**Local Planning Scheme**

| Item        | Requirement   | Proposal | Compliance  |
|-------------|---|----------|---|
| Car Parking | 1.5 spaces per service bay plus 1 space per employee.<br><br>Total: 17 spaces | 9 spaces | The proposed development does not comply with the car parking requirements of TPS2. Given the nature of the development it is expected most vehicles will be temporarily parked in the refuelling bays. The proposed 9 bays are considered to be sufficient given the nature of the proposed development. |

**Byford District Structure Plan**

| Item     | Requirement   | Proposal  | Compliance  |
|----------|---|---|---|
| Land Use | Land permissibility in accordance with the Residential zone | The proposed land use is a prohibited use in the Residential zone | The proposed development is inconsistent with the designation of the site under the Byford Structure Plan. The site abuts a Residential estate and is located opposite a Rural Living A estate. The proposed land use is considered to be incompatible with the surrounding area. |

**Local Planning Policy 5 – Control of Advertisements**

| Item                      | Requirement   | Proposal  | Compliance  |
|---------------------------|---|---|---|
| Signage permissibility    | Pylon Signage would not be permitted in the Residential zone                                  | Proposed pylon sign   | Having regard for the residential designation of the site, a pylon sign would not be permissible under LPP5.                      |
| Standards for Wall Signs  | Maximum 1 sign per lot in residential zone<br><br>Maximum 1.2m <sup>2</sup> area in aggregate | 3 signs proposed on eastern elevation and 2 signs proposed on western elevation<br><br>7.6m <sup>2</sup> signage area proposed on eastern elevation and 5.9m <sup>2</sup> proposed on western elevation.<br>Total: 13.5m <sup>2</sup> | Having regard for the residential designation of the site, the wall signs would exceed the standards for signage size under LPP5. |
| Standards for Pylon Signs | Maximum height of 6m.   | Proposed 8.83m pylon sign.  | The proposed pylon sign does not comply with the general  |



| Item | Requirement  | Proposal   | Compliance                             |
|------|--|--|--|
|      | Signage face shall have a maximum width and height of 2.5m.<br><br>Maximum signage area of 4m <sup>2</sup> . | Proposed signage face height of 8.63m and width of 2.29m<br><br>Proposed signage area of 17.69m <sup>2</sup> | standards for a pylon sign under LPP5. |

### **Local Planning Policy 6 – Water Sensitive Design**

A Stormwater Management Plan has not been provided with the application. Given the site is contaminated and based on recommendation from the Department of Water and Environment Regulation, Officers requested a Stormwater Management Concept Plan be provided prior to determination.

### **Local Planning Policy 24 – Designing Out Crime**

| Item         | Requirement  | Proposal   | Compliance   |
|--------------|--|--|--|
| Surveillance | Ensure clear sightlines to public realm areas from adjacent buildings. | It is unclear if the proposed colour-backed glass to the western and northern elevations will be visually permeable. | The proposed development may not comply, the non-compliance is minor and could be resolved through a condition if the application were to be approved. |

### **Options and Implications**

Council may resolve to endorse the RAR or resolve not to endorse the RAR.

### **Conclusion**

The proposed development does not comply with the Shire's Local Planning Framework and does not sufficiently address access, traffic or stormwater management concerns. Officers recommend Council endorse the RAR, which recommends refusal and forward the RAR to the JDAP for consideration.

### **Attachments**

- [SCM003.1/03/18](#) – Development Plans (E18/2213)
- [SCM003.2/03/18](#) – Responsible Authority Report (E18/2094)
- [SCM003.3/03/18](#) – Summary of Submissions (IN18/4809)
- [SCM003.4/03/18](#) – Clause 67 assessment (E18/2138)
- [SCM003.5/03/18](#) – Department of Water and Environment Regulation Submissions (E18/2140)



### Alignment with our Strategic Community Plan

|                       |   |
|-----------------------|---|
| <b>Outcome 3.1</b>    | A commercially diverse and prosperous economy                         |
| <b>Strategy 3.1.1</b> | Actively support new and existing local business within the district. |
| <b>Outcome 4.2</b>    | A strategically focused Council                                       |
| <b>Strategy 4.2.1</b> | Build and promote strategic relationships in the Shire's interest.    |

### Financial Implications

Nil

### Risk Implications

The Shire is not the determining authority for this application. Should Council reject the RAR, the JDAP will consider the application and make a determination without a recommendation from Council. There is a risk that the JDAP will make an unfavorable decision if a determination is made without an assessment presented.

**Voting Requirements:** Simple Majority

### SCM003/03/18 COUNCIL DECISION / Officer Recommendation:

Moved Cr Byas, Seconded Cr See

That Council:

1. Endorses the Responsible Authority Report contained in attachment SCM003.2/03/18; and
2. Forwards the Responsible Authority Report to the Metro East Joint Development Assessment Panel.

**CARRIED UNANIMOUSLY 8/0**



## 6.2 Confidential reports

### COUNCIL DECISION

#### Moved Cr Gossage, seconded Cr Byas

That the meeting be closed to members of the public at 7.15pm whilst item SCM004/03/18 is discussed pursuant to section 5.23(2)(a) and (b) of the Local Government Act 1995.

CARRIED UNANIMOUSLY 8/0

Members of the Gallery left the Council Chambers at 7.15pm while item SCM004/03/18 was discussed.

*Local Government Act 1995*

#### 5.23 Meetings generally open to the public

- (1) Subject to subsection (2), the following are to be open to members of the public —
  - (a) all council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
  - (a) a matter affecting an employee or employees; and
  - (b) the personal affairs of any person; and
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
  - (e) a matter that if disclosed, would reveal —
    - (i) a trade secret; or
    - (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person,  
where the trade secret or information is held by, or is about, a person other than the local government; and
  - (f) a matter that if disclosed, could be reasonably expected to —
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;

and

  - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.



|  |  |
|--|--|
| <b>SCM004/03/18 – Confidential - Recruitment of Director Infrastructure Services (H0539)</b> |  |
| <b>Author:</b>   | Kenn Donohoe – Chief Executive Officer   |
| <b>Date of Report:</b>   | 13 March 2018  |
| <b>Disclosure of Officers Interest:</b>  | No officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> . |

**Voting Requirements:** Simple Majority

**SCM004/03/18 COUNCIL DECISION / Officer Recommendation:**

Moved Cr See, seconded Cr Byas

That Council:

1. Endorses the appointment of Mr Steven Harding as the preferred applicant, as per Confidential Attachment SCM004.1/03/18, to the position of Director Infrastructure Services, in accordance with section 5.37(2) of the *Local Government Act 1995*.
2. Designates the position of Director Infrastructure Services as a Senior Employee in accordance with section 5.37(1) of the *Local Government Act 1995*.

**CARRIED UNANIMOUSLY 8/0**

**COUNCIL DECISION**

Moved Cr Byas, seconded Cr McConkey

That the meeting be reopened to the public at 7.21pm.

**CARRIED UNANIMOUSLY 8/0**

The Shire President informed members of the public that the Officers Recommendation for item SCM004/03/18 was carried unanimously.

**7. Motions of which notice has been given:**

Nil

**8. Urgent business:**

Nil

**9. Closure:**

There being no further business the Presiding Member declared the meeting closed at 7.22pm.

I certify that these minutes were confirmed at the Ordinary Council Meeting held on 26 March 2018.

.....  
Presiding Member

.....  
Date