



Shire of
Serpentine
Jarrahdale

Special Council Meeting Agenda

7pm

Monday, 6 February 2023

Purpose: Consideration of the following reports:

1. Award Request for Tender – RFT 11/2022 – Mundijong Road – Pavement Reconstruction;
2. Proposed Amendment to Solar Farm to Extend the Substantial Commencement Timeframe from 7 December 2022 to 7 June 2023 at Lot 200 Thomas Road, Lot 1001 Peverett Lane and Lot 210 Abernethy Road, Oakford.

Contact Us

Enquiries

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In Person

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



www.sjshire.wa.gov.au



Councillor Attendance Register

In accordance with the 11 April 2022 Ordinary Council Meeting, Council Resolution OCM067/04/22, clause 1 – “That Council requests the Chief Executive Officer maintain a Councillor Attendance Register recording Councillor Attendances at Ordinary Council Meetings, Special Council Meetings, Q & A briefings for Ordinary Council Meetings, Q & A briefings for Special Council Meetings, Councillor Workshops held for Project Briefings, Councillor Workshops held for Budget Preparations and Policy Concept Forums”.

In accordance with the 12 December 2022 Ordinary Council Meeting, Council Resolution OCM313/12/22, clause 6 – “That Council requests that the Councillor Attendance Register published in the Agenda and Minutes displays attendances for the calendar year and notes that the full Councillor Attendance Register, including previous calendar years, will continue to be published on the Shire’s website.”

Council 1 January 2023 –

| Date | Type | Cr Rich | Cr Atwell | Cr Byas | Cr Coales | Cr Dagostino | Cr Duggin | Cr Mack | Cr Strange | Cr Strautins |
|----------|--|---------|-----------|---------|-----------|--------------|-----------|---------|------------|--------------|
| 23/01/23 | WORKSHOP (Catalyse Presentation - Community Perception Scorecard) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| 23/01/23 | Q & A (SCM) | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | A | ✓ | ✓ |

A – Apology

LoA – Leave of Absence

NA – Non Attendance

EPNG – Electronic Participation Not Granted



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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 of 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 resolution 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.

At the 20 June 2022 Ordinary Council Meeting, Council resolved that Council and Committee Meetings will be audio recorded in accordance with Council Policy. If you are asking a public question or making a statement or deputation to the meeting this will be audio recorded. Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed.



Dear Elected Member

A Special Council Meeting of the Shire of Serpentine Jarrahdale will be held on Monday, 6 February 2023 in the Council Chambers, Civic Centre, 6 Paterson Street, Mundijong, commencing at 7pm.

A handwritten signature in blue ink, appearing to read 'Paul Martin'.

Paul Martin

Chief Executive Officer

27 January 2023

Agenda

- 1. Attendances and apologies (including leave of absence):**
- 2. Public question time:**
 - 2.1 Public questions:**
- 3. Public statement time:**
- 4. Petitions and deputations:**
- 5. Declaration of Councillors and Officers interest:**

**6. Receipt of Reports:**

| 6.1 - Award Request for Tender – RFT 11/2022 - Mundijong Road - Pavement Reconstruction (SJ4011) | |
|---|--|
| Responsible Officer: | Infrastructure Projects Lead |
| Senior Officer: | Director Infrastructure Services |
| Disclosure of Officer's Interest: | 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> . |

Authority / Discretion

| | |
|-----------|---|
| Executive | The substantial direction setting and oversight role of the Council such as adopting plans and reports, accepting tenders, directing operations and setting and amending budgets. |
|-----------|---|

Report Purpose

The purpose of this report is to advise Council of submissions received in relation to Tender RFT 11/2022 - Mundijong Road – Pavement Reconstruction and for Council to award the contract to the best value for money tenderer as proposed by the evaluation panel recommendation.

Relevant Previous Decisions of Council

The project was approved by Council as part of the 2022/2023 Annual Budget.

Background

Mundijong Road is classified as a Regional Distributor Road connecting Mundijong precinct with Kwinana Freeway with a 9.5km section of the road located within the Shire of Serpentine Jarrahdale between Duckpond Road to the west and Paterson Street to the east. The road traverses the localities of Mundijong, Mardella and Oldbury.

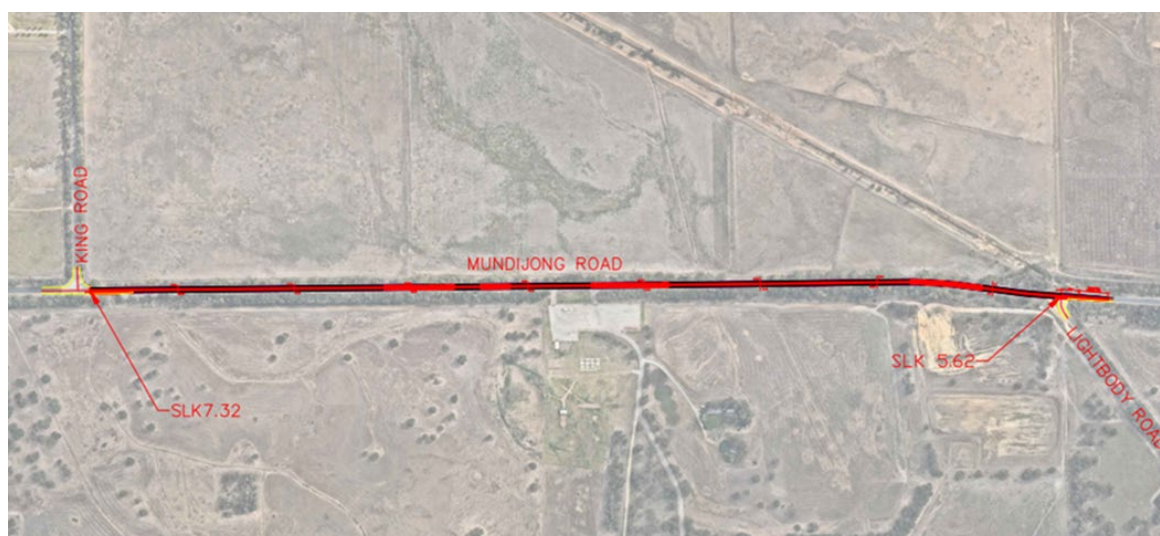


Figure 1: Mundijong Rd Upgrade (King Rd – Lightbody Rd)



The Shire has received grant funding to improve a section of the road through a successful application to the Australian Government Black Spot Program. The project is 100% grant funded (\$528,000 budget) and covers 1.7km section of Mundijong Road between King Road and Lightbody Road which was identified as a black spot based on the number of accidents. There were more than 14 crashes during a five-year period preceding the grant funding application. These accidents resulted in four hospitalisations and one required medical treatment. The posted speed in this section of Mundijong Road is 100km/hr and given the roadside environment and approach sight distance, the effective treatment measures considered are to widen the road with 1m sealed shoulders, remove vegetation on the sides of the road and install delineation in both directions to improve the sight distance and overall safety of the road.

Community / Stakeholder Consultation

Nil.

Submissions

The Request for Tender RFT 11/2022 - Mundijong Road - Pavement Reconstruction was advertised on Wednesday 28 September 2022 and closed at 2.00pm on Thursday, 20 October 2022.

The Tender was advertised in the following papers:

- West Australian Newspaper;
- Examiner (Serpentine Jarrahdale & Armadale);
- Pinjarra/Murray Times (Inc. Mandurah Coastal Times);
- Sound Telegraph (Rockingham & Kwinana).

Six (6) submissions were received, and the submissions are summarised in **CONFIDENTIAL attachment 1**.

All tender submissions comply with the request for tender guidelines and compliance criteria.

Tender submissions were received from the following companies:

| # | Company Name |
|---|---------------------------------|
| 1 | Delta Group |
| 2 | Doongurra Civil Mining |
| 3 | Dunamis Construction Group |
| 4 | GMF Contractors |
| 5 | Remote Civils Australia Pty Ltd |
| 6 | WCP Civil Pty Ltd |



Evaluation Panel

An evaluation panel was convened and consisted of the following personnel:

- Infrastructure Projects Lead;
- Engineering Design Lead;
- Project Engineer.

All members of the evaluation panel have made a conflict of interest declaration in writing confirming that they have no relationships with any of the respondents. Each member of the panel assessed the submissions separately.

Evaluation Criteria

The following evaluation criteria and weightings were used by the tender evaluation panel to assess tender submissions:

| EVALUATION CRITERIA | WEIGHTING |
|---|-----------|
| Price with quantities | 55% |
| Relevant experience with: <ul style="list-style-type: none">• Demonstrated relevant experience of the Company in providing the same or similar services to local government or the private sector over the past five years | 15% |
| Tenderers' Resources, Key Personnel, Skills and Experience with: <ul style="list-style-type: none">• Capacity to deliver the services including:• Key personnel / Professional skills;• Describe the key personnel who will be involved in the work, including past work of a similar nature. | 15% |
| Demonstrated Understanding/Experience with: <ul style="list-style-type: none">• Project schedule;• Process for delivery of goods/services;• Project Management Plan;• Critical assumptions; and• Any additional information. | 15% |

Comment

All tender submissions were assessed against the evaluation criteria and the qualitative and quantitative results of this assessment and prices are documented in **CONFIDENTIAL attachment 1**.

Following the assessment of all tender submissions against the selection criteria, the tender submitted by Remote Civils Australia Pty Ltd was assessed as being the best value for money that meets the Shire's requirements.

The tender evaluation panel therefore recommends the tender submission made by Remote Civils Australia Pty Ltd be accepted.



Statutory Environment

Section 3.57 (1) of the *Local Government Act 1995* requires a local government to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply the goods or services.

Council Policy - *Procurement of Goods or Services through Public Tendering* (E19/5672):

Tendering

2. Tender Exemption

The regulations make provision for certain circumstances where tendering is not required. Regulation 11(2) of the *Local Government (Functions and General) Regulations 1996*:

- The purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;

Options and Implications

The following options have been identified:

Option 1

That Council:

1. AWARDS Tender RFT 11/2022 - Mundijong Road - Pavement Reconstruction to Remote Civils Australia Pty Ltd to the value of \$330,923.40, excluding GST, as contained within **CONFIDENTIAL attachment 1**; and
2. AUTHORISES the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 11/2022 - Mundijong Road - Pavement Reconstruction.

Option 2

That Council NOT AWARD the contract and retender.

Option 3

That Council NOT AWARD the contract and NOT retender – nil action.

Option 4

That Council REASSESS and appoint an alternative tenderer.

Option 1 is recommended.

Conclusion

Remote Civils Australia Pty Ltd has been assessed as being able to meet the requirements of the contract. The respondent met all of the requirements for Relevant Experience, Key Personnel, Skills and Resources and Demonstrated Understanding and was assessed as providing the best value for money.

Therefore, it is recommended that Council support Option 1 and the contract be awarded to Remote Civils Australia Pty Ltd.

**Attachments (available under separate cover)**

- **6.1 – CONFIDENTIAL attachment 1** – RFT 11/2022 - Mundijong Road - Pavement Reconstruction - Evaluation Report (E22/15929)

Alignment with our Strategic Community Plan

| | |
|-----------------------|--|
| Outcome 1.3 | A safe place to live |
| Strategy 1.3.3 | Enhance community safety |
| Outcome 3.3 | An innovative, connected transport network |
| Strategy 3.3.1 | Maintain, enhance and rationalise the Shire's transport network in accordance with affordable sound Asset Management Plans |
| Outcome 4.1 | A resilient, efficient and effective organisation |
| Strategy 4.1.1 | Provide efficient, effective, innovative, professional management of Shire operations to deliver the best outcome for the community within allocated resources |
| Strategy 4.1.2 | Maximise the Shire's brand and reputation in the community |

Financial Implications

The funding for this tender is included in the 2022/2023 Annual Budget to undertake the works and the recommended tenderer is within the budgeted allocation.

The total allocated budget for the project is \$528,000 excluding GST which includes Shire on-costs.

| | |
|--|------------------|
| Total Project Cost | \$528,000 |
| Australian Government (via the Black Spot Program) contribution. | \$528,000 |
| Council contribution | \$0 |



Risk Implications

Risk has been assessed on the Officer Options and Implications:

| Officer Option | Risk Description | Controls | Principal Consequence Category | Risk Assessment | | | Risk Mitigation Strategies (to further lower the risk rating if required) |
|----------------|---|---|--------------------------------|-----------------|-------------|-------------|---|
| | | | | Likelihood | Consequence | Risk Rating | |
| 1 | Council proceeds with recommendation to award and projects run over budget. | Budget process, internal costing and reviews. | Financial | Unlikely | Moderate | MODERATE | Accept Officer Recommendation |
| 2 & 3 | Not awarding the contract to the successful Tenderer and road works do not occur. | Nil | Organisational Performance | Unlikely | Moderate | MODERATE | Accept Officer Recommendation |
| 4 | Poor selection of contractor to provide quality works. | Procurement policy and process | Organisational Performance | Rare | Moderate | LOW | Accept Officer Recommendation |

Voting Requirements: Simple Majority

Officer Recommendation

That Council:

- AWARDS** Tender RFT 11/2022 - Mundijong Road - Pavement Reconstruction to Remote Civils Australia Pty Ltd to the value of \$330,923.40, excluding GST, as contained within CONFIDENTIAL attachment 1; and
- AUTHORISES** the Chief Executive Officer to sign a contract on behalf of the Shire of Serpentine Jarrahdale for Tender RFT 11/2022 - Mundijong Road - Pavement Reconstruction.

**6.2 – Proposed Amendment to Solar Farm (‘Use Not Listed’) to Extend the Substantial Commencement Timeframe from 7 December 2022 to 7 June 2023 at Lot 200 Thomas Road, Lot 1001 Peverett Lane and Lot 210 Abernethy Road, Oakford (PA22/1085)**

| | |
|--|--|
| Responsible Officer: | Manager Statutory Planning and Compliance |
| Senior Officer: | A/Director Development Services |
| Disclosure of Officer’s Interest: | 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> . |

Authority / Discretion

| | |
|----------------|--|
| Quasi-Judicial | When Council determines an application/matter that directly affect a person’s right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of quasi-judicial authority include local planning applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal. |
|----------------|--|

| | |
|------------------------------------|---|
| Proponent: | Harley Dykstra Pty Ltd |
| Owner: | Electricity Networks Corporation T/A Western Power and Scarlett Brook Pty Ltd |
| Date of Receipt: | 15 December 2022 |
| Lot Area: | Lot 200 Thomas Road – 24.38ha Lot 1001 Peverett Lane – 27.62ha Lot 210 Abernethy Road – 23.73ha |
| Town Planning Scheme No 2 Zoning: | ‘Rural’ |
| Metropolitan Region Scheme Zoning: | ‘Rural’ |

Report Purpose

The purpose of this report is for Council to consider a Responsible Authority Report (RAR) as contained within **attachment 1**, prepared to amend a development approval for a ‘Use Not Listed’ (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford. The application seeks to amend the approval by extending the timeframe for when the development is required to be substantially commenced. The development approved was required to be substantially commenced by 7 December 2022. The application seeks to allow a further six months for substantial commencement until 7 June 2023.

The Metro Outer Development Assessment Panel (MODAP) will replace Council as the decision-making authority for the application in accordance with the *Planning and Development (Development Assessment Panels) Regulations 2011*. The proposal is presented to Council to consider the Responsible Authority Report (RAR) for forwarding to the MODAP.



It is considered that the proposal remains generally consistent with the planning framework, and as such the RAR recommends that the MODAP approves the application.

Relevant Previous Decisions of Council

Ordinary Council Meeting – 18 July 2022 – OCM164/07/22 - COUNCIL RESOLUTION / Alternative Officer Recommendation

Moved Cr Duggin, seconded Cr Strange

That Council RESOLVES the following Responsible Authority Report Recommendation:

That the Metro Outer Joint Development Assessment Panel:

1. Resolves to ACCEPT that the DAP Application DAP16/01067 as detailed on the DAP Form 2 dated 13 April 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.
2. APPROVES DAP Application DAP16/01067 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No.2 for the proposed amendment to Condition 21 of the approved Use Not Listed (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford as follows:

21 The solar farm shall be fully constructed in accordance with the approved plans, within a period of two years from the commencement of construction”.

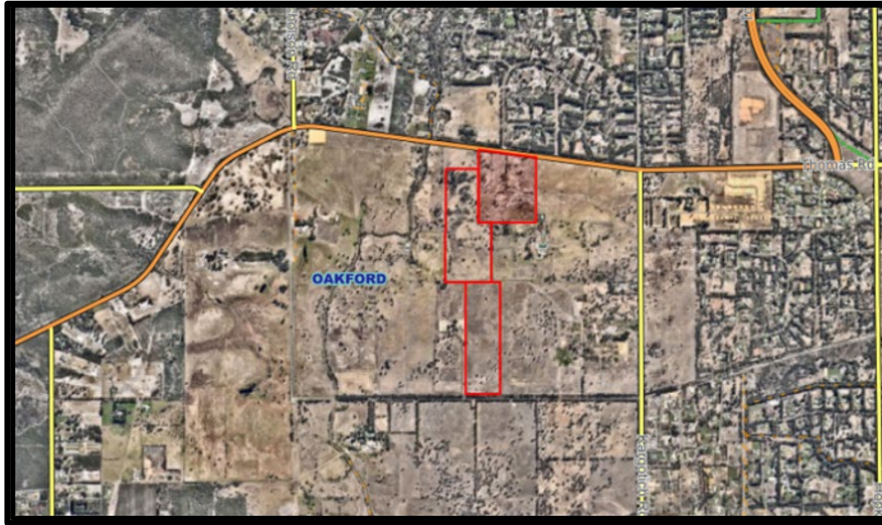
Background

Conditional approval for a ‘Use Not Listed’ (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford was granted by the MODAP on 7 December 2016. An extension to the commencement timeframe was granted on 18 December 2018 until December 2020. Furthermore, under the ‘Minister’s Notice of Exemption from Planning Requirements During a State of Emergency’, the substantial commencement timeframe was automatically extended by a further two years, requiring substantial commencement by 7 December 2022.

The subject application seeks to extend the substantial commencement timeframe by a further six months to 7 June 2023.

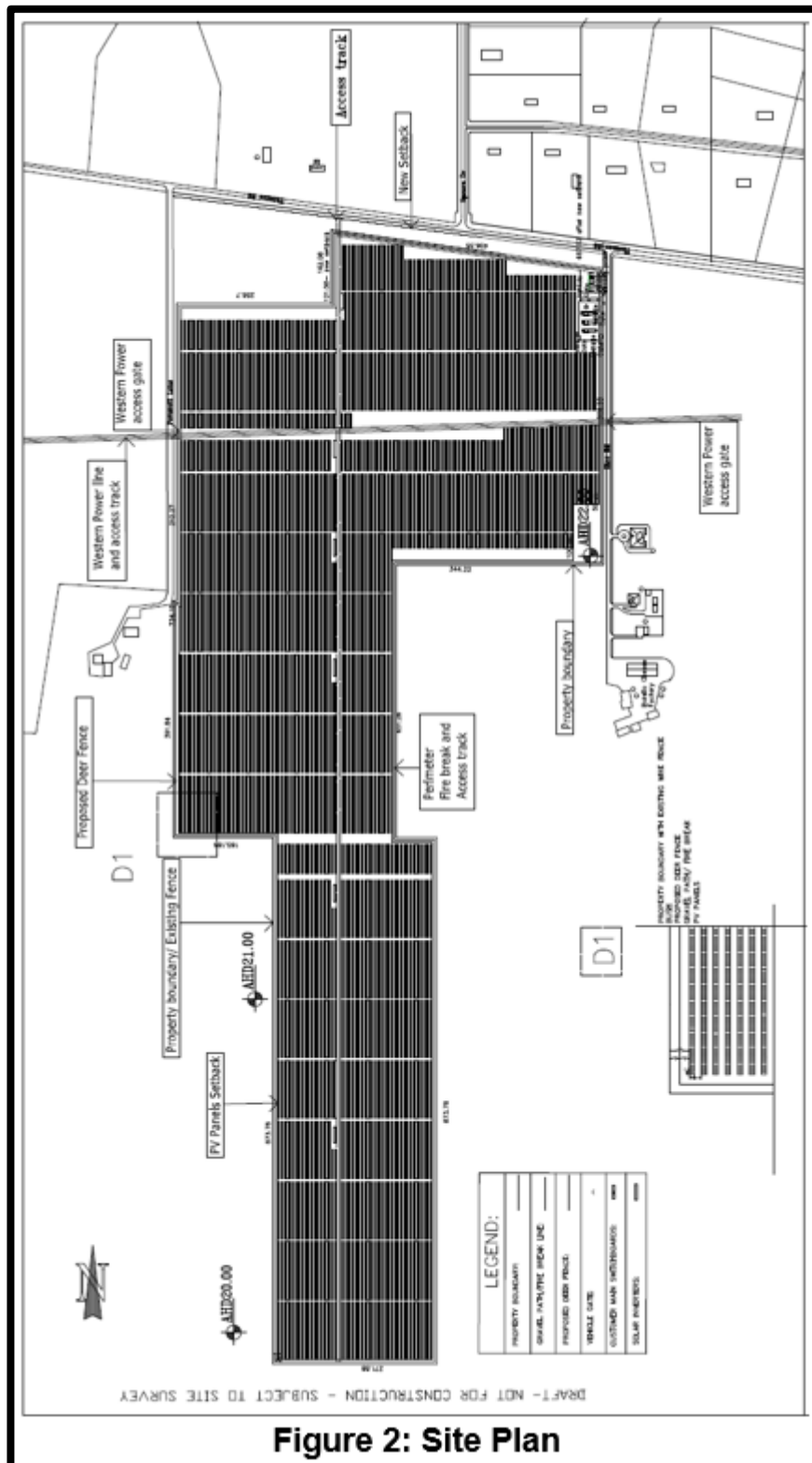
Existing Development

The subject site lies within a typical rural area of Oakford, west of Byford. Lots to the south of Thomas Road are larger rural lots with lots zoned ‘Special Rural’ to the north of Thomas Road.



Proposed Development

On 13 December 2016, approval was granted by the MODAP for a Solar Farm which is estimated to generate approximately 30 megawatts of electricity. The facility would be connected to the Byford substation through designated underground cables. Once this electricity reaches the substation it will then be distributed through existing low voltage power lines to approximately 30,000 houses and businesses within the Shire area. The approved site plan is depicted below:



The full MODAP approval is contained within **attachment 2** and the current application within **attachment 3**. The development comprises the following:

- Office building and storage shed with a dimension of 12m x 6m in size with a height of 3.9m;
- three switch board rooms with a dimension of 22m x 4.5m in size with a 3.9m wall height;



- security fence with a height of 2.2m which feature battery room, control room and switch room;
- 1.0m high post and wire fence along the primary street (Thomas Road);
- 1.20m high deer fence along the side and rear boundaries of the facility;
- vegetation screen around the perimeter of the facility;
- tourist area consisting of benches, seats and an elevated viewing platform for visitors to the site;
- nine car parking bays to accommodate visitors to the solar farm;
- private bus stopping area; and
- private vehicle access gates to Lot 200 and Lot 210.

To date, this development cannot be seen to be substantially commenced and therefore the current application seeks to allow the extension of the substantial commencement timeframe to 7 June 2023. Should the amendment not be approved, the development cannot be constructed as the approval lapsed on 7 December 2022.

Community / Stakeholder Consultation

The application was advertised from 19 December 2022 to 23 January 2023 to surrounding landowners within a 500m radius. The advertising timeframe was 28 days in accordance with Local Planning Policy 1.4 – Consultation for Planning Matters and an additional seven days to take into account the Christmas holiday period, in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

During this period, eight community submissions were received objecting to the proposal. A full summary of the submissions with the Officer comments are contained within **attachment 4**. The objections raised concerns in relation to the following matters:

- Decrease in Property Values;
- Toxic Chemicals used in manufacturing process;
- Visual Impact;
- Impact on vegetation and environment;
- Glare of panels impacting on traffic; and
- Length of time since initial approval.

Officer Comment regarding the objections:

A decrease in property value is not listed as a matter for consideration under the Deemed Provisions and whilst Officers acknowledge this concern, they cannot address it as part of this assessment.

The application does not propose to manufacture or recycle solar panels on site and therefore the matter of toxic chemicals cannot be seen to be of significant concern.

The visual impact of the proposal has been assessed and it is considered that whilst the panels would not enhance the rural character of the area, the existing and proposed vegetation would ensure that they would not adversely impact on the character or visual amenity.



Furthermore, the planting of screening vegetation on the perimeter would contribute towards replacing lost vegetation and enhancing visual amenity.

With regard to the impact of glare, due to the siting and orientation of the panels, they would not adversely impact on traffic travelling on the highway by way of glare. The application was referred to MRWA who also did not raise concerns in this regard.

Comment from Government Agencies:

The application was referred to the following Government Agencies:

Department of Planning Lands and Heritage (DPLH)

DPLH has no objections to the proposal however recommends that the application is referred to MRWA and Westport.

These two agencies also provided comment being:

Westport:

“Westport is the State Government’s long-term program to investigate, plan and build a future port in Kwinana with integrated road and rail transport networks. The Westport project will improve the overall efficiency of trade for import and export industries as well as resulting in transformational changes to the Perth and Peel Region. It is the largest port and supply chain project in Australia and is likely unprecedented for the State Government in terms of the overall scale, complexity and importance for the State’s future economic growth.

The Anketell-Thomas Road Freight Corridor (ATRFC) is a key component of the Westport project, and has been designed to provide for the uninterrupted flow of freight vehicles from the future container terminal in Cockburn Sound to the Tonkin Highway.

Land for the ATRFC will be required on the southern side of Thomas Road. The Westport project team has previously provided information to the applicant regarding these requirements and it is the Westport Office’s expectation that these requirements will be appropriately accommodated in the implementation of the development approval, should the request to extend the timeframe for substantial commencement be supported.

In addition, the access regime in this area is planned to be modified when this section of Thomas Road is upgraded. No direct access to and from Thomas Road will be permitted, Rice Road will be closed and Peverett Lane will be converted to left in/left out only (as outlined in the extract below). These requirements have previously been communicated to the applicant by the Westport project team. It is the Westport Office’s expectation that the implementation of the approval, should the substantial commencement timeframe be extended, will occur in a manner that suitably allows for these changes to the access regime to occur in the future in a non-disruptive manner. Access to and from the consolidated development site is ultimately intended to occur via Peverett Lane.”



Main Roads Western Australia (MRWA):

MRWA advised there are no objections to the proposal subject to the Conditions as listed on the approval remain unchanged.

Statutory Environment

Legislation

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million
- State Planning Policy 2.5 - Rural Planning

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Shire of Serpentine Jarrahdale Local Planning Strategy
- Draft Shire of Serpentine Jarrahdale Local Planning Scheme No.3
- Local Planning Policy 1.3 - Amendments and Extensions to Existing Approvals (LPP1.3)

Planning Assessment

The subject application is made in accordance with r17(1)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*. This allows for an application to be made “...to amend the approval so as to extend the period within which any development approved must be substantially commenced under regulation 16A(2)”. Such an application for amendment must be made through a ‘Form 2’ application. The application provided meets this criterion.

In assessing a Form 2 application, consideration should be given, in accordance with Local Planning Policy 1.3 - Amendments and Extensions to Existing Approvals Policy, to the following:



- Whether the planning framework has changed substantially since the development approval was granted;
- Whether the development would likely receive approval now; and
- Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

For the purposes of this report, discussion is confined to these matters. A full assessment of the application against Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* is contained within **attachment 5**.

Whether the planning framework has changed substantially since the development approval was granted

The original application and subsequent extensions of time have been assessed against Town Planning Scheme No. 2. This scheme has not changed and therefore there has not been a substantial change in the planning criteria.

It does need to be noted that since the development approval was granted, the Shire has, in draft form, a new Local Planning Scheme (LPS3) which final approval from the WAPC is imminent. In addition, the Local Planning Strategy has been adopted. The proposal has been assessed against the following to determine any substantive changes that may affect the outcome of an assessment:

Draft Local Planning Scheme No. 3

The site would remain zoned 'Rural' under LPS3. The proposal is considered to fall within the land use of 'renewable energy facility' under LPS3 defined as:

"premises used to generate 47 facility energy from a renewable energy source and includes any building or other structure used in, or in conjunction with, the generation of energy by a renewable resource, where energy is being produced for commercial gain (i.e. solar farms as opposed to solar panels)."

This land use is an 'A' use in the 'rural' zone meaning there is discretion to permit the use after advertising has been carried out.

The objectives of the 'Rural' zone under LPS3 are:

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



Whilst it is likely that the proposal, given its visual appearance, would not enhance the rural character of the area or allow the land to be used for agriculture, it is considered that it is a development that could be carried out without being to the detriment of the locality and be carried out alongside agricultural uses. The previous approval requires that prior to commencement of works, a landscaping plan be provided and thereafter, the landscaping maintained. It is considered that this would allow for additional landscaping to be established to maintain and contribute towards the rural character of the locality whilst protecting the visual amenity of surrounding landowners. The landscaping plan has been undertaken as part of the clearance of Conditions of the previous approval.

The proposal is considered to be consistent with the objective of a non-rural, beneficial land use in providing a sustainable electricity supply to 30,000 houses and businesses within the local area. The creation of a dedicated renewable energy land use, which is able to be approved within the Rural zone, also demonstrates further aligning of the proposal to the future planning framework. As such Officers are of the opinion that due to the added zoning of 'renewable energy facility' in the Rural Zone under LPS3, a stronger case could be made for such a facility.

Local Planning Strategy

The subject site is identified as 'rural land' under the Local Planning Strategy (LPS) which generally seeks to protect larger rural lots for agriculture. The objectives of rural land under the LPS are:

- Protect large rural lots to ensure access to well positioned land for productive use is possible.
- Strengthen agricultural production as a significant economic contributor to the Shire and the broader region, promoting the Shire as a 'food bowl'.
- Promote alternative technologies and sustainable practice in agriculture and food production.
- Manage urban growth boundaries.
- Protect land for agricultural enterprises in proximity to Perth and its markets.
- Minimise or eliminate nutrient (particularly phosphorus) export into the Peel-Harvey Estuarine System.

Whilst the proposal does not provide a rural/agricultural use, it would contribute towards the provision of sustainable energy for rural uses. The LPS recognises the importance in providing infrastructure and utilities for "alternative technologies and sustainable practice" to support economic development and growth within the Shire in a timely manner.

The LPS also considers the capability of land to support agriculture and maps the capacity of soils to support annual horticulture, perennial horticulture, dryland cropping and grazing. The subject site is mapped as having a relatively low capability for horticulture and cropping and a moderate to high capacity for grazing. The proposal therefore is considered to not be utilising high quality agricultural land for an alternative use.

Additionally, the LPS encourages "sustainable practices and the adoption of new resource efficient technologies". As previously stated, it is considered that the development could be carried out alongside rural uses and contribute towards a sustainable rural community.

Whether the development would likely receive approval now

To be able to determine this factor, as previously stated, an assessment against Clause 67 of the Deemed Provisions has been undertaken and forms part of the attachments. Given the application is considered consistent with the updated Scheme and Strategy, its form has not



changed since the original approval and the remainder of the planning framework remains unchanged, it is considered that the development would likely receive approval now.

Whether the holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval

Submissions were received in relation to the extensions to the substantial commencement timeframe previously granted and this aspect requires serious consideration.

It is recognised that due to the complexities with initiating these developments it is not uncommon for substantial commencement for larger developments to extend beyond the two year timeframe and that some may take substantially longer. Typically, the larger development approvals involve specialised work associated with the submission of multiple robust management plans which require specialist input. Additionally, they can involve complex arrangements with land holdings (like this development) that can take some time to navigate through. This is more so an issue when a development intersects with State Government planned road upgrade plans that have evolved since the initial date of approval.

As an example of the complexities of such a significant development Condition 1 of the approval states *“Lots 1001 Peverett Lane, Lot 210 Abernethy Road and Lot 200 Thomas Road, Oakford are to be amalgamated into a single lot prior to the submission of a building permit application. Alternatively, the owner may enter into a legal agreement with the Shire of Serpentine Jarrahdale, prepared by the Shire’s solicitors at the expense of the owner. The legal agreement will allow the owner 12 months to amalgamate the lots. The agreement is required to be executed by all parties concerned prior to the commencement of the works hereby permitted.”* The applicant has confirmed that part of the subject site is required to be ceded to MRWA for the future upgrades to Thomas Road as part of the Westport project. The ‘concerned parties’ are not willing to execute the agreement referred to in Condition 1 or transfer the land until this has been finalised. The applicant has advised that this process is several weeks away and as such, Condition 1 has been unable to be satisfied, contributing to the delays in substantial commencement.

The applicant has, when requesting extensions, sought to demonstrate that the implementation of the development has been pursued. In the current application the applicant has submitted, as part of **attachment 1**, to demonstrate that the project is progressing, a table detailing the works that have been undertaken and progress made thus far in satisfying the Conditions of approval. The table is provided below:

| No. | Condition | Works Completed | Status |
|-----|--|--|--------------------|
| 1 | <i>Lots 1001 Peverett Lane, Lot 210 Abernethy Road and Lot 200 Thomas Road, Oakford are to be amalgamated into a single lot prior to the submission of a building permit application. Alternatively, the owner may enter into a legal agreement with the Shire of Serpentine Jarrahdale, prepared by the Shire’s solicitors at the expense of the owner. The legal agreement will allow the owner 12 months to amalgamate the lots.</i> <i>The agreement is required to be executed by all parties concerned prior to the commencement of the works hereby permitted.</i> | Deed of Agreements prepared. Awaiting signing by all parties. | Partial completion |



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| No. | Condition | Works Completed | Status |
|-----|--|--|-----------|
| 2 | <i>Prior to the submission of a building permit a site plan illustrating any existing vegetation to be retained (specifically relating to black cockatoo feeding habitat) shall be submitted and approved to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | Site Plan has been updated illustrating all vegetation to be retained and lodged with Shire for approval. | Completed |
| 3 | <i>Prior to the submission of a building permit amended plans shall be submitted illustrating setbacks of 12 metres from all side and rear boundaries to any proposed development to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | Plans have been amended to show 12m setback from all side and rear boundaries. | Completed |
| 4 | <i>Prior to the submission of a building permit a noise impact statement shall be submitted and approved to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | A Noise Impact Statement has been prepared in consultation with the Shire. | Completed |
| 5 | <i>Prior to the submission of a building permit a drainage management plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | A Drainage Management Plan has been prepared in consultation with the Shire. | Completed |
| 6 | <i>Prior to the submission of a building permit a construction management plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | A Construction Management Plan has been prepared in consultation with the Shire. | Completed |
| 7 | <i>Prior to the commencement of works a Traffic Management Plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale. The Traffic Management Plan shall ensure there is an adequate and safe turning circle along Rice Road adjoining Lot 200 Thomas Road. This is to allow traffic entering Rice Road, outside of the operating hours of the facility, to be able to conduct a safe U-turn to exit Rice Road onto Thomas Road.</i> | A Traffic Management Plan has been prepared in consultation with the Shire and has been included in the Engineering Plans. | Completed |
| 8 | <i>Prior to the commencement of works a Bushfire and Emergency Management Plan, shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | A Bushfire Emergency Management Plan has been prepared in consultation with the Shire. | Completed |
| 9 | <i>Prior to the commencement of works a landscaping/ revegetation plan which includes mature vegetation along the perimeter of the development site for the purposes of screening and privacy of nearby affected residences shall be submitted and approved by the Shire of Serpentine Jarrahdale.</i> | A Landscape Management Plan has been prepared in consultation with the Shire. | Completed |



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| No. | Condition | Works Completed | Status |
|-----|--|--|---------------------|
| 10 | <i>Prior to the commencement of the use, the approved landscape/revegetation plan shall be implemented and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | To be completed prior to the use of the development. | N/A |
| 11 | <i>Prior to the commencement of the use all proposed crossovers shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | To be completed as part of the civil works construction. | N/A |
| 13 | <i>A monetary contribution of \$500,000 being paid to Council for the establishment of public art within the Oakford area in accordance with Council's Local Planning Policy No. 59 - Public Art Policy for Major Developments to the satisfaction of the Shire prior to occupation of the development.</i> | To be completed prior to occupation of completed development. | N/A |
| 14 | <i>A minimum of two (2) car parking bays are required to be provided within the office and switch room compound to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | Plans have been amended to include required bays. | Partially completed |
| 15 | <i>Rice Road pavement shall be widened to a minimum width of 6 meters up to the turning circle referred to in Condition 7 and it shall be sealed to the specification and satisfaction of the Shire of Serpentine Jarrahdale at the landowner/applicant's cost.</i> | Plans have been amended to show road width of 6m up to the turning circle referred to in Condition 7. | Partially Completed |
| 16 | <i>An interpretive information panel is to be provided at the tourist area to the satisfaction of the Shire of Serpentine Jarrahdale.</i> | To be completed prior to commencement of use. | N/A |
| 17 | <i>The applicant(s) / landowner(s) shall advise the Shire of Serpentine Jarrahdale in writing the solar farm facility has completed construction.</i> | To be completed upon completion of construction. | N/A |
| 18 | <i>Prior to the commencement of works a plan outlining the conceptual decommissioning and rehabilitation of the site will be required to be submitted. Within two years of the facility being decommissioned, a final decommissioning rehabilitation plan shall be submitted, approved and thereafter implemented to the satisfaction of Shire of Serpentine Jarrahdale.</i> | A Decommission and Rehabilitation Plan has been prepared in consultation with the Shire. | Completed |
| 19 | <i>Prior to the submission of a building permit a fauna and flora study shall be undertaken, submitted and approved by the Shire of Serpentine Jarrahdale. This study shall inform the landscaping plan to ensure significant flora is retained for its conservation value or habitat value with respect to fauna.</i> | A Flora and Fauna Study was approved by the Shire on 21/09/2017. | Completed |
| 20 | <i>No herbicides shall be used for the maintenance of the height of the ground cover, only mowing or grazing shall be permitted.</i> | A Landscape Management Plan in accordance with Conditions 9 & 20 has been prepared in consultation with the Shire. | Completed |

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| No. | Condition | Works Completed | Status |
|-----|---|---|-----------|
| 21 | <i>The solar farm shall be fully constructed in accordance with the approved plans within two years from the date of commencement.</i> | To be completed prior to the commencement of use. | N/A |
| 22 | <i>The applicants/operators of the solar farm shall prepare an ongoing air quality and/or erosion management plan to the satisfaction and approval of the Shire of Serpentine Jarrahdale and shall be implemented for the life of the project.</i> | To be completed prior to the commencement of use. | N/A |
| 23 | <i>No vehicle access shall be permitted onto the Thomas Road reserve and all vehicle access shall be restricted to the Local Road network.</i> | Civil Engineering plans lodged with the Shire demonstrate that this Condition is to be satisfied. | Completed |
| 24 | <i>As the Planning Report indicates that significant traffic will be entering into and out of the site during construction phase, a Transport Statement or Transport Assessment for this stage of the project will be required. In this regard, please refer to the WAPC's Part 4 "Transport Assessments Guidelines for Individual Developments" for further information.</i> | Civil Engineering plans lodged with the Shire demonstrate that this Condition is to be satisfied. | Completed |
| 25 | <i>No development or car parking, other than landscaping shall be permitted on the land as shown required for future road purposes on the enclosed WAPC Drawing 1.3229/2.</i> | Civil Engineering plans lodged with the Shire demonstrate that this Condition is to be satisfied. | Completed |
| 26 | <i>No earthworks shall encroach onto the Thomas Road reserve.</i> | A Construction Management Plan indicating that no earthworks shall encroach onto the Thomas Road reserve, has been prepared and lodged with the Shire for approval. | Completed |
| 27 | <i>No stormwater drainage shall be discharged onto the Thomas Road reserve.</i> | A Construction Management Plan indicating that no stormwater drainage shall be discharged onto the Thomas Road reserve, has been prepared in consultation with | Completed |



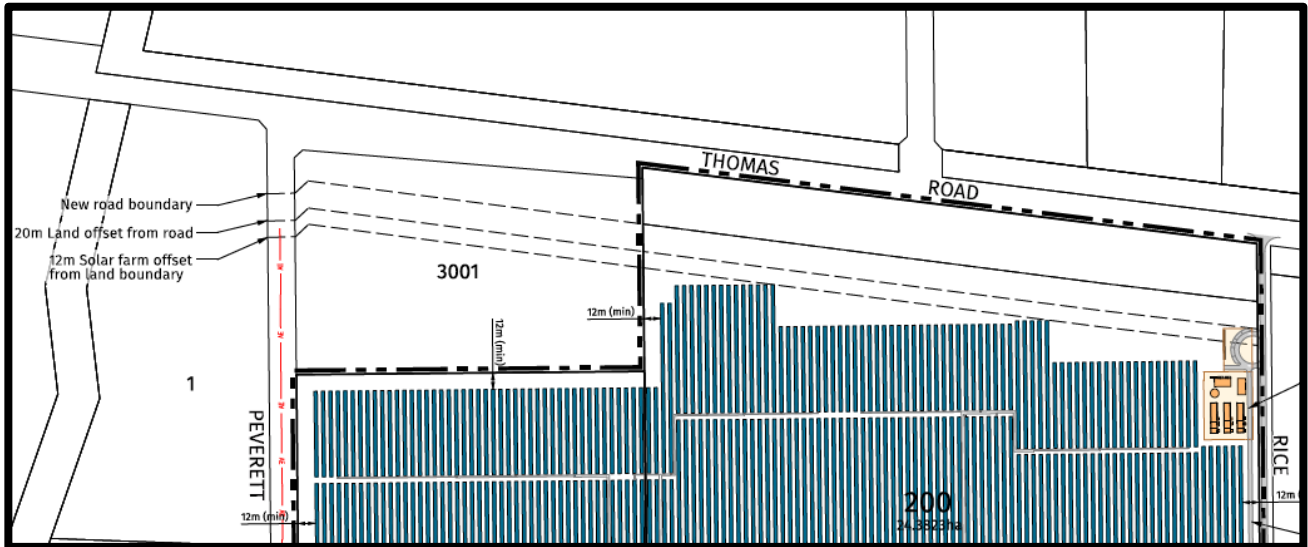
| No. | Condition | Works Completed | Status |
|-----|--|---|---------------------|
| | | the Shire. | |
| 28 | <i>The applicant shall make good any damage to the existing verge vegetation within the Thomas Road reservation.</i> | A Construction Management Plan indicating that the applicant will make good any damage to the existing verge vegetation within the Thomas Road reserve, has been prepared in consultation with the Shire. | Partially Completed |

The information provided details that the Conditions have been either actioned and partially completed or completed. Based on the information provided, it is considered that the application has actively and conscientiously pursued the implementation of the development approval, in accordance with LPP1.3.

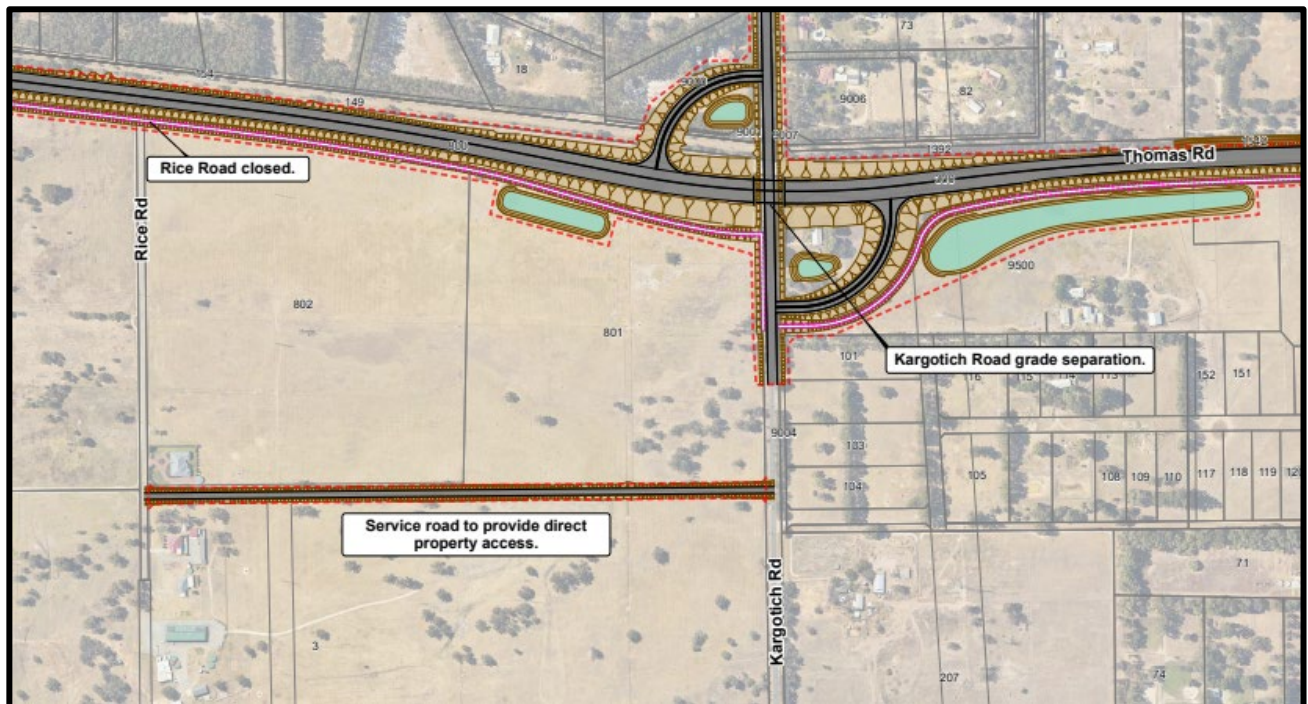
Other Considerations – Westport and Thomas road

Since the approval of the development, the Westport project has been initiated by the State Government for the Anketell-Thomas Road Corridor connecting the future Kwinana Outer Harbor with the Tonkin Highway and therefore some consideration of the possible impacts on the development is required. The early concept design includes upgrading Thomas Road to four lanes (two lanes in each direction) and new interchanges where Thomas Road intersects with Kargotich Road and Nicolson Road. No objections have been received from either DPLH, Westport or MRWA in regard to the future road widening in front of the subject site.

Given the setback to Thomas Road, it is considered that the proposal would not prejudice the Westport Project. For information, the applicant provided an amended site plan on 25 October 2022 as per the requirements of the Conditions on the initial approval, demonstrating the land required for the works. This site plan demonstrates that the land take for the road widening can occur without being impacted upon by the development as depicted below.



Early concept plans show the closure of Rice Road and access to the subject lots would be taken from a service road off Kargotich Road, to be delivered as part of the project, as depicted below:



The development, as previously approved, sought to gain access to the site via Rice Road from Thomas Road. Based on the above concept, the access would need to be changed to Kargotich Road and via the service road. Whilst this concept may result in altered access arrangements to the subject site, it is considered that the proposal could be undertaken without prejudicing the project and the access arrangements can be altered in the future without impeding the development.



Options and Implications

Option 1

That Council RESOLVES the following Responsible Authority Report Recommendation:

That the Metro Outer Joint Development Assessment Panel:

1. Resolves to ACCEPT that the DAP Application DAP16/10167 as detailed on the DAP Form 2 dated 19 December 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.
2. APPROVES DAP Application DAP16/10167 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the *Shire of Serpentine Jarrahdale Town Planning Scheme No.2* for the proposed amendment the approved 'Use Not Listed' (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford as follows:
 1. *The development hereby approved must be substantially commenced by 7 June 2023.*
3. All other Conditions and requirements detailed on the previous approval dated 7 December 2016 shall remain unless altered by this application.

Option 2

That Council RESOLVES the following Responsible Authority Report Recommendation:

That the Metro Outer Joint Development Assessment Panel:

1. Resolves to ACCEPT that the DAP Application DAP16/10167 as detailed on the DAP Form 2 dated 19 December 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.
2. REFUSES DAP Application DAP16/10167 for the following reasons:
 - a. The development is considered to be contrary to the current planning framework for the land and locality, which has advanced since first approval of the application.
 - b. The development is considered to represent an incompatible development form, that does not reflect the reasonable level of rural amenity that should be afforded by the Rural zone.

Option 1 is recommended.

Conclusion

The application under consideration seeks to amend the current approval of the Solar Farm by extending the timeframe for when the development is required to be substantially commenced which lapsed on 7 December 2022. The application seeks to allow a further six months for substantial commencement to 7 June 2023.

It is considered that the proposal remains consistent with the planning framework and that the application, had it been a new application, would receive approval now. Furthermore, the development has actively and conscientiously pursued the implementation of the development approval. Officers therefore recommended approval of the application for the amendment of the date as per the attached Responsible Authority Report in **attachment 1**.



Attachments (available under separate cover)

6.2 - attachment 1 - Responsible Authority Report (E23/434)

6.2 - attachment 2 - Initial Approval (E22/7463)

6.2 - attachment 3 - Application Details (E23/432)

6.2 - attachment 4 - Summary of Submissions (E23/7)

6.2 - attachment 5 - Clause 67 Checklist (E23/433)

Alignment with our Strategic Community Plan

| | |
|-----------------------|--|
| Outcome 3.1 | A commercially diverse and prosperous economy |
| Strategy 3.1.1 | Actively support new and existing local businesses within the district. |
| Outcome 4.2 | A strategically focused Council |
| Strategy 4.2.1 | Build and promote strategic relationships in the Shire's interest. |
| Strategy 4.2.2 | Ensure appropriate long term strategic and operational planning is undertaken and considered when making decisions |
| Strategy 4.2.3 | Provide clear strategic direction to the administration |

Financial Implications

Nil

Risk Implications

Risk has been assessed on the Officer Options and Implications:

| Officer Option | Risk Description | Controls | Principal Consequence Category | Risk Assessment | | | Risk Mitigation Strategies (to further lower the risk rating if required) |
|----------------|---|--|--------------------------------|-----------------|-------------|-------------|---|
| | | | | Likelihood | Consequence | Risk Rating | |
| 1 | Council endorsing the RAR recommending approval of the application. | This recommendation represents the lowest strategic risk to the Shire. | | | | | |
| 2 | Council endorsing the RAR recommending refusal. | Planning Framework | Reputation | Possible | Moderate | MODERATE | A clear explanation for the decision to assist the DAP in considering the matter. |



Voting Requirements: Simple Majority

Officer Recommendation

That Council RESOLVES the following Responsible Authority Report Recommendation:

That the Metro Outer Joint Development Assessment Panel:

- 1. Resolves to ACCEPT that the DAP Application DAP16/10167 as detailed on the DAP Form 2 dated 19 December 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*.**
- 2. APPROVES DAP Application DAP16/10167 and accompanying plans in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the *Shire of Serpentine Jarrahdale Town Planning Scheme No.2* for the proposed amendment the approved 'Use Not Listed' (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford as follows:**
 - 1. *The development hereby approved must be substantially commenced by 7 June 2023.***
- 3. All other Conditions and requirements detailed on the previous approval dated 7 December 2016 shall remain unless altered by this application.**



- 7. Motions of which notice has been given:**
- 8. Urgent business:**
- 9. Closure:**