



Shire of Harvey

**DEVELOPMENT
SERVICES COMMITTEE
AGENDA**

28th May 2019

SHIRE OF HARVEY

DEVELOPMENT SERVICES COMMITTEE MEETING

Dear Councillor,

Notice is hereby given that the next meeting of the Development Services Committee will be held on Tuesday, 28th May 2019, in the Council Chamber, Mulgara Street, Australind, commencing at 4:00p.m.

The business to be transacted is shown in the Agenda hereunder.

Yours faithfully,



ANNIE RIORDAN
CHIEF EXECUTIVE OFFICER

24th May 2019.

A G E N D A

1. **OFFICIAL OPENING**

2. **RECORD OF APOLOGIES**
Cr. Lovitt has an Approved Leave of Absence.

3. **DECLARATIONS OF MEMBERS' AND OFFICERS' PERSONAL INTEREST**

4. **RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

5. **PUBLIC QUESTION TIME**

6. **PETITIONS/DEPUTATIONS/PRESENTATIONS/SUBMISSIONS**

7. CONFIRMATION OF PREVIOUS MINUTES**7.1 DEVELOPMENT SERVICES COMMITTEE MEETING – Tuesday, 7th May 2019.**

That the Minutes of the meeting held on Tuesday, 7th May 2019, be confirmed.

RECOMMENDATION

That the Minutes of the Meeting, held on Tuesday, 7th May 2019, as printed be confirmed as a true and correct record.

8. REPORTS OF OFFICERS**8.1 PLANNING REPORT**

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|-------|---|----|
| 8.1.1 | Greater Bunbury Region Scheme Amendment 0053/57 – Omnibus No.5 – Anomalies Amendment - Western Australian Planning Commission - Lot 4 (R34811) Swamp Road, Pt Lot 5 and Pt Lot 6 Campbell Road, Benger (Benger Swamp area) (PS/T/002) | 4 |
| 8.1.2 | Finalisation of Proposed 'Standard' Scheme Amendment No.123 Harvey Bowling Club - Lot 1 (No. 106) Young Street, Harvey (A001857 P24/19) | 7 |
| 8.1.3 | Finalisation of Proposed 'Standard' Scheme Amendment No. 120 - Megara (on Behalf of Treendale Central Pty Ltd) - Lot 1 (No. 157) Grand Entrance Australind (P001120) | 12 |
| 8.1.4 | Proposed Amendment No. 124 (Additional Use 16) to District Planning Scheme No. 1 - Taylor Burrell Barnett for Treendale Central Pty Ltd - Lot 9600 (Formerly Pt Lot 9508) Ditchingham Place, Australind (P001124) | 19 |

8.2 BUILDING REPORT

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| 8.2.1 | Building Permit Applications Received – Building Permits Issued – April 2019 - Shire of Harvey (BSR017) | 35 |
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9. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**10. MATTERS BEHIND CLOSED DOORS****11. CLOSURE OF MEETING**

8. REPORTS OF OFFICERS

8.1 PLANNING REPORT

Item No.	8.1.1
Subject:	Greater Bunbury Region Scheme Amendment 0053/57 – Omnibus No.5 – Anomalies Amendment
Proponent:	Western Australian Planning Commission
Location:	Lot 4 (R34811) Swamp Road, Pt Lot 5 and Pt Lot 6 Campbell Road, Benger (Benger Swamp area)
Reporting Officer:	Planning Officer (AR)
File No.:	PS/T/002 Attachment Reg. 19/12848

Summary

Council has been requested by the Western Australian Planning Commission (WAPC) to comment on Amendment No. 0053/57 to the Greater Bunbury Region Scheme (GBRS) (refer **Attachment 1** Report). The proposed Amendment includes land within the City of Bunbury and the Shires of Dardanup and Harvey.

This amendment contains 21 separate proposals in the City of Bunbury and the Shires of Dardanup and Harvey, all of which are of a minor nature.

In relation to the land within the Shire of Harvey, the proposals are to realign the interface of the 'Regional Open Space' reservation and the 'Rural' zone surrounding the southern side of the Benger Swamp.

The revised boundaries are proposed to reflect the existing lot boundaries, property use and ownership.

It is recommended that Council advise the WAPC that it has no objections to the proposed Amendment.

Background

The GBRS is a Regional Scheme that covers the area occupied by the Shires of Harvey, Dardanup, Capel and the City of Bunbury and is administered by the WAPC.

The objective of this amendment is to update zones and reservations in the GBRS locality in relation to government and landowner proposal, rationalisation of zoning and reservation anomalies to match cadastral boundaries and generally to ensure the GBRS is kept up-to-date as the statutory region plan for Greater Bunbury.

The former Department of Conservation and Land Management completed a Benger Swamp boundary alignment rationalisation and this amendment proposal reflects this.

Amendment 0053/57 contains 21 separate proposals, four (Proposals 18 – 21) of which are within the Shire of Harvey (refer **Attachment 2**).

The three landholdings within the Shire of Harvey affected by this Amendment are:

- Lot 4 Swamp Road, Benger (R34811), which is primarily reserved for Regional Open Space, and is also identified as a 'Place of Landscape Value (L4)' within the Shire of Harvey District Planning Scheme No.1 (Scheme), which is consistent with the reservation under the GBRS.
- Lots 5 and 6 Campbell Road, Benger are freehold landholdings zoned 'General Farming' and identified as 'Place of Landscape Value (L4)' within the Scheme, which is consistent with the 'Rural' zone of the GBRS.
- The northern portion of Lot 5 and eastern boundary of Lot 6 have been reserved for Regional Open Space under the Scheme, which is inconsistent with the predominant zone and use of the two landholdings.

Proposal 18 – Pt Lot 6 Campbell Road, Benger

Proposal 18 relates to the northern portion of Lot 6 Campbell Road, Benger. Amendment 0053/57 proposes to rezone this portion of land from the 'Regional Open Space' reservation to the 'Rural' zone under the GBRS to reflect the existing lot boundary, property ownership and use of the land.

Proposal 19 – Pt Lot 4 Swamp Road, Benger

Proposal 19 relates to the eastern portion of Lot 4 Swamp Road, Benger. Amendment 0053/57 proposes to rezone this portion of land from the 'Rural' zone to the 'Regional Open Space' reserve under the GBRS to reflect the existing lot boundary, property ownership and use of the land.

Proposal 20 – Pt Lot 5 Campbell Road, Benger

Proposal 20 relates to the eastern portion of Lot 5 Campbell Road, Benger. Amendment 0053/57 proposes to rezone this portion of land from the 'Regional Open Space' reservation to the 'Rural' zone under the GBRS to reflect the existing lot boundary, property ownership and use of the land.

Proposal 21 – Pt Lot 4 Swamp Road, Benger

Proposal 21 relates to the south and south eastern portion of Lot 4 Swamp Road, Benger. Amendment 0053/57 proposes to rezone this portion of land from the 'Rural' zone to the 'Regional Open Space' reserve under the GBRS to reflect the existing lot boundary, property ownership and use of the land.

Comment

A review of the properties affected by Amendment 0053/57 indicate that the current land ownership and uses are consistent with the changes proposed by this Amendment.

The Scheme will require amendment as the zones within the Scheme are required to reflect the current zones of the GBRS. This would be considered a Basic Amendment.

Statutory/Policy Environment

Planning and Development Act 2005

Section 35 (Commission may resolve to prepare or amend region planning scheme) makes provision for the Commission (subject to Section 36) to resolve to prepare a region planning scheme or an amendment to a region planning scheme.

Greater Bunbury Region Scheme

Clauses 9 and 10 provides detail for land reserved under the GBRS. Land reserved for 'Regional Open Space' is provided to:

'to protect the natural environment, provide recreational opportunities, safeguard important landscapes and provide for public access;'

Clauses 11 and 12 provides detail for land zoned under the GBRS. Land zoned for 'Rural' purposes is:

'to provide for the sustainable use of land for agriculture, assist in the conservation and wise use of natural resources including water, flora, fauna and minerals, provide a distinctive rural landscape setting for the urban areas and accommodate carefully planned rural living developments;'

All landholdings subject to Amendment 0053/57, Proposals 18-21 are located on GBRS Map Sheet 10.

Strategic Framework

Within the Shire's Strategic Community Plan 2017 - 2027, Strategies 2.3.1 and 2.7.1 state:-

2.3.1 *Continue to implement integrated environmental, social and land use planning which will:*

- *Minimise land use conflict;*
- *Protect valuable agricultural land for food production; and*
- *Protect significant vegetation, where possible*

2.7.1 *Improve controlled access to all of our water bodies, forests and reserves in partnership with the relevant agencies*

Budget Implications

Nil.

Risk Management

The Risk Theme Profile identified as part of this report is **Failure to fulfil Compliance requirements**. The Consequence could be Reputational if inaccurate advice is provided. The Risk is mitigated by the report being thoroughly researched, peer reviewed and provided by a qualified Shire Officer, resulting in LOW Risk being present.

Officer's Recommendation

That Council advises the Western Australian Planning Commission that it has no objections to the proposed Greater Bunbury Region Scheme Amendment 0053/57 – Omnibus No.5 – Anomalies Amendment as it relates to:

1. Proposal 18 – Pt Lot 6 Campbell Road, Benger, rezoning this portion of land from the 'Regional Open Space' reservation to the 'Rural' zone.
2. Proposal 19 – Pt Lot 4 Swamp Road, Benger, rezoning this portion of land from the 'Rural' zone to the 'Regional Open Space' reserve.

3. Proposal 20 – Pt Lot 5 Campbell Road, Benger, rezoning this portion of land from the 'Regional Open Space' reservation to the 'Rural' zone.
4. Proposal 21– Pt Lot 4 Swamp Road, Benger, rezoning this portion of land from the 'Rural' zone to the 'Regional Open Space' reserve.

Item No.	8.1.2
Subject:	Finalisation of Proposed 'Standard' Scheme Amendment No.123
Proponent:	Harvey Bowling Club
Location:	Lot 1 (No. 106) Young Street, Harvey
Reporting Officer:	Planning Officer (AR)
File No.:	A001857 P24/19
	Attachment Reg. 18/50516

Summary

At its meeting on 11th December 2018, Council resolved to initiate Amendment No.123 to amend Schedule 7 – *Schedule of Additional Uses* of the Shire of Harvey District Planning Scheme No.1 to include 'Additional Use No.17 (A17)' for a 'Betting Agency' land use into the Only Use Permitted column for Lot 1 Young Street, Harvey.

The proposal was referred to the Environmental Protection Authority (EPA) for comment, where it was determined that the proposed Amendment should not be assessed by the EPA. The Shire proceeded with public advertising for a period of 42 days. During this period, 27 submissions were received relating to the proposal, of which five (5) objections were recorded.

It is recommended that Council adopts the 'Standard' Amendment for final approval subject to minor amendments to that which was advertised in response to submissions received during the advertising period.

Background

At its meeting on 11th December 2018, Council resolved to initiate Amendment No.123 to amend Schedule 7 – *Schedule of Additional Uses* of the Scheme to include 'Additional Use No.17 (A17)' to include a 'Betting Agency' land use into the Only Use Permitted column for Lot 1 Young Street, Harvey.

Council determined that the Amendment was a Standard Amendment, as defined in Part 5 Division 1, Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:

- a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.

The proposed Amendment was referred to the Environmental Protection Authority (EPA) on 26th February 2019 for comment. The EPA considered that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and that it was not necessary to provide any advice or recommendations.

Site Description

The subject land is formally described as Lot 1 Young Street, Harvey. It is located on the corner of Roy and Young Streets and is 10,103m² in area.

Site History

The site is owned freehold by the Harvey Road Board (Shire of Harvey), and is presently leased to the Harvey Bowling Club. The Club is a licenced facility under the *Liquor Control Act 1988* and offers beverages and meals to club members.

Proposed Scheme Amendment

The Scheme Amendment proposes to amend Schedule 7 – *Schedule of Additional Uses* of the Shire of Harvey District Planning Scheme No.1 (Scheme) to include ‘Additional Use No.17 (A17)’ to include a ‘Betting Agency’ land use into the Only Use Permitted column for Lot 1 Young Street, Harvey. (**Attachment 1**)

The Amendment proposes to introduce the use ‘Betting Agency’ as an Additional Use to ensure that the proposed use is considered a permitted use for Lot 1 Young Street, Harvey only and not all landholdings zoned ‘Special Use – Other Community’ under the Scheme.

Advertising

Council’s resolution included that, following receipt of comments from the EPA, the Amendment could then be advertised for a period of 42 days, in accordance with Regulation 47, in Part 5 Division 3 of the Planning and Development (Local Planning Schemes) Regulations 2015. The proposed Amendment was advertised to affected landowners and the general public for a period of 45 days between 26th March 2019 and 9th May 2019.

A total of 27 submissions were received, of which 21 were supportive, 1 (one) neutral and 5 (five) objecting to the proposal. A summary of the submissions and Staff comment is included within **Attachment 2**.

Comment

As evidenced by the submissions received, the main concern is the proximity to, and interface with the primary school. In a direct line, the distance between the current TAB and the bowling club is not dissimilar, however, staff acknowledge the school oval is immediately adjoining the bowling club land. To this effect, limiting access to Young Street only via fencing is recommended and can be required as part of the Development Application process.

The management of patrons will be the sole responsibility of the Harvey Bowling Club.

Staff are supportive of the request by the proponent to establish Additional Use No.17 (A17) on the subject site, to include the land use ‘Betting Agency’.

Following closure of the advertising period, the following modifications are proposed for the “Permitted Use” column of Schedule 7, Additional No.17:

- Preparation of a Development Application
- Implementation of Development Requirements:
 - Minimum Car Parking spaces of 1 bay/20m² of NLA

It is therefore recommended that Council adopts Scheme Amendment No. 123 for final approval with modifications.

Additionally the current lease between the Shire and the Bowling Club will need to be updated to include 'Betting Agency' within Item 9 of Schedule. Upon gazettal of this Amendment it is recommended that the current Lease be amended accordingly and Recommendation 4 to this report provides the Delegation for Staff to carry out that update.

Statutory/Policy Environment

Planning and Development (Local Planning Schemes) Regulations 2015

Division 3 – Process for standard amendments to local planning scheme

Clause 47 – Advertisement of standard amendment

- “(1) *Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as reasonably practicable, prepare a notice in a form approved by the Commission giving details of –*
- a) the purpose of the amendment; and*
 - b) where the amendment may be inspected; and*
 - c) to whom and during what period submissions in respect of the amendment may be made.*
- (2) *On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows –*
- a) publish the notice in a newspaper circulating in the scheme area;*
 - b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;*
 - c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;*
 - d) publish a copy of the notice and the amendment on the website of the local government;*
 - e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.*
- (3) *The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government*
- (4) *The period for submissions set out in the notice must be not less than a period of 42 days commencing on the day on which the notice is published in a newspaper circulating the scheme area.”*

50. Consideration of submissions on standard amendments

- “(1) *In this regulation –*
- Consideration period, in relation to a standard amendment to a local planning scheme, means the period ending on the latest of the following days –*
- a) the day that is 60 days after the end of the submission period for the amendment;*
 - b) the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;*

- c) *the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs a) and b);*
- d) *a day approved by the Commission:*

submission period, in relation to a standard amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 47(1).

53. Information on standard amendment to be provided in the Commission

- “(1) After passing a resolution under regulation 50(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following –*
 - a) a schedule of submissions made on the amendment;*
 - b) the response of the local government in respect of the submissions;*
 - c) particulars of each modification to the amendment proposed by the local government in response to the submissions;*
 - d) if any proposed modification to the amendment was advertised –*
 - i. an explanation of the reasons for advertising the modification; and*
 - ii. particulars of how the modification was advertised; and*
 - iii. a schedule of submissions made on the proposed modifications; and*
 - iv. the recommendation of the local government in accordance with regulation 51(7)(c) in respect of each submission;*
 - e) a copy of the resolution passed under regulation 50(3)(c)*
 - f) if that resolution was a resolution under regulation 50(3)(c) – – a summary of the reasons why the local government does not support the amendment;*
 - g) details of any provision in the local planning scheme that varies or excludes a provision set out in Schedule 1;*
 - h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;*
 - i) any relevant maps, plans, specifications and particulars required by the Commission.*
- (2) The schedule of submissions referred to in sub-regulation (1)(a) and (d)(iii) must include the following –*
 - a) the name and address of the person making the submission;*
 - b) where it is relevant, a description of the property that is the subject of the submission;*
 - c) the submission or a summary of the submission.*
- (3) The documents referred to in sub-regulation (1) must be provided to the Commission -*
 - a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme – within 21 days of passing the resolution; or*
 - b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications –*

- i. if the local government decides not to advertise the proposed modification – within 21 days of passing the resolution; or
- ii. otherwise – within 21 days of complying with regulation 51(7);
or
- c) if the Commission in any case approves a longer period – *within that longer period.*”

55. Commission to submit standard amendment and recommendations to the Minister

“Unless the Commission makes a direction under regulation 54, the Commission must, within 60 days of receiving the documents provided to it under regulation 53(1), or within such longer period as the Minister or an authorised person allows –

- a) *consider the documents; and*
- b) *make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and*
- c) *submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.*”

Strategic Framework

Within the Shire’s Strategic Community Plan 2017 – 2027, Strategies 2.3.1, 3.1.3 and 3.5.2 state:

2.3.1 *“Continue to implement integrated environmental, social and land use planning which will:*

- *minimise land use conflict.*”

3.1.3 *“Continue to provide facilities and services to support local community organisations.”*

3.5.2 *“Provide a planning framework that accommodates diverse living and commercial opportunities.”*

Budget Implications

Nil.

Risk Management

The Risk Theme Profile identified as part of this report is ***Providing Inaccurate Advice/Information***. The Consequence could be **Financial, Reputational or Compliance** if incorrect advice is given or a condition missed. The Risk is mitigated by the report being thoroughly researched, peer reviewed and provided by a qualified Shire Officer, resulting in LOW Risk being present.

Officer’s Recommendation

That Council:

1. In accordance with Clause 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received during the public advertising period of Amendment No. 123 to District Planning Scheme No.1;

2. In accordance with Clause 50(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, adopts Amendment No.123 to District Planning Scheme No.1 for final approval subject to the following modifications:

No.	Modification	Reason
1.	The landowner/developer is required to prepare and submit an Application for Development Approval to the Shire of Harvey for the proposed TAB Facilities and upgrades to the Harvey Bowling Club.	An Application for Development Approval is required by the Shire of Harvey to address the specific requirements for the upgrades to the Club and installation of the TAB Facilities.
2.	Development Requirements: <ul style="list-style-type: none"> • Minimum Car Parking spaces of 1 bay/20m² of NLA 	With the likely increase in patrons to the Harvey Bowling Club, it is pertinent to formalise the car parking facilities. Car parking requirements in relation to a 'Betting Agency' is left to the discretion of the Local Government under the Shire of Harvey District Planning Scheme No.1

3. In accordance with Clause 53 of the Planning and Development (Local Planning Schemes) Regulations 2015, refers the Scheme Amendment to the Western Australian Planning Commission with a recommendation that final approval be granted pursuant to Clause 55 of the Planning and Development (Local Planning Schemes) Regulations 2015 subject to the above modifications being undertaken.
4. Following gazettal of Amendment No. 123 to District Planning Scheme No.1, the existing Lease between the Shire of Harvey and the Harvey Bowling Club be amended accordingly.
5. Authorises the Chief Executive Officer and Shire President to sign and seal the amended lease document.

Item No.	8.1.3	
Subject:	Finalisation of Proposed 'Standard' Scheme Amendment No. 120	
Proponent:	Megara (on Behalf of Treendale Central Pty Ltd)	
Location:	Lot 1 (No. 157) Grand Entrance Australind	
Reporting Officer:	Planning Officer (KB/IF)	
File No.:	P001120	Reg: 18/42233

Summary

At its meeting held on 4th December 2018, Council resolved to initiate Scheme Amendment No.120, to amend Schedule 7- *Schedule of Additional Uses* of the Shire of Harvey District Planning Scheme No.1 to include 'Fast Food Outlet' (drive-through coffee shop only) under Additional Use No.15 (A15), in addition to the land uses already permitted in A10, for a portion of Lot 1 (No. 157) Grand Entrance, Australind (formerly Lot 9508 Ditchingham Place) (**Attachment 1**).

The proposal has since been referred to the Environmental Protection Authority (EPA) in accordance with s.81 of the *Planning and Development Act 2005*. The EPA responded that the proposal should not be assessed under s.48C (1)(a) of the *Environmental Protection Act 1986*. The proposal was then advertised for a period of 42 days in the manner set out within r.47 (2) of the Planning and Development (Local Planning Schemes) Regulations 2015. During this period, two (2) public authorities submitted responses and no public submissions were received. It is recommended that Council supports the proposed Standard Amendment without modification.

Background

Site Description

The proposed Scheme Amendment is relating to a portion of Lot 1 (No. 157) Grand Entrance, Australind. The subject site is an 8.4532ha parcel of land, bound by Ditchingham Place to the north, Grand Entrance to the south and east of the Treendale town centre.

The subject site is zoned "Urban" under the Greater Bunbury Region Scheme (GBRS), also adjoining the "Primary Regional Road Reservation" referencing the Forrest Highway. Under the Shire of Harvey's District Planning Scheme No.1 (Scheme), the Lot is zoned "Other Commercial-Showroom", with Additional Uses also applying to the site (as per Schedule 7-Additional Use 10 of the Scheme).

Under the current Scheme, Zoning and Development Tables 14 and 15 provide for the permissible and discretionary uses on land zoned 'Other Commercial-Showroom'. Possible uses in this zone include retail, office, health, recreation and other commercial land uses, although 'Fast Food Outlet' is considered a use that is not permitted on the subject site.

Proposed Additional Use No.15 is a spatially defined portion of Lot 1 Grand Entrance, which is approximately 1,314m² in area that does not form part of the service station on site.

Site History

Formerly Lot 9508 Ditchingham Place, Treendale, the subject site is under the ownership of Treendale Central Pty Ltd and is now described as Lot 1 on Deposited Plan 415341.

Previous Scheme Amendment No.90 (gazetted in 2013) refers to Additional Use No.10 (A10) and No.11 (A11) being added into the Scheme, enabling a wider range of land uses to be available for the subject site and adjoining land. Schedule 7 of the Scheme contains a *Schedule of Additional Uses*, the following are relevant to the subject site and adjoining land:

Additional Use 10 (subject site)

- Factory Unit Building
- Community Purpose
- Motor Vehicle Repair Station
- Car Wash
- Civic Use
- Public Purpose
- Educational Establishment
- Produce Market

Additional Use 11 (adjoining land)

- Eating House
- Fast Food Outlet
- Educational Establishment

'Fast Food Outlet' has been defined in the Scheme, but is a 'not permitted' use within the 'Other Commercial-Showroom' zone. 'Fast Food Outlet' is also not listed as an Additional Use No.10, which relates directly to Lot 9508. Important to be noted is that 'Fast Food Outlet' is included within Additional Use No.11, which relates to adjoining land.

Proposed Amendment

The proposal for Scheme Amendment No.120 relates to amending Schedule 7- *Schedule of Additional Uses* of Scheme to include 'Fast Food Outlet' (drive-through coffee shop only) under Additional Use No.15 (A15), in addition to the land uses already permitted in A10 (refer **Attachment 2**).

The land is currently located within A10 and does not seek to reduce the current level of Additional Uses allowed under A10. This proposal indicates that a new Additional Use (A15) will be spatially defined to include a portion of Lot 1 on land that is required to develop the drive-through coffee shop, instead of adding the land use 'Fast Food Outlet' (drive-through coffee shop only)' to the permitted uses of the entire area of A10 to prevent the prevalence of fast food outlets allowed in the Eastern Precinct in the future.

Advertising

At its meeting held on 4th December 2018, Council resolved to adopt the Officer's Recommendation to initiate Amendment No. 120 to the Scheme over (former) Lot 9508 Ditchingham Place, Australind. Council further supported the Officer's Recommendation, relating to the proposal being treated as a Standard Amendment, as defined in Part 5 Division 1, Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:

- a) An amendment relating to a zone or reserve that is consistent with the objectives identified in the Scheme for that zone or reserve.

The proposed Amendment was referred to the EPA on 8th February 2019 for comment. The EPA considered that the proposed scheme amendment should not be assessed under Part IV Division 3 of the *Environmental Protection Act 1986* (EP Act) and that it is not necessary to provide any advice or recommendations.

Council's resolution included that, following receipt of comments from the EPA, the Amendment could then be advertised for a period of 42 days, in accordance with Regulation 47, in Part 5 Division 3 of the Planning and Development (Local Planning Schemes) Regulations 2015. The table below provides a summary of submissions received during the advertising period:

Submitter	Submission	Staff Comments
Main Roads Western Australia (MRWA)	Main Roads has advised that there are no objections to the proposed scheme amendment subject to the following: <ul style="list-style-type: none"> - The proponent should be advised that Main Roads will not support access from the site to Grand Entrance Road (Interim Access Road). - Access will need to be obtained through the subject site, either internal driveways or local roads. - Main Roads currently has a road widening requirement from the subject land for future grade separated interchange with Grand Entrance/ Raymond Road and the Forrest Highway. 	No additional access will likely be supported for any proposed development arising from lot that is the subject of this Scheme Amendment. All access will be via the existing access to Lot 1.
Department of Water and Environmental Regulation (DWER)	No comment	N/A

Comment

Staff are supportive of the request by the proponent to establish Additional Use No. 15 (A15) on the subject site, to include the land use “Fast Food Outlet’ (drive-through coffee shop only)’.

It is therefore recommended that Council adopts Scheme Amendment No. 120 without modification for final approval.

Statutory/Policy Environment

Planning and Development (Local Planning Schemes) Regulations 2015

Division 3 – Process for standard amendments to local planning scheme

Clause 47 - Advertisement of standard amendment

- “(1) *Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of—*
- (a) *the purpose of the amendment; and*
 - (b) *where the amendment may be inspected; and*
 - (c) *to whom and during what period submissions in respect of the amendment may be made.*

- (2) *On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows —*
 - (a) *publish the notice in a newspaper circulating in the scheme area;*
 - (b) *display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;*
 - (c) *give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;*
 - (d) *publish a copy of the notice and the amendment on the website of the local government;*
 - (e) *advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.*
- (3) *The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.*
- (4) *The period for submissions set out in a notice must be not less than a period of 42 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.”*

50. Consideration of submissions on standard amendments

- “(1) *In this regulation —*
- consideration period**, *in relation to a standard amendment to a local planning scheme, means the period ending on the latest of the following days —*
- (a) *the day that is 60 days after the end of the submission period for the amendment;*
 - (b) *the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48F(2)(a) of the EP Act;*
 - (c) *the day that is 21 days after the receipt of a statement in respect of the amendment delivered under section 48G(3) of the EP Act if that statement is in response to a request by the local government made under section 48G(1) of the EP Act before the later of the days set out in paragraphs (a) and (b);*
 - (d) *a day approved by the Commission;*
- submission period**, *in relation to a standard amendment to a local planning scheme, means the period for making submissions specified in the notice in respect of the amendment referred to in regulation 47(1).*
- (2) *The local government —*
 - (a) *must consider all submissions in relation to a standard amendment to a local planning scheme lodged with the local government within the submission period; and*
 - (b) *may, at the discretion of the local government, consider submissions in relation to the amendment lodged after the end of the submission period but before the end of the consideration period.*
 - (3) *Before the end of the consideration period for a standard amendment to a local planning scheme, or a later date approved by the Commission, the local government must pass a resolution —*
 - (a) *to support the amendment without modification; or*
-

- (b) *to support the amendment with proposed modifications to address issues raised in the submissions; or*
- (c) *not to support the amendment.”*

53. Information on standard amendment to be provided to the Commission

- “(1) After passing a resolution under regulation 50(3) the local government must provide the advertised amendment to the local planning scheme to the Commission together with the following —*
- (a) a schedule of submissions made on the amendment;*
 - (b) the response of the local government in respect of the submissions;*
 - (c) particulars of each modification to the amendment proposed by the local government in response to the submissions;*
 - (d) if any proposed modification to the amendment was advertised —*
 - (i) an explanation of the reasons for advertising the modification; and*
 - (ii) particulars of how the modification was advertised; and*
 - (iii) a schedule of submissions made on the proposed modifications; and*
 - (iv) the recommendation of the local government in accordance with regulation 51(7)(c) in respect of each submission;*
 - (e) a copy of the resolution passed under regulation 50(3);*
 - (f) if that resolution was a resolution under regulation 50(3)(c) — a summary of the reasons why the local government does not support the amendment;*
 - (g) details of any provision in the local planning scheme that varies or excludes a provision set out in Schedule 1;*
 - (h) details of any provision in the local planning scheme as it will be amended that supplements a provision set out in Schedule 2;*
 - (i) any relevant maps, plans, specifications and particulars required by the Commission.*
- (2) The schedule of submissions referred to in subregulation (1)(a) and (d)(iii) must include the following —*
- (a) the name and address of the person making the submission;*
 - (b) where it is relevant, a description of the property that is the subject of the submission;*
 - (c) the submission or a summary of the submission.*
- (3) The documents referred to in subregulation (1) must be provided to the Commission —*
- (a) in the case of a resolution to support an amendment to a local planning scheme without modification or not to support an amendment to a local planning scheme — within 21 days of passing the resolution; or*
 - (b) in the case of a resolution to support an amendment to a local planning scheme with proposed modifications —*
 - (i) if the local government decides not to advertise the proposed modification — within 21 days of passing the resolution; or*
 - (ii) otherwise — within 21 days of complying with regulation 51(7); or*
 - (c) if the Commission in any case approves a longer period — within that longer period.”*
-

55. Commission to submit standard amendment and recommendations to Minister

“Unless the Commission makes a direction under regulation 54, the Commission must, within 60 days of receiving the documents provided to it under regulation 53(1), or within such longer period as the Minister or an authorised person allows —

- (a) consider the documents; and*
- (b) make any recommendations to the Minister in respect of the amendment that the Commission considers appropriate; and*
- (c) submit the documents and the recommendations to the Minister in accordance with section 87(1) of the Act.”*

Strategic Framework

Within the Shire’s Strategic Community Plan 2017 – 2027, Strategies 2.3.1 and 3.5.2 state:

2.3.1 *“Continue to implement integrated environmental, social and land use planning which will:*

- minimise land use conflict.”*

3.5.2 *“Provide a planning framework that accommodates diverse living and commercial opportunities.”*

Budget Implications

Nil.

Risk Management

The Risk Theme Profile identified as part of this report is ***Providing Inaccurate Advice/Information***. The Consequence could be **Financial or Reputational** if inaccurate advice or information is provided. The risk is mitigated by the report being thoroughly researched, peer reviewed and provided by a qualified Shire officer, resulting in LOW risk being present.

Officer’s Recommendation

That Council:

1. In accordance with Clause 50(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, notes the submissions received during the public advertising period of Amendment No. 120 to District Planning Scheme No. 1;
2. In accordance with Clause 53 of the Planning and Development (Local Planning Schemes) Regulations 2015, refers the Scheme Amendment to the Western Australian Planning Commission with a recommendation that final approval be granted pursuant to Clause 55 of the Planning and Development (Local Planning Schemes) Regulations 2015 without modification.

Item No.	8.1.4
Subject:	Proposed Amendment No. 124 (Additional Use 16) to District Planning Scheme No. 1
Proponent:	Taylor Burrell Barnett for Treendale Central Pty Ltd
Location:	Lot 9600 (Formerly Pt Lot 9508) Ditchingham Place, Australind
Reporting Officer:	Planning Officer (ND)
File No.:	P001124 Attachment Reg. No. 18/50753,19/13891

Summary

The Shire received a Scheme Amendment proposal for Lot 9600 (formerly part of Lot 9508) Ditchingham Place, Australind (refer **Attachment 1**) on 21st December 2018. The proposed Amendment (refer **Attachment 2**) seeks to allow for two (2) 'Additional Uses' to include 'Child Care' and 'Liquor Store – Large' land uses into the permitted use column of Schedule 7 of the Shire's District Planning Scheme No. 1 (Scheme) in addition to the uses already permitted in Additional Use 10 (A10).

The proposal was to be considered by the Development Services Committee on 5th February 2019 however it was withdrawn from the agenda at the request of the Applicant. Staff met with the Applicant following that withdrawal and agreed on the range of additional information to assist in addressing the concerns of Staff as detailed within the February agenda item. The agreed information was received from the Applicant on 12th April 2019 (refer **Attachment 3**) and comments from Staff on that additional information are provided within this report.

The additional information provided has been of benefit in the further assessment of the proposal from that contained within the February item. However, Staff again recommend that Council resolves not to adopt Amendment No. 124. It is considered that the proposed uses are adequately catered for, and more appropriately located, within the District and Local Centres. There is also a wide range of available land uses that can be located in the Treendale Commercial – Light Industrial Precinct (TCLIP) which are more suited to the zones' 'transitional' nature.

Background

Lot 9600 Ditchingham Place is located in the Treendale Estate area of Australind, bounded by Ditchingham Place to the north, Forrest Highway to the east, Grand Entrance to the south and Centaurus Avenue to the west (refer Figures 2 and 3 of the Amendment Report in **Attachment 2**). The subject site is zoned 'Other Commercial – Showroom' and forms part of the 'Commercial – Light Industrial Precinct Structure Plan Area' for Treendale.

Additional Use 10

Amendment No. 90, gazetted on 18th June 2013, included Lot 9508 in Additional Use 10 (A10) which introduced the permitted land uses of: Factory Unit Building, Community Purpose, Motor Vehicle Repair Station, Car Wash, Civic Use, Public Purpose, Educational Establishment and Produce Market. Amendment No. 90 made way for the introduction of the TCLIP Structure Plan which was approved by the Western Australian Planning Commission (WAPC) on 12th August 2013 (refer **Attachment 4**).

It is to be noted that the original proposal included a 'Light Industry' zone however this was not carried through to the final gazetted Amendment No. 90. Nevertheless, the term 'Light Industry' is still included in the structure plan title as many of the additional land uses implemented by Additional Use 10 are light industrial in nature.

Additional Use 15

At its meeting held on 11th December 2018, Council resolved to initiate Scheme Amendment No. 120 to facilitate the introduction of a "Fast Food Outlet (Drive Through Coffee Shop only)". Additional Use 15 (A15) is proposed to apply to a portion of Lot 1 (corner of Centaurus Avenue and Grand Entrance) recently created under WAPC Subdivision Approval 155389 and is approximately 1,314m² in area (refer **Attachment 5**).

Amendment No. 120 has recently been advertised and no objections to the proposal were received. The Amendment is included in this agenda to be considered for finalisation.

Proposed Amendment

The subject Amendment No. 124 is proposed to include Additional Use 16 (A16) for 'Child Care' and 'Liquor Store – Large' uses on the subject site by allowing them into the permitted use column of Schedule 7 (refer **Attachment 2** for the amendment report).

These land uses are to be considered in addition to the land uses specified in Tables 14 and 15 of the Scheme and all of the uses permitted in A10.

No specific lots or sites have been identified for the proposed additional uses at this time.

Note that in this report, the term "Child Care" is utilised for the most part which is consistent with the Scheme definition, whereas the term "Child Care Centre" is utilised in relation to the WAPC's bulletin 72/2009. For the intents and purpose of this report, both are taken to have the same meaning.

Comments

Comments – General

Over the last 15 months, Staff have had a number of discussions with the landowner, and more recently the Applicant, advising that Staff were not supportive of the proposed additional uses for the reasons outlined below.

Permissible & Discretionary Land Uses under the Existing Zoning

It is stated in the Executive Summary of the Applicant's report (refer **Attachment 2**) that:

"The overall development of the land is significantly encumbered by the very restrictive nature of the currently allowed additional uses, with no chance that the entire parcel could be built out solely with the land uses detailed in the additional use schedule and use class table. This is a therefore major impediment to commercial development and economic growth on site."

Staff disagree with this statement and are of the opinion that it is inconsistent with the provisions of the existing zoning which caters for a wide range of "transitional" (including retail uses) uses appropriate for the site's location between the industrial area and the District Centre.

The current zoning allows for a significant number of ‘Other Commercial’ land uses via the “Other Commercial – Showroom” zone which includes the following land uses:

Caretakers House	IP	Service Premises	AA
Office	AA	Recreation (Public)	P
Showroom	P	Public Amusement	P
Trade Display	P	Garden Centre	P
Warehouse	P	Health Centre	P
Car, Boat, Caravan and Machinery Sales	AA	Private Recreation	AA
Service Station	AA	Betting Agency	AA
Road House	AA	Car Sales Premises	P
Funeral Parlour	P	Consulting Rooms	AA
Nursery	P	Medical/Dental Clinic	AA
Car Park	IP	Market	AA

In addition to the above, there are also the following uses listed in Additional Use 10:

Factory Unit Building	P	Civic Use	P
Community Purpose	P	Public Purpose	P
Motor Vehicle Repair Station	P	Educational Establishment	P
Car Wash	P	Produce Market	P

P – Permitted Use
 AA - Discretionary Use
 IP - Incidental to Predominant Use

Also to be added to the above via Amendment No. 120 in a specific area immediately east of the Service Station Site is:

Fast Food Outlet (Drive Through Coffee Shop only) P

It can be seen from the above that the land uses available to the site are quite comprehensive, diverse and more numerous than those provided in a standard “Other-Commercial – Showroom” zone.

The land use, “Showroom” does provide for a wide range of retail items, specifically the definition states “...sell by wholesale or retail or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature”.

This definition was introduced into the Scheme in July 2013 via Amendment 90. Prior to that the definition read as:

“a building wherein goods are displayed and may be offered for sale by wholesale and/or by retail excluding the sale by retail of: foodstuffs, liquor or beverages; items of clothing or apparel, magazines, books or paper products; medical or pharmaceutical products; china, glassware or domestic hardware; and items of personal adornment”.

As evidenced by Amendment 90, the sale of liquor from this lot was removed.

Comments – Child Care

Current Provision of Child Care Facilities in the Area

Within the District Centre, there is vacant child care centre and (380m to the west from the subject site) and a child care centre at the Treendale Local Centre (Brilliant Beginnings - 950m to the south west). Nearby is Riverlinks Child Care Centre, being about 1.6km to the north west of the site, near the Australind Police Station.

The Applicant includes the following statement in the Executive Summary of their report:

“The inclusion of a Child Care site within a type of commercial zoning and location is consistent with the WAPC’s Planning Bulletin related to Child Care centres and EPA guidance statement.”

This Statement is at variance with the WAPC Planning Bulletin 72/2009 (PB) – Child Care Centres (refer **Attachment 6**) for the reasons given below.

Clause 3.2, objective c) of the PB, relates to minimising the impact the surrounds may have on a child care centre; and d) of the PB, emphasises the consideration of health and safety for the children. Relevant to both of these issues, there are concerns regarding the nearby/adjacent commercial/industrial uses if the child care is to be located within an area of a ‘service commercial’ nature:

- Commercial and industrial traffic within close proximity to the centre; and
- Concerns regarding crossing roads given there will be significant a number of trucks, trailers and heavy traffic coming from the industrial area to utilise the fuel station.

Clause 3.3 of the PB, refers to the location of children care centres. It is considered that the proposal is mostly inconsistent with criteria a), b), c), d) e), i), m) and n). Most notably c), whereby the surrounds of a light industrial style of area will have a detrimental impact on the child care centre.

The additional information requested by Staff in regard to the Child Care Centre was the provision of an Environmental Report addressing the Separation Distances to the industrial land uses to the north. A brief report has been provided along with evidence that some child care centres elsewhere are within close proximity to industrial/commercial land uses. A more comprehensive report is offered at the Development Application stage.

The Additional Information from the Applicant is contained within **Attachment 3** and summarised as follows:

- It is proposed to include a traffic assessment as a requirement of the rezoning amendment to add the Child Care as a Land Use (refer p2 of **Attachment 3**).
- The subject site is located within a precinct where the range of uses permitted will create significant demand for child care services and provides a convenient service for the community working in the locality and visiting the range of community uses also permitted in the locality and will cater for the additional population likely to be travelling to and from the site as it continues to be developed in accordance with the Structure Plan (Table 2i).
- Given the Child Care centre is a large format centre, intended to accommodate over 100 children, it requires a large building footprint, which is most suited to the subject site given it is unconstrained and available to be well designed and oriented and the site is of a sufficient size to cater for the necessary car parking, landscaping and indoor and outdoor play areas required to support the Child Care centre, as per the objectives of the underlying zoning (Table 2i).

- The Child Care shows consistency with many other land uses in the existing zoning (Table 2ii).
- A Child Care is not considered to be any different in terms of compatibility with the land uses identified by the Shire, compared to the range of other 'community-type uses' permitted on the subject site, including Educational Establishment and Health Centre (Table 2iii and viii).
- Notwithstanding this, proposed uses such as factory unit buildings should demonstrate compliance with specific criteria and guidelines to ensure they will not affect the amenity of nearby areas through emissions. This is especially relevant as the site is zoned 'Other Commercial – Showroom', as opposed to General or Light Industry.
- Any concerns relating to traffic generation and safety concern can be addressed at the Development Application stage, where the exact site location, development layout, and traffic and access arrangements have been confirmed. Furthermore, condition 2 is proposed to be included in the Scheme Amendment to ensure development applications for Child Care uses address site suitability from a traffic engineering / safety point of view (Table 2iii).
- The design and construction of the Child Care can incorporate methods to ameliorate any noise emissions which may have impact on the site (double glazed windows etc.) (Table 2iii).
- PB 72/2009 notes Child Care centres should be located by public transport only where available. Treendale and Australind have limited public transport connections, and it would be restrictive to limit Child Care centres only where they are serviced by public transport. To overcome this, sufficient car parking will be provided for in accordance with the Shire's specifications, which can be catered for due to the unconstrained land availability in this locality (Table 2iv).
- It is only the main north-south road which will cater for the majority of industrial traffic through the immediate area (Table 2vii).

Staff Comment on Additional Information:

In terms of the area having a large 'draw' on clientele due to the mixed uses in and around the location (re: Table 2i.) - this is agreed. Nevertheless, a child care centre on land already appropriately zoned within the District or Local Centres of nearby residential areas will also be in similar proximity to areas of high level activity and along with the advantage of a walkable catchment more pedestrian friendly environment to that within the commercial/industrial area.

The need for a 'large' site (second part of Table 2i) to accommodate the proposed child care centre is noted. However, the available land parcels within the both the Treendale District and Local Centres have proven adequate for the 2 (two) centres to date.

Whilst the proposed child care centre use could potentially be comparable with the existing permissible uses of Educational Establishment and Health Centre, these existing uses may not necessarily cater for young children which is the point of difference in the consideration of separation distances and compatible uses. This is also evident when giving consideration to the established uses currently within the TCLIP which are not uses generally associated with being located near a child care use. These established uses are:

- Bunnings Warehouse – Retail of hardware and gardening related goods.
- KFC – Fast Food outlet.
- Four automotive repair/tyre related service facilities (Tyrepower, Repco, Bridgestone and True Revolution Auto).
- Treendale Car Wash.
- Whitey's Tackle and Camping.

The first two (2) in the list above are high traffic generating land uses and the five (5) automotive uses are of a 'service' industrial nature, sometimes generating noise and fumes. The fishing and tackle store is not considered to have any impact in relation to a sensitive land use such as a child care centre.

Consideration of traffic safety and noise amelioration to be dealt with at the development application stage is noted. The additional information requested by Staff was to address the appropriateness of the use in this locality given the range of other uses which can be considered. However, the need to carry out such reports (traffic and environmental) do suggest that the area may not be appropriate for this land use. These matters did not need consideration at all and it is the nature of the proposed child care use within the TCLIP that triggers the need for these matters to be addressed. The nature of the site in the case with the existing child care site (Brilliant Beginnings) at the Local Centre in southern portion of Treendale did not have to consider these matters in their design as there is no significant issue in relation to traffic noise, fumes or any other undesirable impacts of land uses surrounding the facility.

In regard to public transport accessibility, it is to be noted that the two (2) approved sites in Treendale have ready access to public transport.

In terms of the main north-south road carrying the industrial traffic, there will be more trucks coming through the estate via the link to the central spine road which is to go through the existing and proposed Australind Light Industrial Estate area. The estate will become an area more open to industrial traffic from the north due to the link road expected to connect with the future road reserve already created for "Saltwood Drive" being the north-south spine road up through the future large area of industrial estate.

Other land uses already permissible in the TCILP should not have to be further compromised because of the introduction of another land use, especially a sensitive land use such as a child care centre.

Separation Distances to Industrial Land Uses (EPA Industry Buffer)

On Ditchingham Place, there are a number of industrial land uses that require separation from sensitive land uses. A child care centre is considered to be a sensitive land use under the EPA's Guidance Statement No. 3 (*Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses*). A sensitive land use is defined as:

"land use sensitive to emissions from industry and infrastructure. Sensitive land uses include residential development, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care facilities...." (excerpt from p11)

Ditchingham Place contains a concrete batching plant and cement products manufacturing works (Australind Premix, MJB Industries). The EPA's Guidance Statement recommends a default separation distance of 300m to 1km depending on the scale of these industrial uses.

The whole of Lot 9600 is located within 300m of the existing cement products manufacturing works (MJB Industries) and the north western portion of the lot is located within 300m of the existing concrete batching plant (Australind Premix).

The location of a child care centre within Lot 9600 is therefore clearly in conflict with the EPA's industrial buffer requirements.

Staff previously advised the landowner that if they proceeded with the proposed additional Child Care use, it would need to be supported by an environmental assessment report to determine potential impacts from the concrete batching plant and cement products manufacturing works. In response, the Applicant has provided in the initial submission:

"The potential for impact and the extent of any such influence (if there is deemed to be an off-site impact) can only be known through undertaking specific modelling based on the scale and design of the operation. It is logical that this is undertaken at the development application stage, when the location of the proposed use is known and the state of the batching plant can be assessed as at the time the use is proposed."

Previous discussions with the Applicant have requested an appropriate report to determine what an acceptable separation distance may be, thereby spatially defining if there are suitable locations within this to accommodate a child care centre. This has not been provided and it remains the Applicants preference for this level of detail to be provided at the Development Application stage. Staff disagree with the Applicant in this regard and consider that the subject Scheme Amendment is the most prudent time for the environmental assessment to be undertaken.

Additional Information from the Applicant (refer **Attachment 3** for full statement):

- The actual location of the concrete batching activities is more to the north west of the site, not directly north where there is the concrete manufacturing facility (shown diagrammatically in Figure 1 of the Additional Information report).
- The facilities are small scale, well managed, off site dust and noise is minimal with the main emissions being the concrete batching plant and raw material storage areas which are located to the rear of the concrete batching facility.
- Truck movements are no more than the nearby Treendale District Centre or Bunnings.
- The batching plant is not of a size or scale to need formal regulation by the Department of Water and Environmental Regulation and therefore has minimal impacts.
- Examples of Sensitive Land Uses located in proximity to Concrete Batching Facilities are provided.

- EPA's Guidance Statement No. 3 is considered to be 'other advice' by the EPA, and does not directly inform its environmental impact assessment decision making processes. Rather, the EPA have moved towards using a risk-based approach in determining suitable separation distances, based on the scale and nature of operation, as well as the facility management.

Staff Comment on Additional Information:

In the absence of a site specific environment impact assessment being provided, the EPA's Guidance Statement No. 3 is utilised as the prime guidance for separation distances between industrial and sensitive land uses. In addition, the WAPC's Draft State Planning Policy 4.1 – Industrial Interface (November 2017) states as follows:

"The EPA's Environmental Protection Guidance Statement No.3 Separation Distances Between Industrial and Sensitive Land Uses provides advice on which land uses require separation and recommends the appropriate separation distances ... the guidance also supports strategic and statutory land use planning and development decisions by planning authorities where proposed land uses have the potential to adversely impact on human health and amenity."

The advice provided by the Applicant's Environmental Consultant is acknowledged and concludes it is unlikely that a child care centre being located nearby to the existing concrete batching plant and/or the concrete manufacturing facility would be adversely affected by the existing operations. Staff remain concerned that this matter has not been satisfactorily addressed.

As evidenced by the additional information provided the Environmental Consultant has placed significant weight on the presence of other child care centres within the Perth metropolitan region being located in close proximity to concrete batching facilities. To accept the notion that similar facilities are coexisting as being a reason for approval, is not considered consistent with the principles of orderly and proper planning. Particularly without the demonstration of a sound basis for doing so.

Treendale Commercial – Light Industrial Structure Plan

The clear intent of this precinct was to provide for "transitional" land uses between the District Centre and the existing industrial areas to the north. The nature of the industrial land uses on the southern side of the existing light industrial area are more akin to general industry style uses, notably the Australind Premix concrete batching plant and MJB Industries cement products manufacturing works.

In section 4 Concept Development of the TCLIP Structure Plan document it is stated that:

"The concept plan depicts a complementary and integrated transition of land uses between "District Centre" uses on the western boundary and "Light Industrial" land to the north."

The proposed land use of 'Child Care' is currently catered for within the Treendale District Centre and the Treendale Local Centre, which have convenient proximity to services, transport and daily shopping needs. The function of the subject land as per the Structure Plan is to cater more for land uses that don't require being directly associated with services such as bulky goods showrooms, warehouses, automotive repair, car wash and hardware goods. A child care centre is more appropriate in or near retail, administrative services and the residential areas.

It is considered that the proposed child care centre would be inconsistent with the 'service commercial', bulky goods, transitional style of development that is more in line with the intent of the Structure Plan.

Comments – Liquor Store

Current Provision of Liquor Stores in the Treendale/Australind and Eaton Areas

There are no large format liquor stores currently in the Australind area. The nearest liquor store is the BWS at the southern side of the District Centre central complex. Existing liquor stores located in the older established Australind area to the west and the neighbouring Eaton areas include:

- Liquorland and Aldi at the Australind Village Shopping Centre;
- Collie Bridge Tavern bottleshop;
- Liquor Barons at the Eaton Caltex Service Station site;
- Eaton Tavern bottleshop; and
- BWS and Liquorland at the Eaton Fair Shopping Centre.

In general, the current provision of liquor stores is considered adequate. The eventual development of the Treendale Tavern site (directly west of the main shopping centre) will provide for another liquor sales outlet and a Liquor Licence has been conditionally granted for this site. Planning and design for the Treendale Tavern site is well underway with the proponents conducting a briefing with Council early May 2019.

The *Liquor Control Act 1988* was recently amended with some sections of the *Liquor Control Amendment Act 2018* not yet being implemented. The Act will be amended to include new provisions relating to the sale of packaged liquor. Section 36B proposes to the following:

“(4) The licensing authority must not grant an application to which this section applies unless satisfied that local packaged liquor requirements cannot reasonably be met by existing packaged liquor premises in the locality...” A packaged liquor premises includes a tavern and a liquor store. Distances and retail areas are proposed to be prescribed but these are currently unknown.

Therefore, it can be concluded that the establishment of liquor stores will be more restricted in the future through the liquor licensing legislation.

Report from the Curtin University Health Research Campus, 2015

It is considered that there should be some acknowledgement of this social/community based research which has implications on the community's overall health and safety and not just in land use related terms:

The report provides the following conclusions:

- *Supermarket-owned liquor stores, and particularly large-scale liquor barns dominate the alcohol sector in Australia and WA, and that they are expected to further increase their dominance of the market.*
- *Supermarket-owned liquor stores promote and sell a substantial range of discounted and low cost alcohol products.*

- *While we have particular concerns about liquor barns, the smaller convenience format liquor stores also contribute to alcohol-related risks in the community.*
- *Conversions to large liquor barns have resulted in increases in customers and likely increases in alcohol sales.*
- *Greater physical and economic availability of alcohol in the community is likely to result in greater alcohol consumption and potentially greater harms from alcohol.*
- *Greater alcohol sales in off-premise outlets - which are expected in large liquor barns due to their significant discounting, the large volume of alcohol available, and significant market share - have been linked to greater harms in the community, including injuries.”*

*Additional Information from the Applicant (refer **Attachment 3** for full statement):*

It is stated by the Applicant that it may be difficult to achieve a liquor licence within the precinct if more restrictive separation distances are to come into effect, regardless of the Shire's position. This came to notice following a report by Canford Hospitality Consultants. The full report is included in Appendix B of the Applicant's report.

Canford concludes that approval of a liquor store licence application is possible on the subject site, but only with development approval from the Shire.

In relation to the Curtin Health Research Campus report the Applicant considers:

“that planning decisions should not be made on the strength of such material. It should be based on well-considered policy, which should consider the broader suite of social, economic and environmental factors relevant to land use planning.”

Also it is stated that the matter regarding availability of alcohol to the community is dealt with in regard to the liquor licencing process.

The large format liquor store is similar in nature to the large format land uses permitted in the “Other Commercial – Showroom” zone being of a similar size, scale and nature.

The Applicant concludes, the large format liquor store is not suited to the District Centre as this is more for standard shop type land uses and residential uses where it is in a mixed use precinct. Apart from the supermarkets which are seen to be the main drawcard to the District Centre, other large format uses more appropriate in the showroom/warehouse/bulky goods type areas which exist on the fringes of the district centre area.

Staff Comment of Additional Information

Following deferral of the item in February, Staff requested that the Applicant investigate the likelihood of obtaining a Liquor Licence under the *Liquor Control Act 1988*. Whilst possible with the approval of Council, the ability to obtain a Licence will be more problematic following the introduction of the *Liquor Control Amendment Act 2018*. Staff's reasoning for this additional information was to determine if the proposed use would in fact be permitted following rezoning.

It is accepted that Planning based decisions should not be based on such issues as the validity of more liquor becoming available to the community. Planning decisions should, however, consider the overall health and wellbeing of the community (similar to the need to consider separation distances child care centres and industrial uses). A recent study concluded that:

“In 2017–18, 952 publicly-funded alcohol and other drug treatment services provided just under 210,000 treatment episodes to an estimated 130,000 clients. The four most common drugs that led clients to seek treatment were alcohol (34% of all treatment episodes), amphetamines (25%), cannabis (21%) and heroin (5%).” *Australian Institute of Health and Welfare, 17 April 2019.*

From the above it is evident that the presence and acceptance of alcohol has significant impact on our community’s health and wellbeing.

Staff acknowledge that a ‘large format’ liquor store is not dissimilar to other retailing opportunities (...*automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances...*) available under the definition of a ‘showroom’. However, as evidenced above the sale of liquor is a separately defined and assessed use to any other retail item.

In 2013, the Shire supported an amendment (Amendment 90) to preclude liquor from the definition of ‘showroom’, and in doing so recognising that a liquor store essentially relates to a retail based product more akin to day to day convenience goods (regardless of the size of the building it operates from) which are more appropriately located in a district centre such as Treendale. The Treendale District Centre is yet to be fully developed and Staff are of the opinion that a large format liquor store can be accommodated within the available land.

Conclusion

Child Care

Given the analysis above of the proposal and additional comments from the Applicant, Staff are still of the opinion that it is not appropriate to locate the child care centre within the TCLIP. The proposed additional ‘Child Care’ use is considered inconsistent with the WAPC’s Planning Bulletin 72/2009 in that it is incompatible with the majority of land uses permissible in the precinct.

The site is not considered suitable from a traffic engineering/safety point of view given the large amount of semi commercial and industrial traffic that will be within and around the subject site.

To accept the notion that similar facilities are coexisting as being a reason for approval, is not considered consistent with the principles of orderly and proper planning. Particularly without the demonstration of a sound basis for doing so.

Liquor Store

The proposed additional use Liquor Store – Large Format should not be supported on the basis that these additional uses would detract from the transitional nature of the TCLIP Structure Plan area. In turn, the proposal would also reintroduce uses that were removed in 2013 thereby undermining the activity centre hierarchy of the Treendale District Centre which is currently only half developed. A ‘large format’ liquor store is still in effect a large turnover retail premises and deals predominantly with customers that are purchasing for day to day needs as in other convenience retail establishments more appropriately located within a District Centre. The introduction of the proposed uses would present incremental erosion to the overall structure planning in the area, most notably the Treendale Farm Structure Plan, which clearly designates an area of over 10ha set aside for the whole of the District Centre to provide the core of the Treendale area in terms of day to day retail needs, administrative services, dining and recreation.

Statutory/Policy Environment

Greater Bunbury Region Scheme

Lot 9600 is zoned 'Urban' under the Greater Bunbury Region Scheme.

Planning Bulletin 72/2009 – Child Care Centres (excerpts)

The objectives of this policy are to:

- a) *locate child care centres appropriately in relation to their surrounding service area;*
- b) *minimise the impact a child care centre has on its surrounds, in particular on the amenity of existing residential areas;*
- c) *minimise the impact the surrounds may have on a child care centre; and*
- d) *consider the health and safety of children attending the child care centre within the confines of the planning system."*

3.3 Location of child care centres

The appropriate location of a child care centre is crucial in meeting the needs of children and their families. It also is crucial in limiting the impact a child care centre may have on surrounding activities and vice versa. This may be achieved by locating child care centres on sites that are:

- a) *Distributed strategically to provide the maximum benefit to the community it serves;*
- b) *within easy walking distance or part of appropriate commercial, recreation or community nodes and education facilities;*
- c) *located in areas where adjoining uses are compatible with a child care centre (includes considering all permissible uses under the zoning of adjoining properties);*
- d) *serviced by public transport (where available);*
- e) *considered suitable from a traffic engineering/safety point of view; and*
- f) *of sufficient size and dimension to accommodate the development without affecting the amenity of the area.*

Child care centres generally would not be suitable where:

- g) *soil contamination exceeds the levels regarded by DEC and DOH as suitable for standard residential land uses with accessible soils as published in guideline Assessment Levels for Soil, Sediment and Water Department of Environment, November 2003);*

- h) *groundwater is to be abstracted for the irrigation of gardens and play area within the child care centre and groundwater contamination exceeds 10 x Australian drinking water criteria in accordance with the Contaminated Sites Reporting Guideline for chemicals in groundwater (DOH 2006);*
- i) *the service provided by the centre will have a demonstrable, adverse impact on the existing or planned level of child care centre services enjoyed by the local community;*
- j) *access is from a major road or in close proximity to a major intersection where there may be safety concerns;*
- k) *access is from a local access street which may impact on the amenity of the area due to traffic and parking;*
- l) *the current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site;*
- m) *noise produced by roads, railways and aircraft are likely to have an adverse impact on the site; and/or*
- n) *the site is in a heavy industry area or in the buffer area of a heavy industry area.”*

District Planning Scheme No. 1

Lot 9600 is zoned ‘Other Commercial – Showroom’ under District Planning Scheme No. 1 and Additional Use provisions appear in Schedule 7 of the Scheme.

Table 14 and 15 – Zoning and Development Standards

Policy Statement

Intended for the establishment of showroom type uses, which are inappropriate to the Shop Zone because of the larger land areas required, but are not suited to Industrial Zones.

Commercial – Light Industrial Precinct Structure Plan

Eastern Precinct

Statement of Intent

This precinct is to provide a range of commercial and limited light industrial uses to provide a transitional area between Treendale’s residential precincts and “Light Industrial” zoned land to the north.

Key Objective

To minimise potential for land use conflict between abutting land uses and provide an appropriate interface between the highway and future access into Treendale.

Planning and Development (Local Planning Schemes) Regulations 2015

Part 5 Division 1, Clause 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015* provides the criteria for Council's resolution to prepare or adopt an Amendment.

Strategic Framework

Within the Shire's Strategic Community Plan 2017 – 2027, Strategies 2.3.1 and 3.5.2 state:

2.3.1 *“Continue to implement integrated environmental, social and land use planning which will:*

- *minimise land use conflict.”*

3.5.2 *“Provide a planning framework that accommodates diverse living and commercial opportunities.”*

Budget Implications

Nil.

Risk Management

The Risk Theme Profile identified as part of this report is ***Providing Inaccurate Advice/Information***. The Consequence could be **Environmental, Financial** or **Reputational** if incorrect advice is given. The Risk is mitigated by the report being thoroughly researched, peer reviewed and provided by a qualified Shire officer, resulting in LOW Risk being present if Council adopts the officer's recommendation of refusal.

Officer's Recommendation

That Council refuses to initiate Amendment No. 124 to the Shire of Harvey's District Planning Scheme No. 1 for Lot 9600 Ditchingham Place (formerly part of Lot 9508 Ditchingham Place), Australind for the following reasons:

- a. The existing zoning caters for a wide range of land uses appropriate for the purpose and intent of the transitional zone between the District Centre and the existing industrial area on the north side of Ditchingham Place;
- b. The proposed additional uses to the Treendale Commercial – Light Industrial Area 'transitional' zone disrupts the primary intent of the Treendale Commercial – Industrial Precinct in providing for land uses that deal with bulky goods and services that are not required to be or may be inappropriate in the District Centre;
- c. Approval of the Amendment would set an undesirable precedent for the further erosion of the retail/administrative/community orientated function of the Treendale District Centre;
- d. The proposed additional 'Child Care' use is considered inconsistent with the WAPC's Planning Bulletin 72/2009 – Child Care Centres for the following reasons:

- i. Child Care premises located in district or local centres as per the existing two (2) in the locality are better strategically located to be of maximum benefit to the community;
 - ii. Child Care premises located in district or local centres as per the existing two (2) in the locality, are more within easy walking distance or part of appropriate commercial, recreation or community nodes and education facilities;
 - iii. 'Child Care' is incompatible with many of the land uses permissible on the subject site, such as Service Station, Car Sales Premises, Market, Factory Unit Building, Motor Vehicle Repair Station, Car Wash, and Produce Market mostly relating to traffic generation, safety concerns and noise emissions of certain activities;
 - iv. The site is not serviced by public transport with the nearest bus stop at the western end of the District Centre on The Boulevard, approximately 900m to the west of the subject site;
 - v. The site is not considered suitable from a traffic engineering/safety point of view given the large amount of semi commercial and industrial traffic that will utilise the roads within and around the subject site;
 - vi. The proposed additional use of 'Child Care', if approved, may have a demonstrable, adverse impact on the existing child care centre services;
 - vii. There are safety concerns with the subject site being located in and near industrial roads and future major intersections. Much of the traffic from the industrial area to the north will utilise the north south link road between Ditchingham Place and Grand Entrance. The through road is to be an extension of an eventual central north-south spine road through the central portion of the industrial land to the north, utilising the yet to be constructed Saltwood Drive. This will eventually provide a link through to the Spud Shed site; and
 - viii. The nature of the zoning and that factory unit buildings are permissible in this zone, that the adjoining premises may produce unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site;
- e. The separation distances, as recommended by the EPA in its Guidance Statement No. 3 – *“Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses, June 2005”*, for a “Cement product manufacturing works” is 300m-1,000m (depending on scale), a “Concrete batching plant or cement (bricks) manufacture” is 300m-500m and a “Service station – 24 hour) is 200m. The subject site is wholly within the recommended 300m buffer from the existing cement product manufacturing works and therefore a child care centre on Lot 9600 would be contrary to the EPA’s separation distances guidelines;
- f. The proposed additional use of 'Child Care' is inconsistent with the service commercial, bulky goods, transitional style of development that is to cater more for bulky goods and services. These activities that do not have a

necessity to be in the District Centre and this is the underlying intent of the Treendale Commercial - Light Industrial Structure Plan;

- g. The current provision of liquor stores in the locality is considered adequate, with consideration also being for the eventual development of the Treendale Tavern site (directly west of the main shopping centre) which has received a conditional liquor licence;
- h. Although the proposed additional use of liquor store is for a 'large format' store, the goods provided relate most closely to those provided by day to day convenience related retail products and it is not as compatible with bulky goods, showrooms and warehouses and other land uses intended for the Treendale Commercial – Light Industrial Precinct; and
- i. Despite the presence of some bulky goods items such as cartons of liquor, the 'large format' liquor store' for the most part caters for people purchasing liquor items for day to day needs similar to the daily routine and function of any convenience retail store.

8.2 BUILDING REPORT

Item No.	8.2.1
Subject:	Building Permit Applications Received – Building Permits Issued – April 2019
Location:	Shire of Harvey
Reporting Officer:	Principal Building Surveyor
File No.:	BSR017

64 building applications have been received and 36 building permits issued for the month of April 2019. Details of Building Permits approved are attached.

ATTACHMENT

Officer's Recommendation

That Council receives the report on building activity over the month of April 2019.