

**Shire of Moora
Ordinary Council Meeting
19th February 2020**

NOTICE OF MEETING

Dear Elected Member

The next Ordinary Council Meeting of the Shire of Moora
will be held on **Wednesday 19th February 2020**
in the Council Chambers, 34 Padbury Street, Moora
commencing at **5.30 pm**



AJ Leeson
Chief Executive Officer

14th February 2020

The Shire of Moora Vision and Mission Statement

Vision

Our vision is:

Shire of Moora - a vibrant, affordable Regional Centre with a growing, caring community.

Mission

Our mission is:

To provide the leadership, services and infrastructure that will meet the needs of the community and surrounds.

SHIRE OF MOORA**WRITTEN DECLARATION OF INTEREST IN MATTER BEFORE COUNCIL**

Chief Executive Officer
 Shire of Moora
 PO Box 211
 MOORA WA 6510

Dear Sir/Madam,

Re: Written Declaration of Interest in Matter Before Council

I, ⁽¹⁾ _____ wish to
 declare an interest in the following item to be considered by Council at its meeting to be held on
⁽²⁾ _____.

Agenda Item ⁽³⁾ _____

The type of interest I wish to declare is: ⁽⁴⁾

- Financial pursuant to Section 5.60A of the Local Government Act 1995
- Proximity pursuant to Section 5.60B of the Local Government Act 1995
- Indirect Financial pursuant to Section 5.61 of the Local Government Act 1995
- Impartiality pursuant to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007.

The nature of my interest is ⁽⁵⁾

The extent of my interest is ⁽⁶⁾

I understand that the above information will be recorded in the Minutes of the meeting and recorded by the Chief Executive Officer in an appropriate Register.

Yours faithfully,

 Signed

 Date

1. Insert your name.
2. Insert the date of the Council Meeting at which the item is to be considered.
3. Insert the Agenda Item Number and Title.
4. Tick box to indicate type of interest.
5. Describe the nature of your interest.
6. Describe the extent of your interest (if seeking to participate in the matter under S. 5.68 of the Act).

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SHIRE OF MOORA
ORDINARY COUNCIL MEETING AGENDA
19 FEBRUARY 2020
 COMMENCING AT 5.30PM

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**1.1 DECLARATION OF OPENING****1.2 DISCLAIMER READING**

No responsibility whatsoever is implied or accepted by the Shire of Moora for any act, omission or statement or intimation occurring during this meeting.

It is strongly advised that persons do not act on what is heard at this meeting and should only rely on written confirmation of Council's decision, which will be provided within fourteen (14) days of this meeting.

2. ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**APPROVED LEAVE OF ABSENCE**

DV Clydesdale-Gebert - Councillor

3. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**4. PUBLIC QUESTION TIME****5. PETITIONS AND PRESENTATIONS****6. APPLICATIONS FOR LEAVE OF ABSENCE****7. ANNOUNCEMENTS BY THE PRESIDING MEMBER****8. CONFIRMATION OF MINUTES****8.1 ORDINARY COUNCIL MEETING - 11 DECEMBER 2019**

That the Minutes of the Ordinary Meeting of Council held on 11 December 2019 be confirmed as a true and correct record of the meeting.

8.2 SPECIAL COUNCIL MEETING - 12 FEBRUARY 2020

That the Minutes of the Special Meeting of Council held on 12 February 2020 be confirmed as a true and correct record of the meeting.

9. REPORTS OF OFFICERS

9.1 GOVERNANCE AND CORPORATE SERVICES

9.1.1 LIST OF PAYMENTS AUTHORISED UNDER DELEGATION 1.31

REPORT DATE: 12 February 2020

OFFICER DISCLOSURE OF INTEREST: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

SCHEDULE PREPARED BY: Alida Fitzpatrick, Finance Creditors Officer

ATTACHMENTS: Accounts Paid Under Delegated Authority

PURPOSE OF REPORT

Payments have been made under delegated authority and a listing of these payments is attached for Council to note and endorse.

BACKGROUND

At the December 2005 Ordinary Meeting of Council resolution 276/2005 delegated the authority of payments from Municipal and Trust Funds to the Chief Executive Officer.

COMMENT

Accounts Paid under delegated authority are periodically presented to Council.

POLICY REQUIREMENTS

Delegation 1.31 – Payments from Municipal and Trust Funds.

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995 - Section 6.10

Local Government (Financial Management) Regulations 1996 – Regulations 12 & 13.

STRATEGIC IMPLICATIONS

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS

➤ Environment

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS

Payments are in accordance with the adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and endorses the Payments from the Municipal and Trust Funds made under delegation I.31

December 2019

<i>Municipal Fund</i>	<i>Cheques 62433 to 62434</i>	<i>\$3,114.00</i>
	<i>EFT 22546 to 22752</i>	<i>\$1,271,484.07</i>
	<i>Credit Card 04/11/19 to 02/12/19</i>	<i>\$4,715.48</i>
	<i>Net Pays – PPE 10/12/19</i>	<i>\$136,898.86</i>
	<i>Net Pays – PPE 24/12/19</i>	<i>\$100,251.61</i>
	<i>Direct Debits 12960.1 to 13018.10</i>	<i>\$55,147.48</i>
<i>Trust Fund</i>	<i>Cheques 5524</i>	<i>\$56.65</i>
<i>Total</i>		<i><u>\$1,571,668.15</u></i>

January 2020

<i>Municipal Fund</i>	<i>Cheques 62435 to 62437</i>	<i>\$3,310.00</i>
	<i>EFT 22753 to 22914</i>	<i>\$729,012.22</i>
	<i>Credit Card 03/12/19 to 02/01/20</i>	<i>\$1,772.72</i>
	<i>Net Pays – PPE 07/01/20</i>	<i>\$89,705.70</i>
	<i>Net Pays – PPE 21/01/20</i>	<i>\$93,885.80</i>
	<i>Direct Debits 13022.1 to 13048.12</i>	<i>\$72,022.76</i>
<i>Trust Fund</i>	<i>Cheques NIL</i>	<i>0.00</i>
<i>Total</i>		<i><u>\$989,709.20</u></i>

9.1.2 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 DECEMBER 2019

REPORT DATE: 13 February 2020

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, Financial Consultant (LG Corporate Solutions)

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 December 2019

PURPOSE OF REPORT:

Note and receive the Statement of Financial Activity for the period ended 31 December 2019.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2019/20 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and receives the Statement of Financial Activity for the period ended 31 December 2019.

9.1.3 STATEMENT OF FINANCIAL ACTIVITY FOR PERIOD ENDED 31 JANUARY 2020

REPORT DATE: 13 February 2020

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Martin Whitely, Financial Consultant (LG Corporate Solutions)

ATTACHMENTS: Statement of Financial Activity for the Period Ended 31 January 2020

PURPOSE OF REPORT:

To note and receive the Statement of Financial Activity for the period ended 31 January 2020.

BACKGROUND:

Council is provided with monthly financial reports to enable monitoring of revenues and expenditures against the adopted budget.

COMMENT:

The Statement of Financial Activity for the Period Ended is provided as a separate attachment in Program format.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995, Section 6.4

Local Government (Financial Management) Regulations 1996, Clause 34

STRATEGIC IMPLICATIONS:

Monitoring of actual revenues and expenditures against the adopted budget assists Council in being informed as to the financial health of the organisation.

SUSTAINABILITY IMPLICATIONS:

- **Environment**
There are no known significant environmental implications associated with this proposal.
- **Economic**
There are no known significant economic implications associated with this proposal.
- **Social**
There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Year to date income and expenditure is provided by program to enable comparison to 2019/20 adopted budget.

VOTING REQUIREMENTS

Simple Majority Required

RECOMMENDATION

That Council notes and receives the Statement of Financial Activity for the period ended 31 January 2020.

9.1.4 SPORT AND RECREATION MASTER PLAN 2020 - 2040 (DRAFT) ENDORSEMENT

FILE REFERENCE: PD/SRMI

REPORT DATE: 14 February 2020

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: Nil

AUTHOR: Alan Leeson, Chief Executive Officer

ATTACHMENTS: Draft Sport and Recreation Master Plan

PURPOSE OF REPORT:

Council to consider formally endorsing the draft Sport and Recreation Master Plan prepared by Central Midlands Construction Pty Ltd Consulting (CMCPL) to be released for public comment / feedback.

BACKGROUND:

CMCPL were engaged in 2019 to undertake the completion of a 20 year Sport and Recreation Master Plan for the Shire of Moora. The process involved community meetings, community workshops, council workshops, community surveys and a number of one on one meeting with interested stakeholders.

All sport and recreation facilities and infrastructure were visited/inspected as part of the process.

COMMENT:

The next step is for Council to endorse the draft plan to be released to the community requesting feedback/comments. This will involve placing the plan on Facebook and the Council website and also making hard copies available to groups and individuals.

POLICY REQUIREMENTS:

Nil

LEGISLATIVE REQUIREMENTS:

Local Government Act 1995

STRATEGIC IMPLICATIONS:

Outcome 1.1: A healthy community through participation in sport, recreation, arts, culture and leisure opportunities.

Strategy 1.1.1: Provide and promote sport, recreation and leisure facilities and programs.

Strategy 1.1.2: Develop a sport and recreation master plan for the Shire of Moora.

Strategy 1.1.3: Support and assist community clubs and groups.

FINANCIAL IMPLICATIONS:

The financial implications from the Master Plan depend on the priorities adopted within the plan balanced against the condition of respective assets in the Sport and Recreation portfolio. The draft plan flags a number of issues with key sport and recreation assets within the shire such, for example the Moora Swimming Pool and the Moora Recreation Ground Grandstand which are both very aged and in less than great condition.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATIONS***That Council;***

- ***endorse the draft Sport and Recreation Master Plan 2020 - 2040 prepared by Central Midlands Construction Pty Ltd Consulting (CMCPL) to be released for public comment / feedback;***
- ***Circulate the draft plan electronically and in hard copy throughout the Shire/Community;***
- ***Set a closing date for comments/feedback of 31 March 2020.***

9.2 DEVELOPMENT SERVICES

9.2.1 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED ADDITIONS TO EXISTING APPROVED HOTEL ON LOTS 30 & 31 (NO.18) BERKSHIRE VALLEY ROAD, MOORA

FILE REFERENCE: TP/DA10/1920
REPORT DATE: 10 February 2020
APPLICANT/PROPONENT: Braconhill Pty Ltd (Landowner)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Motion 156/16 dated 23 November 2016 - Conditional development approval for two (2) second-hand transportable accommodation buildings.
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachment I

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval for the development and use of three (3) second-hand transportable accommodation buildings on Lots 30 & 31 (No.18) Berkshire Valley Road, Moora including a number of associated improvements.

BACKGROUND:

The applicant is seeking Council's development approval for the development and use of three (3) second-hand, single storey transportable accommodation buildings on Lots 30 & 31 (No.18) Berkshire Valley Road, Moora, including a number of associated improvements, to support the continued operation of the existing approved hotel development on the land and attract more customers (i.e. tourists, tradespeople and professionals travelling through the district).

On 23 November 2016 Council considered and granted conditional development approval for the development and use of two (2) second-hand, single storey transportable accommodation buildings on the subject land for the same purpose.

Due to a number of changes to the original approved proposal which wasn't substantially commenced, the applicant has now submitted a new development application for the land requesting Council's approval for the following:

- the development and use of two (2) x 29.75m² second-hand, single storey transportable accommodation buildings on Lot 30, each comprising two (2) separate living quarters including bathroom and toilet facilities;
- the development and use of one (1) x 47.52m² second-hand, single storey transportable accommodation building on Lot 30 comprising four (4) separate living quarters including bathroom and toilet facilities in each;
- rectification of any internal and external building defects that may be required and repainting of all external surfaces using heritage themed colours to help improve their visual appearance and complement the existing built form improvements on the land;
- installation of new 1.5-metre-wide verandahs along the front façade of each of the aforementioned accommodation buildings;
- installation of a new 14,000 litre rainwater tank in close proximity to the proposed accommodation buildings for stormwater drainage management purposes;

- installation of 77m² of additional landscaping along the land's eastern side boundary;
- provision of a total of twelve (12) new on-site parking bays to accommodate the parking demand likely to be generated; and
- connections to all key essential service infrastructure available including power, water and reticulated sewerage.

A full copy of the development application, including supporting documentation and plans, is provided in Attachment I.

Lots 30 and 31 are located in the north-eastern part of the Moora townsite in a dedicated commercial precinct and comprise a total combined area of approximately 3,642m². The subject land is generally flat throughout its entire area with the natural ground level being approximately 203.5 metres AHD and has direct frontage and access to Berkshire Valley Road immediately south and Gardiner Street immediately west, both of which are sealed and drained local roads under the care, control and management of the Shire of Moora.



Location & Lot Configuration Plan (Source: Landgate 2020)

The land has been extensively cleared and developed for commercial purposes (i.e. the Junction Hotel) and contains a number of associated improvements including buildings, vehicle accessways, informal parking areas and landscaping. The land is also served by a wide range of key essential service infrastructure including power, water, reticulated sewerage, telecommunications and stormwater drainage.

Immediately adjoining and other nearby land uses include:

- an agricultural machinery display and storage yard immediately east with low density residential development beyond;
- a variety of commercial and service commercial uses to the south;
- a variety of service commercial and light industrial uses to the west and an operational railway line beyond; and
- an agricultural machinery dealership and workshop as well as low density residential development to the north.

COMMENT:

Lots 30 and 31 are classified 'Town Centre' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4).

Council's stated objectives for the development and use of any land classified 'Town Centre' zone are as follows:

- a) To ensure the town centre remains the principal place for retail, commercial, civic, and administrative functions within the district;
- b) To encourage development will not adversely affect local amenities, and will enhance the character of the town centre;
- c) To provide sufficient parking spaces for vehicles without compromising pedestrian movements through the town centre; and
- d) To provide an increased level of public amenities including public toilets, shaded areas, and street furniture.

Under the terms of LPS4 the development and/or use of any land classified 'Town Centre' zone for the purposes of a hotel, including any associated ancillary type development and usage, is listed as being a discretionary (i.e. 'D') use which means it's not permitted without Council's formal development approval. Council's development approval is also required given the subject land's location within Special Control Area I of LPS4 entitled 'Land Subject to Flooding'.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with the Department of Water and Environmental Regulation pursuant to the specific requirements of clause 4.11.2.2 of LPS4 as it applies to all land subject to flooding in the Moora townsite, has confirmed the proposal is generally compliant or capable of compliance with the following requirements:

- Building location, size, height, bulk, scale, orientation, condition and appearance;
- Lot boundary setbacks to satisfy the fire separation requirements of the Building Code of Australia;
- Amenity of the locality including potential environmental, visual and social impacts;
- Vehicle access and parking;
- Landscaping and boundary fencing;
- Stormwater drainage management;
- Connections to key essential service infrastructure included reticulated sewerage; and
- Flood risk mitigation.

Notwithstanding the above conclusion, Council should note the following issues have been identified during assessment of the application that require consideration:

i) Buffer Separation Distance to Sensitive Land Uses

The Environmental Protection Authority's (EPA's) Guidance Statement No.3 entitled 'Separation Distances between Industrial and Sensitive Land Uses' recommends a minimum buffer separation distance of 500 metres between any sensitive land use and metal fabrication and/or scrap metal recycling facilities (e.g. residential developments, hospitals, hotels, motels, hostels, caravan parks, schools, nursing homes, child care

facilities, shopping centres, playgrounds, and some public buildings).

Given the subject land is located in close proximity to and less than 500 metres from an existing agricultural machinery dealership which would typically undertake some metal fabrication works as part of its business operations and Moora Metals, a local scrap metal dealer, the proposed development doesn't strictly comply with the EPA's minimum buffer separation distance recommendation.

Despite this non-compliance issue it is significant to note there are a number of existing approved dwellings (i.e. sensitive uses) in close proximity to and less than 500 metres from the agricultural machinery dealership and Moora Metals with no record of any formal complaints from their occupants. It's fair to say people are generally accepting of such business operations in small country towns like Moora given their historic development prior to the introduction of contemporary planning control mechanisms and the significant economic benefits they provide to their local communities.

Given the above conclusion it is considered unlikely the proposed development will be adversely affected by noise, dust or odour due to its proximity to existing established industrial type uses in the immediate locality. It is however recommended an advice note be included on any development approval issued advising the applicant/landowner of the potential impacts arising from the existing established uses in the immediate locality to create awareness and help avoid any future potential disputes.

ii) Potential Noise Impacts

When considering and determining the application Council is required to have due regard for the requirements of State Planning Policy 5.4 entitled 'Road and Rail Noise' due to the land's location in close proximity to an existing operational railway line which is primarily used for the transportation of freight.

An initial screening assessment against the noise exposure forecast matrix in the 'Road and Rail Noise Guidelines' prepared in support of SPP 5.4 has confirmed the proposed development could be expected to be exposed to noise levels of 53dB at the time a freight train is passing when the screening affect afforded by the existing two storey hotel building on the land is factored into the calculations. This is below the day-time noise target of 55dB but slightly higher than the night-time target of 50dB recommended by SPP 5.4 which places it in noise exposure category 'A' under which any development is deemed acceptable subject to mitigation measures in accordance with an approved noise management plan or the 'quiet house design' measures specified in the guidelines.

The applicant/landowner has not submitted a noise management plan in support of the application. As such Council must consider whether it is reasonable and practicable to require the implementation of the noise mitigation measures for the 'quiet house design' measures specified in the guidelines for exposure category 'A' in order to achieve the abovementioned night-time noise target (e.g. building orientation, wall construction materials, solid core doors, glazing, window and door seals etc.).

In this particular instance it is considered unnecessary to impose conditions on any development approval that may be granted requiring the implementation of noise mitigation measures for the following reasons:

- a) The 3dB variation to the night-time noise target of 50dB recommended by SPP 5.4 is only minor in nature;

- b) The infrequency of freight movements along the railway line to the west of the subject land and the limited impact the proposed development will have on the operational capacity of this freight route;
- c) The significant noise screening benefits afforded by the existing hotel building on the land which could in fact be slightly greater than the 4dB allowance prescribed in SPP 5.4 given the hotel is a double story structure that shields the proposed development from the railway line;
- d) The limited number of people that will benefit from any noise mitigation measures;
- e) The significant cost of implementing noise mitigation measures and the risk it may compromise the commercial viability of what could prove to be a useful and beneficial addition to short stay accommodation options in the Moora townsite; and
- f) The applicant's / landowner's vested interest in ensuring the new accommodation to be provided is user-friendly and doesn't give rise to noise complaints which could undermine their entire investment in the project (i.e. if noise does become an issue for hotel guests it's expected the applicant / landowner will seek to ameliorate any negative impacts as quickly as possible to maintain the attractiveness and commercial viability of the development).

iii) Building Facade

Council's Local Planning Policy 6.6 entitled 'Town Centre Zones' requires the whole of any wall or building facing any street to be constructed in brick, concrete or masonry unless Council is satisfied the use of alternative materials will not detract from the amenity of the immediate locality.

Under the terms of the application one of the two (2) x 29.75m² second-hand, single storey transportable accommodation buildings is proposed to be sited along the land's Berkshire Valley Road frontage with a setback of 7.8 metres. The wall facing the street frontage will comprise metal to be painted using pale grey and brown toned colours (i.e. Colorbond colours 'Dune' and 'Jasper') to complement the existing built form improvements on the land.

In this particular instance it is considered appropriate for Council to exercise discretion and allow for the use of metal along this wall in lieu of brick, concrete or masonry as required by Local Planning Policy 6.6 for the following reasons:

- a) The wall in question is only 3.5 metres wide and 3.15 metres high and is therefore unlikely to be a dominant feature when viewed from the street;
- b) The colours proposed to be applied to the relevant wall are attractive, will complement the existing built form improvements on the land and unlikely to have any detrimental visual impacts; and
- c) The additional cost burden on the applicant / landowner of complying with this policy requirement is considered unreasonable and unnecessary when compared to the overall visual amenity benefits that may be gained which are considered minor.

In light of the above findings it is concluded the proposal for Lots 30 and 31 is acceptable and unlikely to have any negative impact on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. As such it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development proceeds in accordance with the information and plans submitted in support of the proposal and the relevant standards and requirements of the Shire's local planning framework.

POLICY REQUIREMENTS:

- State Planning Policy 4.1 – State Industrial Buffer
- EPA Guidance Statement No.3 – Separation Distances between Industrial and Sensitive Land Uses
- State Planning Policy 5.4 - Road and Rail Noise
- WAPC Road and Rail Noise Guidelines 2019
- Shire of Moora Policy 6.6 – Town Centre Zones
- Shire of Moora Policy 7.8 – Relocated Buildings

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Moora Flood Management Strategy 2000
- Shire of Moora Strategic Community Plan 2012-2022

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no known financial implications to Council in relation to this item. All costs associated with the proposed development are the responsibility of and will be met by the applicant/ landowner.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council APPROVE the development application submitted by Braconhill Pty Ltd (Landowner) for the development and use of three (3) second-hand, single storey transportable accommodation buildings on Lots 30 & 31 (No.18) Berkshire Valley Road, Moora, including a number of associated improvements, to support the continued operation of the existing approved hotel development on the land subject to the following conditions and advice notes:

Conditions

1. *The proposed development shall be undertaken strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or*

otherwise approved by Council.

- 2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.**
- 3. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of Council having first being sought and obtained.**
- 4. The final finished floor level of all proposed accommodation buildings shall be 204.4 metres AHD (i.e. 300mm above the March 1999 flood level of approximately 204.1 metres AHD in this part of the Moora townsite).**
- 5. Any external defects on the proposed accommodation buildings shall be rectified within six (6) months of the buildings being positioned on the land including any external painting that may be required.**
- 6. The sub-floor area around the periphery of each proposed accommodation building (i.e. the space between the natural ground level and each building's final finished floor level) shall be enclosed with brick, stone, vermin proof battens or other means acceptable to the Shire's Chief Executive Officer within six (6) months of the buildings being positioned on the land.**
- 7. The proposed accommodation buildings shall be connected to the existing electricity, water supply and reticulated sewerage disposal infrastructure servicing the land prior to their occupation and use.**
- 8. All vehicle accessways and parking bays on Lot 30 shall be sealed using concrete, bitumen or brick paving, suitably drained and line marked, including any required disabled parking bays, in accordance with the requirements of Council's adopted Policy No.6.6 within six (6) months of the buildings being positioned on the land unless the Shire's Chief Executive Officer approves a formal request from the applicant / landowner to extend the term within which these works are required to be completed which shall be no longer than twelve (12) months from the date of this approval.**
- 9. All stormwater drainage generated by the proposed development shall be contained and managed on-site unless otherwise approved by the Shire's Chief Executive Officer.**
- 10. All proposed new landscaping shown on the site development plan submitted in support of the application shall be installed within six (6) months of the buildings being positioned on the land and maintained thereafter to the specifications and satisfaction of the Shire's Chief Executive Officer.**

Advice Notes

- 1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.**
- 2. This is a development approval of the Shire of Moora under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out**

development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.

- 3. The applicant/landowner is reminded of their obligation to ensure compliance with the following requirements:**
 - i) Shire of Moora Annual Firebreak Notice as this applies specifically to land within the Moora townsite comprising an area of 3,000m² or less to help guard against potential bushfire risk; and**
 - ii) Shire of Moora Health Local Law 2016.**
- 4. In accordance with the Building Act 2011 and Building Regulations 2012, a building permit application must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land.**
- 5. The proposed accommodation buildings are required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the building permit application.**
- 6. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.**
- 7. The applicant / landowner should note the proposed development is located in close proximity to a number of existing established light industrial uses as well as an operational railway line which may give rise to noise, dust and/or odour impacts that could be beyond the local government's ability to control.**
- 8. No construction works shall commence on the land prior to 7am without the Shire's written approval. No construction works are permitted to be undertaken on Sundays or Public Holidays.**
- 9. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Moora Local Planning Scheme No.4 and may result in legal action being initiated by the local government.**
- 10. If the applicant/landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.**

9.2.2 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED WORKERS ACCOMMODATION, ASSOCIATED FACILITIES & OFFICE ON LOT 3498 (NO.1183), BINDI BINDI EAST ROAD, BINDI BINDI

FILE REFERENCE: TP/DA09/1920
REPORT DATE: 12 February 2020
APPLICANT/PROPONENT: Aussie Modular Solutions on behalf of Viridis Ag Pty Ltd
(Landowner)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachments 1 to 3

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval for the placement and use of two (2) new accommodation units, a kitchen / laundry / dining facility and office on Lot 3498 (No.1183) Bindi Bindi East Road, Bindi Bindi for farm worker accommodation and farm management purposes.

BACKGROUND:

The applicant is seeking Council's development approval for the following:

- i) The placement and use of two (2) new 70m² transportable accommodation units on the western portion of the land for a maximum of eight (8) workers;
- ii) The placement and use of a new 36m² transportable kitchen / laundry / dining building in close proximity to the proposed new workers accommodation buildings on the land;
- iii) Use of an existing shed in close proximity to the proposed new workers accommodation and kitchen / laundry buildings to provide parking for up to twelve (12) vehicles to accommodate residents and visitors; and
- iv) The placement and use of a new 47.54m² office building centrally on the land for farm management purposes.

A full copy of the development application, including supporting documentation and plans, is provided in Attachments 1 to 3.

Lot 3498 is located approximately ten (10) kilometres east of the Bini Bindi townsite, comprises a total area of approximately 782.7 hectares and is centrally located within the Bindana Downs aggregation which comprises a total area of 9,225 hectares.

Lot 3498 is bounded by Bindi Bindi East Road to the south, Honey Road to the west, Jenkins Road to the north and Jenkins / Tootra Roads to the east, all of which are unsealed local roads under the care, control and management of the Shire of Moora.



Location & Lot Configuration Plan (Source: Landgate 2020)

The subject land is gently sloping throughout with the natural ground level being approximately 310 metres AHD. It is largely cleared for broadacre cropping and grazing with scattered areas of native vegetation, the largest stand being approximately 45 hectares along the land's western boundary. There is no evidence to suggest the land is subject to any inundation or flooding.

There are two (2) existing dwellings on the property with multiple sheds and other infrastructure associated with the land's broadacre agricultural use.

COMMENT:

Lot 3498 is classified 'General Agriculture' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4). The objectives for the development and use of any land classified 'General Agriculture' zone are as follows:

- a) To ensure the continuation of broad-hectare farming as the principal land use in the district and encouraging where appropriate the retention and expansion of agricultural activities;
- b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment; and
- c) To allow for facilities for tourists and travellers, and for recreation uses.

The use class 'workers accommodation' is not expressly listed in the Zoning Table of LPS4 and must therefore be considered and determined in accordance with clause 3.2.4 of that scheme. As such Council must firstly determine whether the proposed use of Lot 3498 for this purpose is:

- a) consistent with the objectives of the 'Rural' zone and is therefore a use that may be permitted in this zone subject to conditions imposed by the local government; or
- b) may be consistent with the objectives of the 'Rural' zone and advertise the application for public comment for a minimum required period of fourteen (14) days; or

- c) not consistent with the objectives of the 'Rural' zone and is therefore not permitted in this zone.

It is considered the proposed workers accommodation development on the subject land will facilitate the continuation and expansion of agricultural activities of broadacre farming. This is consistent with the objectives of the land's current 'General Agriculture' zoning classification and is therefore deemed to be a use that may be permitted within the zone subject to any conditions Council considers appropriate. This conclusion was previously accepted by Council in late 2019 when considering and determining a development application for farm worker accommodation on Lot 37 (No.7909) Bindoon-Moora Road, Barberton which is also classified 'General Agriculture' zone.

The use class 'office' is listed in the Zoning Table of LPS4 as a prohibited (i.e. 'X') use in the 'General Agriculture' zone and is defined in the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 as premises used for administration, clerical, technical, professional or similar business activities. Typically, such use involves land and a building thereon where an office is the primary land use activity as typically occurs in townsites. In this case however the proposed 'office' use is considered to be ancillary to the predominant use of the land for extensive agricultural purposes as it will provide the necessary support to provide for the continuation of the primary land use activity (i.e. Council has the legal ability to grant the necessary development approval).

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment has confirmed the proposal is compliant or capable of compliance with the following requirements:

- The objectives for the 'General Agriculture' zone;
- Building location, size, height, bulk, scale, orientation, condition and appearance;
- Lot boundary setbacks;
- Amenity of the locality including potential environmental, visual and social impacts;
- Vehicle access and parking;
- Stormwater drainage management;
- Connections to key essential service infrastructure including on-site effluent disposal; and
- Bushfire risk mitigation and management.

Notwithstanding the above conclusion, Council should note the following issue has been identified during assessment of the application that requires consideration:

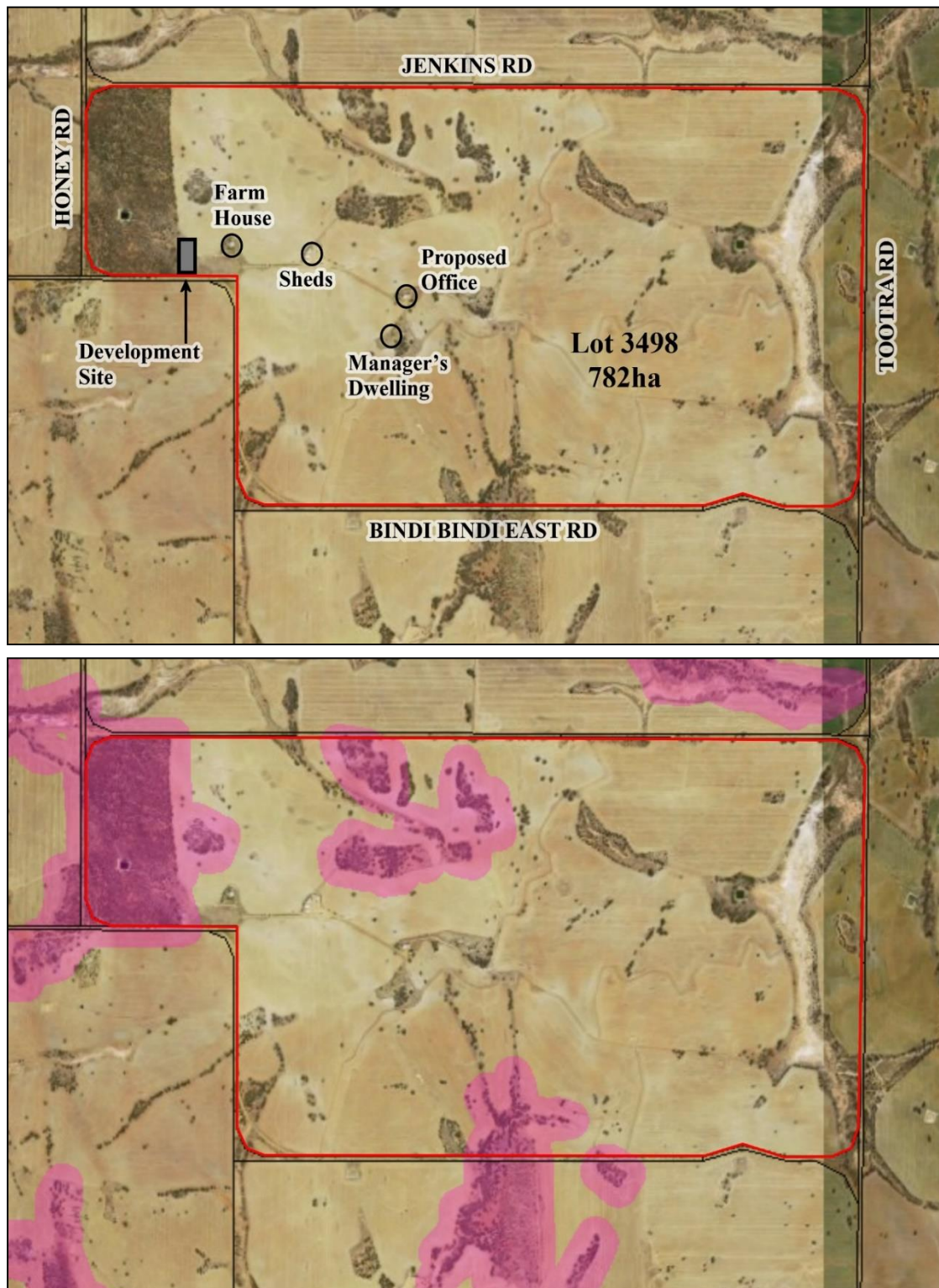
i) Bushfire Management Plan

State Planning Policy SPP 3.7 entitled 'Planning in Bushfire Prone Areas' provides the foundation for land use planning to address bushfire risk management in Western Australia with the primary objective being the protection of human life.

That portion of Lot 3498 proposed to be developed and used for workers accommodation purposes is designated as being bushfire prone. Bushfire prone land is comprised of bushfire prone vegetation, generally more than 1 hectare in size, and a 100 metre buffer from this vegetation.

SPP 3.7 requires that any development application in bushfire prone areas be accompanied by a Bushfire Management Plan which includes:

- a) a Bushfire Attack Level (BAL) Assessment;
- b) the identification of any bushfire hazard issues; and
- c) an assessment against the bushfire protection criteria.



Subject Land (Source: Landgate 2020)

SPP 3.7 also classifies 'workers accommodation' such as that proposed for Lot 3498 as being a 'vulnerable' land use on the basis that employees may be unaware of their surroundings and could require assistance or direction in the event of a bushfire. It is noted the overall farming property known as Bindana Downs comprises multiple titles and extends approximately 6 kilometres east and west and 15 kilometres north and

south of the proposed accommodation site. It is understood farm employees are regularly travelling across this entire area using public roads and internal farm tracks and that each farm vehicle and all mobile plant contain maps of the property showing roads and tracks as well as the Bindana Downs Emergency Evacuation Plan designating roads and directions to take in case of an emergency such as a bushfire.

Any Bushfire Management Plan for a vulnerable land use is required to include an Emergency Evacuation Plan with the WAPC's Bushfire Planning Guidelines recommending that this information be referred to DFES for comment. Due to a number of issues associated with referrals to DFES which are outlined below, greater use is now being made by local government authorities of peer reviews for the assessment and evaluation of applications involving bushfire prone land.

A draft Bushfire Management Plan (BMP) and Bushfire Emergency Evacuation Plan (BEEP) were submitted with the application. The Bushfire Management Plan and associated Bushfire Attack Level (BAL) Assessment have been subject to a peer review. The Bushfire Emergency Evacuation Plan has not however been reviewed in detail at this time because the document submitted has not been signed off by a suitably accredited bushfire practitioner. In addition, the Department of Planning, Lands and Heritage is still finalising the format and content that is required to be included. It is therefore proposed that the applicant make arrangements to finalise and secure approval to the Bushfire Emergency Evacuation Plan as a condition of any development approval that may ultimately be granted by Council to help avoid any further delays in terms of processing of this application.

The purpose of the Bushfire Management Plan is to assist Council in its consideration of the development application. It is not a statutory document unless specifically adopted as a condition of approval or is referenced in the Shire's firebreak notice. The BAL Classification Certificate is a formal statutory requirement for any building permit application as it relates to the specific construction standards under Australian Standard AS3959 (2018) 'Construction of Buildings in Bushfire Prone Areas' as required under the National Construction Code.

Whilst a number of issues were identified in the peer review of the BMP for Lot 3498, it correctly classifies the development site as having a BAL-12.5 rating once an asset protection zone around the proposed buildings has been fully implemented. The primary hazard vegetation is the woodland area to the west of the site which is setback 43 metres. It should be noted the proposal does not require the clearing of any remnant native vegetation.

BAL-12.5 is the lowest classification where any special construction provisions apply under AS3959. The risk is normally considered to be relatively low as the main threat relates to ember attack and the construction standards focus on sealing external gaps. BAL-12.5 means there is a radiant heat flux of 12.5kW/m^2 which is still potentially dangerous and is the limit which a vehicle can withstand. Given that increased setbacks have been provided for the proposed development the actual level of radiant heat flux is less than 12.5kW/m^2 . SPP 3.7 allows for development sites to have a maximum rating of BAL-29 and the application for Lot 3498 complies with this.

The bushfire protection criteria set out in SPP 3.7 and the Guidelines are based on the creation of a safe but temporary refuge to shelter in place via asset protection zones and construction standards. Construction standards are designed to provide a place of temporary refuge while a bushfire front passes however this does not guarantee survival

of the building. Similarly, the establishment of an asset protection zone is reliant upon it being maintained in perpetuity for the life of any given development and will not necessarily reduce the rate of spread of a bushfire.

The minimum requirement for asset protection zones (APZ's) has traditionally been 20 metres and this is still reflected in many local government firebreak notices. The proposed development will have a 43-metre-wide APZ to the woodland vegetation and a 30 to 50-metre-wide APZ to grassland / paddock areas. In addition, the proposed internal driveway will be 17.5 metres wide which exceeds the minimum provisions in the bushfire protection criteria which are 4 metres wide with a 17.5 metre diameter turning circle for firefighting vehicles adjacent to the buildings. A 10,000L static water supply will be provided for firefighting purposes.

The Bushfire Management Plan has not been referred to DFES as recommended in the Guidelines for the following reasons:

- The development site has a relatively low BAL rating;
- The site context is predominantly open cleared broadacre farming land with multiple access routes;
- It is debatable as to whether the application is a vulnerable land use;
- Referrals to DFES take extended periods of time and it is highly likely that DFES will object to the BMP due to the inconsistencies contained within; and
- Any advice received from DFES advice is not legally binding with the final decision regarding the issuance of development approval at the discretion of Council.

The State Government is currently reviewing the bushfire planning framework following an inquiry conducted by Dr Tony Buti MLA in 2019. This identified issues with referrals to and advice from DFES as being overly conservative. Consequently, decision-makers have been reluctant to make decisions that are not consistent with DFES advice, citing liability concerns and recognising the significant implications of bushfire. However, as the relevant decision maker for the application, Council must balance all relevant factors and advice including factors other than bushfire when making any final determination.

It is concluded, based on all of the above, that the proposal for Lot 3498 is acceptable and unlikely to have any significant negative impacts on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. As such it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development proceeds in accordance with the information and plans submitted in support of the proposal (with the exception of the Bushfire Emergency Evacuation Plan for the reasons cited previously above) as well as the relevant standards and requirements of the Shire's local planning framework.

POLICY REQUIREMENTS:

- State Planning Policy 2.5 – Rural Planning
- State Planning Policy 3.7 - Planning in Bushfire Prone Areas
- WAPC Guidelines for Planning in Bushfire Prone Areas

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Shire of Moora Strategic Community Plan 2012-2022

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal provided it is implemented in accordance with the conditions of any development approval that may ultimately be granted.

➤ **Economic**

The proposed development will support the continuation and future possible expansion of broadacre farming activity on the property which could be expected to have economic benefits for both the local economy and State economy more generally.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no known financial implications associated with this proposal. All costs associated with the proposed development will be met by the current landowner.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION*That Council:*

- A. Determine that the proposed development and use of workers accommodation, including a number of associated improvements, on Lot 3498 on Deposited Plan No.205676 being No.1183 Bindi Bindi East Road, Bindi Bindi is consistent with the objectives of the land's current 'General Agriculture' zoning classification in the Shire of Moora Local Planning Scheme No.4 and may therefore be permitted in the zone; and**
- B. APPROVE the development application submitted by Aussie Modular Solutions on behalf of Viridis Ag Pty Ltd (Landowner) for the development and use of Lot 3498 on Deposited Plan No.205676 being No.1183 Bindi Bindi East Road, Bindi Bindi, for farm worker accommodation purposes, including a number of associated improvements and an ancillary office, subject to the following conditions and advice notes:**

Conditions

- 1. The proposed development shall be undertaken strictly in accordance with the information and final amended plans, including the Bushfire Management Plan, submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.**
- 2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.**
- 3. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not**

substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of Council having first being sought and obtained.

- 4. The following bushfire management measures shall be implemented and maintained in perpetuity for the life of the proposed development to the specifications and satisfaction of Council:**
 - i) The workers accommodation and kitchen / laundry buildings shall be located on the land to achieve a final rating of BAL-12.5. The associated BAL setbacks prescribed in the Bushfire Management Plan shall be maintained in perpetuity as an asset protection zone;**
 - ii) Provision of a minimum 10,000 litre static water supply for firefighting purposes including the provision of suitable access to this supply and all required couplings and fittings;**
 - iii) Compliance with the specific requirements of the Shire of Moora's Annual Firebreak Notice;**
 - iv) Preparation of a suitable Bushfire Emergency Evacuation Plan (BEEP) for approval by the Shire in consultation with the Department of Fire and Emergency Services and implementation immediately thereafter; and**
 - v) Ensuring that all workers accommodated and employed on the land are aware of their surroundings and understand the measures in the BEEP.**
- 5. All proposed buildings the subject of this approval shall be provided with an adequate on-site effluent disposal system as determined by the Shire's Environmental Health Officer or Executive Director of Public Health with all such work to be undertaken to the specifications and satisfaction of the Shire's Chief Executive Officer or Executive Director of Public Health prior to their occupation and use.**
- 6. All proposed buildings shall be provided with a suitable capacity electricity supply service to the specifications of the relevant service provider prior to their occupation and use.**
- 7. The proposed workers accommodation buildings and associated kitchen / laundry / dining facilities building shall be provided with a potable water supply service comprising an on-site water tank/s with a minimum storage capacity of 92,000 litres for domestic consumption purposes prior to its occupation and use.**
- 8. All stormwater drainage generated by the proposed development shall be contained and managed on-site to the specifications and satisfaction of the Shire's Chief Executive Officer.**

Advice Notes

- 1. This is a development approval of the Shire of Moora under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.**
- 2. The applicant/landowner are reminded of their obligation to ensure compliance with the following requirements:**
 - i) Shire of Moora Annual Firebreak Notice as this applies specifically to all rural land in the Shire to help guard against potential bushfire risk; and**

ii) Shire of Moora Health Local Law 2016.

- 3. An 'Application to Construct or Install an Apparatus for the Treatment of Sewage' prepared pursuant to the specific requirements of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 must be prepared and submitted to the Shire of Moora or the Executive Director of Public Health for consideration and determination prior to preparation and lodgement of a building permit application. Confirmation of the relevant requirements in this regard can be obtained by contacting the Shire's Environmental Health Officer.**
- 4. In accordance with the Building Act 2011 and Building Regulations 2012, a building permit application must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land.**
- 5. All proposed buildings are required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements are required to be submitted with the building permit application as well as a BAL Classification Certificate.**
- 6. The installation and upkeep of the asset protection zone, firebreaks, water supply and driveway/s are the responsibility of the landowner. The bushfire management measures recommended in the Bushfire Management Plan and required by Condition 4 of this approval shall be implemented prior to the occupation of the building and shall continue to be maintained in perpetuity for the life of the development.**
- 7. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Moora Local Planning Scheme No.4 and may result in legal action being initiated by the local government.**
- 8. If the applicant/landowner is aggrieved by this determination, there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.**

9.2.3 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED SEA CONTAINER ON LOT 79 COOPER STREET, MOORA

FILE REFERENCE: TP/DA17/1920
REPORT DATE: 13 February 2020
APPLICANT/PROPONENT: Allan & Debbie Hueppauff (Landowners)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachment 1

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval for the placement and use of a sea container on Lot 79 Cooper Street, Moora for domestic storage purposes.

BACKGROUND:

The applicants are seeking Council's development approval for the placement and use of a second-hand, twenty (20) foot long sea container on Lot 79 Cooper Street, Moora for domestic storage purposes to support the continued use of the land for rural living purposes.

Lot 79 is located in the southern part of the Moora townsite and has direct frontage and access to Cooper Street along its northern boundary which is a sealed and drained local road under the care, control and management of the Shire of Moora.

Lot 79 comprises a total area of approximately 10.964 hectares and is generally flat throughout with the natural ground level being approximately 200 metres AHD including the location where the sea container is proposed to be sited. The subject land has been extensively cleared with a few small stands of remnant vegetation remaining throughout. The land is also characterised by two (2) small creek lines in its southern half.



Location & Lot Configuration Plan (Source: Landgate 2020)

Lot 79 has previously been developed and continues to be used in-part for extensive agricultural purposes (i.e. cropping and grazing). The land has also been extensively developed and is currently used for rural living purposes. Key associated improvements include a previously approved single house, numerous sheds of varying size, fenced paddocks and internal driveways, all of which are located in the land's north-western quadrant.

Immediately adjoining and other nearby land uses comprise a mix of rural living-type development and broadacre agriculture (i.e. cropping & grazing).

A full copy of the development application, including supporting documentation and plans, is provided in Attachment I.

COMMENT:

Lot 79 is classified 'Rural Residential' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4).

Council's stated objectives for the development and use of any land classified 'Rural Residential' zone are as follows:

- a) To select areas wherein closer subdivision will be permitted to provide for such uses as hobby farms, horse breeding, rural-residential retreats; and
- b) To make provision for retention of the rural landscape and amenity in a manner consistent with the orderly and proper planning of such areas.

Under the terms of clause 3.13.4(a) of LPS4 the development and/or use of any land classified 'Rural Residential' zone requires Council's development approval. Council's development approval is also required due to the land's location within Special Control Area I of LPS4 entitled 'Land Subject to Flooding'.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with the Department of Water and Environmental Regulation pursuant to the specific requirements of clause 4.11.2.2 of LPS4 as it applies to all land subject to flooding in the Moora townsite, has confirmed the proposal is generally compliant or capable of compliance with the following requirements:

- Land capability and land use compatibility;
- Lot boundary setbacks;
- Amenity of the locality including potential environmental and social impacts;
- Stormwater drainage management; and
- Bushfire and flood risk mitigation.

Notwithstanding the above conclusion, Council should note the following issue has been identified during assessment of the application that requires consideration when determining the application:

- Potential Visual Impacts

Council's Local Planning Policy 7.10 entitled 'Sea Containers' expressly states that all sea containers are to be sited on any land in the Scheme Area in the following manner:

- i) At the rear of any given property in accordance with the setback standards prescribed for its relevant zoning classification in LPS4;
- ii) Suitably screened and/or fenced from the road frontage and neighbouring properties by landscaping, fencing or other means acceptable to Council to ensure that storage areas are not exposed to view from nearby roads or other public places; and
- iii) If a sea container cannot be placed so as to be generally concealed from the street, the Shire will require the installation of screening to a minimum height equal to that of the container.

Under the terms of the application submitted the proposed sea container on Lot 79 will be sited in the front half of the property with a setback of 56 metres to its Cooper Street frontage, 94 metres to its western side boundary and 175.4 metres to its eastern side boundary.

Whilst the boundary setbacks exceed the minimum requirements prescribed in LPS4 for any land classified 'Rural Residential' zone, the proposal to locate the sea container in the front half of Lot 79 is not compliant with the specific requirements of Local Planning Policy 7.10.

Having regard for:

- a) the large setbacks proposed to the land's front and side boundaries which exceed those required by LPS4;
- b) the significant screening effect afforded by the existing vegetation on the land as well as the existing vegetation on the immediately adjoining property to the west;
- c) the significant screening effect afforded by the existing dwelling and an existing shed on Lot 79 which will shield any views of the sea container from the immediately adjoining properties to the east and south;
- d) the sea container's good state of repair externally and the landowners' intention to paint the structure following its placement on the land to match the existing zincalume sheds,

it is contended the proposal is unlikely to have a negative impact upon the visual amenity of the immediate locality including any immediately adjoining or other nearby properties.

In considering whether or not to support the proposal Council should note that whilst it is obliged to have due regard for any local planning policy requirements, it is not bound by any standards or requirements contained therein and may use its discretion to allow for variations in circumstances where such variations are considered reasonable and will not have any detrimental impacts.

It is concluded the proposal for Lot 79 is acceptable and unlikely to have any negative impact on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. As such it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development proceeds in accordance with the information and plans submitted in support of the proposal and the relevant standards and requirements of the Shire's local planning framework.

POLICY REQUIREMENTS:

- State Planning Policy 2.5 – Rural Planning
- Shire of Moora Policy 7.10 – Sea Containers

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Moora Flood Management Strategy 2000
- Shire of Moora Strategic Community Plan 2012-2022

SUSTAINABILITY IMPLICATIONS:**➤ Environment**

There are no known significant environmental implications associated with this proposal provided it is implemented in accordance with the conditions of any development approval that may ultimately be granted.

➤ Economic

There are no known significant economic implications associated with this proposal.

➤ Social

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are no known financial implications to Council in relation to this item. All costs associated with the proposed development are the responsibility of and will be met by the current landowners.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council APPROVE the development application submitted by Allan & Debbie Hueppauff (Landowners) for the placement and use of a sea container on Lot 79 Cooper Street, Moora for domestic storage purposes subject to the following conditions and advice notes:

Conditions

- 1. The proposed development shall be undertaken strictly in accordance with the information and plans submitted in support of the application subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.*
- 2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.*
- 3. The proposed development shall be substantially commenced within a period of two (2) years from the date of this approval. If the development is not substantially commenced within this period, this approval shall lapse and be of no further effect. Where an approval has so lapsed, the proposed development shall not be carried out without the further approval of Council having first being sought and obtained.*

- 4. The final finished floor level of the proposed sea container shall be 200.65 metres AHD (i.e. 150mm above the March 1999 flood level of 200.5 metres AHD for Lot 79 which equates to a total minimum required build-up of 0.65 metres above the land's natural ground level of 200 metres AHD).**
- 5. Any electrical installations associated with the proposed sea container shall be located at a minimum level of 200.8 metres AHD and suitably insulated.**
- 6. The edges of any sand pad foundation required for the proposed sea container to achieve the final finished floor level of 200.65 metres AHD as recommended by the Department of Water and Environmental Regulation shall slope away from the structure at a gradient of 1 in 6 and stabilised to avoid any dust or erosion.**
- 7. All external walls and doors of the proposed sea container shall be painted to match the existing zincalume sheds on the land within one hundred and twenty (120) days of the structure being sited on the land.**
- 8. The proposed sea container shall not be located over any septic tank/s, leach drain/s, soak well/s or any other essential service infrastructure.**
- 9. The door to the sea container shall be fitted with an internal emergency door release for safety reasons prior to it being used for the intended purpose.**
- 10. The proposed sea container shall only be used for domestic storage purposes unless otherwise approved by Council.**
- 11. The storage of any chemicals on the floor of the proposed sea container is not permitted.**

Advice Notes

- 1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant and landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.**
- 2. This is a development approval of the Shire of Moora under its Local Planning Scheme No.4. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.**
- 3. The applicant/landowner is reminded of their obligation to ensure compliance with the Shire of Moora Annual Firebreak Notice as this applies specifically to land within the Moora townsite comprising an area of 3,000m² or more to help guard against potential bushfire risk.**
- 4. In accordance with the Building Act 2011 and Building Regulations 2012, a building permit application must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land.**
- 5. The proposed sea container is required to comply in all respects with the National Construction Code of Australia. Plans and specifications which reflect these requirements must be submitted to the Shire with the building permit application.**

- 6. Whilst portion of the land has been designated as being bushfire prone by the Fire and Emergency Services Commissioner, the proposed sea container will be sited outside this area which negates the need for a Bushfire Attack Level (BAL) assessment. As such a BAL assessment is not required to be prepared and submitted with the building permit application referred to in advice notes 4 and 5 above.**
- 7. The noise generated by any activities on-site including machinery motors or vehicles shall not exceed the levels as set out under the Environmental (Noise) Regulations 1997.**
- 8. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the Planning and Development Act 2005 and the Shire of Moora Local Planning Scheme No.4 and may result in legal action being initiated by the local government.**
- 9. If the applicant/landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the Planning and Development Act 2005 Part 14. An application must be submitted within 28 days of the determination.**

9.3 ENGINEERING SERVICES

9.3.1 CONCRETE FOOTPATH QUOTATIONS

FILE REFERENCE: S/TERI-2

REPORT DATE: 14 February 2020

APPLICANT/PROPONENT: Shire of Moora

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: N/A

AUTHOR: John Greay, Manager Engineering Services

ATTACHMENTS: Nil

PURPOSE OF REPORT:

To advise council of quotations received for concrete footpaths within the Moora townsite.

BACKGROUND:

Within the 2019/20 budget funds have been allocated for construction of concrete footpaths. Quotations were called, and three companies responded; Dowsing, Axiis Contracting Pty Ltd and Metro Kerbing & Concrete. All quotes received are within Councils budget allocation.

COMMENT:

Within last years' budget, funds were allocated for footpaths however they didn't proceed at the time due to over-runs elsewhere. The streets nominated at that time to be completed were Lefroy, Stafford and Lenane. This year we currently have Dandaragan Street – from the hospital out to Equestrian Park and Stafford Street from Roberts to Keane Street scheduled. Due to the competitive quotations that were received there are enough funds to undertake works in Lefroy Street from Dandaragan Street to McKeever Street.

All companies that have quoted are WALGA Preferred Suppliers.

POLICY REQUIREMENTS:

If using a WALGA Preferred Supplier then quotes are sufficient for any value, otherwise three written quotes are required.

LEGISLATIVE REQUIREMENTS:

There are no known legislative requirements related to this item.

STRATEGIC IMPLICATIONS:

There are no known strategic implications associated with this proposal.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

Improved footpaths around town will assist people on mobility scooters, abled bodied people walking & exercising and school children.

FINANCIAL IMPLICATIONS:

There are no financial implications to Council in relation to this item beyond which there are already allocated funds.

VOTING REQUIREMENTS

Simple Majority Required

OFFICER RECOMMENDATION

That Council accept the quotation received from Axiis Contracting Pty Ltd of \$204,078.90 excluding GST for the construction of concrete footpaths along Dandaragan Street from the Moora Hospital to Equestrian Park; Stafford from Roberts to Keane Street and Lefroy from Dandaragan Street to McKeever Street.

10. REPORTS OF COMMITTEES

GENERAL PURPOSE COMMITTEE MEETING – 12 FEBRUARY 2020

10.1 SPEED LIMITS ALONG LONG AND BROWN STREETS

FILE REFERENCE: S/ROGI-2

REPORT DATE: 4 February 2020

APPLICANT/PROPONENT: N/A

OFFICER DISCLOSURE OF INTEREST: Nil

PREVIOUS MEETING REFERENCES: N/A

AUTHOR: John Greay, Manager Engineering Services

ATTACHMENTS: Letters of concern (2)

PURPOSE OF REPORT:

Over the past few months, and in particular during the harvest season, we have received several complaints about vehicles travelling along the southern end of Long Street and Brown Street.

BACKGROUND:

Both of these streets, which link together in the south west corner of town, form part of the heavy haulage route around town particularly if you are west of Moora and wanting to access the CBH facility at Wheatbin Road. Speed limits along here have been set by Main Roads WA and vary between 50, 60, 80 and 110 kph. These have been in place for a number of years.

COMMENT:

A number of larger hobby style blocks exist here and were previously unoccupied. Land owners used these blocks to run a few livestock and have small hay producing activities etc. As time passed these blocks have now been built on and a number of families now live alongside these roads. The traffic volumes in Long Street, between 21st November 2017 and 14th February 2018 averaged 298 vehicles per day. It would be suggested that the following changes be proposed. The open speed limit be reduced to 80 kph in both Long and Brown Streets and the current 80 kph be reduced to 60 kph. All other speed limits to remain as is. Any change to these speed limits would have to be approved by Main Roads WA.

POLICY REQUIREMENTS:

There are no known policy implications for this item.

LEGISLATIVE REQUIREMENTS:

There are no known legislative implications for this item.

STRATEGIC IMPLICATIONS:

There are no known strategic implications for this item.

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal.

➤ **Economic**

There are no known significant economic implications associated with this proposal.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

Nil

VOTING REQUIREMENTS

Simple Majority Required

COMMITTEE RESOLUTION

That Main Roads WA be approached to assess the speed limits along Long (southern end) and Brown Streets with the aim of having the 110 kph limit reduced to 80 kph and the current 80 kph section reduced to 60 kph.

10.2 APPLICATION TO AMEND PREVIOUS DEVELOPMENT APPROVAL – PROPOSED UPGRADES AND ADDITIONS TO CBH'S EXISTING GRAIN HANDLING AND STORAGE FACILITIES ON LOTS 250 & 4300 WHEATBIN ROAD, MOORA

FILE REFERENCE: TP/PA22/1819
REPORT DATE: 3 February 2020
APPLICANT/PROPONENT: Cooperative Bulk Handling Limited (Landowner)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Council Resolution No. 134/19 dated 16 October 2019 (Conditional Approval)
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachment 1

PURPOSE OF REPORT:

Consideration and final determination of an Application for Development Approval to amend the development approval issued by Council in October 2019 for a number of proposed upgrades and additions to Cooperative Bulk Handling Limited's (CBH's) existing grain handling and storage facilities on Lots 250 & 4300 Wheatbin Road, Moora.

BACKGROUND:

In accordance with the rights afforded by clause 77(1) of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, CBH has submitted a development application to amend the development approval previously issued by Council at its October 2019 Ordinary Meeting for a number of proposed upgrades and additions to its existing grain handling and storage facilities on Lots 250 & 4300 Wheatbin Road, Moora (see Attachment 1).

Specifically, CBH has requested the following conditions to which the approval is subject be deleted in their entirety:

Condition 7

Engineering design drawings and specifications to provide for the realignment of Wheatbin Road, including pavement and seal widening and stormwater drainage, in the turning areas to/from Midlands Road to cater for RAV 7 heavy vehicle turning movements shall be prepared by the applicant/landowner at its own cost and submitted to the Shire for consideration of approval in consultation with Main Roads WA by no later than 31 October 2019 unless otherwise approved by Council.

Condition 8

Wheatbin Road shall be realigned at its intersection with Midlands Road at the applicant's/landowner's cost in accordance with the approved engineering design drawings and specifications required by Condition 7 above by no later than 31 January 2020 unless otherwise approved by Council.

The justification provided by CBH to delete these two (2) conditions is outlined as follows:

- a) CBH's development plans for the receival site do not significantly increase the grain storage capacity of the site, or the number of trucks that will be utilising the Moora receival site, on the basis that the primary works are transitioning the temporary spec storage to permanent spec storage. The Traffic Impact Assessment (TIA) states that: "the additional heavy vehicle traffic forecasted to be generated due to the upgraded grain storage bulkheads (increased total storage capacity of 9%, increasing the estimated average

number of heavy vehicle movements per day by 8 - from 86 to 94 over a 3 month period) is assessed as not having a significant impact on the immediate adjacent road network”; and

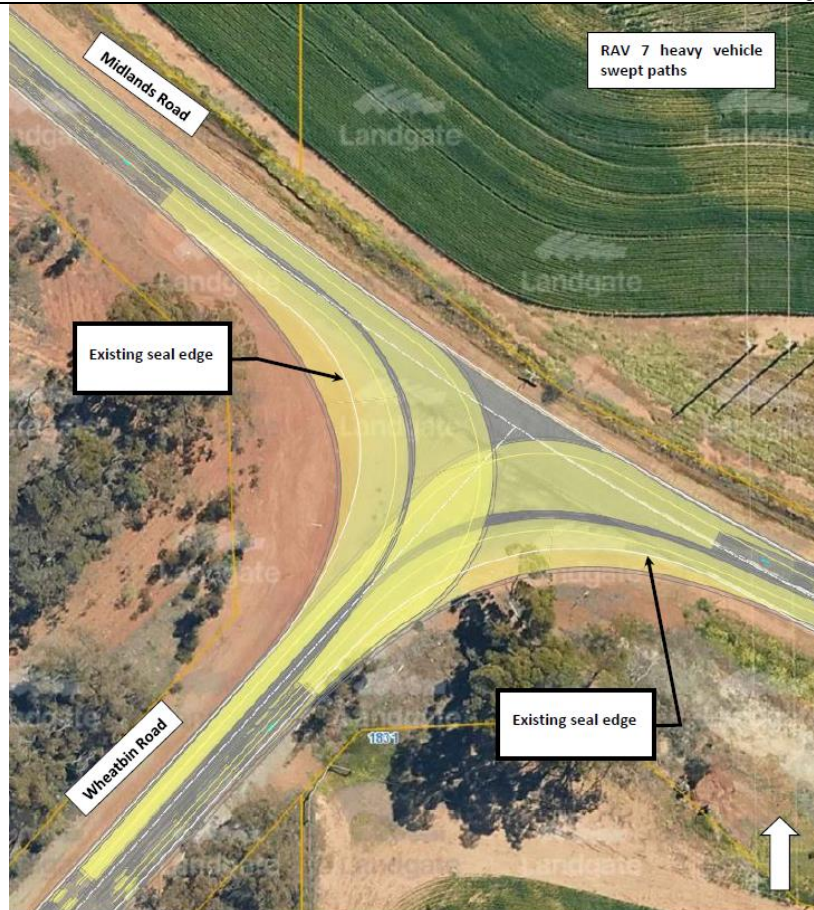
- b) CBH has not made any request to increase the Restricted Access Vehicle (RAV) rating at the intersection of Wheatbin Road and Midlands Road from its existing RAV rating. The TIA states that: *“the existing Wheatbin Road access onto Midlands Road, has adequate width and capacity to accommodate for the additional heavy vehicles generated by the planned grain storage expansion. It is recommended that realignment of Wheatbin Road slightly to the north be undertaken to include pavement & seal widening on the Wheatbin Road pavement in the turning areas to cater for lane correct RAV 7 turning movements and to prevent loose gravel from being swept onto Midlands Road. This is a pre-existing deficiency as it may be an issue during certain times when non-local traffic use the intersection. This is a deficiency for the attention of the asset owner”.*

The original development application received and approved in 2019 proposed a 32,000 tonne increase to the total grain storage capacity of the site from 362,150 tonnes currently to 394,150 tonnes once all new replacement open bulkheads have been installed (i.e. a 9% increase to the total grain storage capacity on the subject land. The Traffic Impact Assessment submitted in support of the original development application confirmed the proposed development will result in an estimated average increase of up to eight (8) heavy vehicle movements per day (i.e. from 86 to 94 movements per day) during the notional harvest period being mid-October to mid-January). This assessment was based on the following assumptions:

- i) Grain outloading via road during harvest periods will be minimal to zero due to the active status of the railway; and
- ii) Specific outloading tasks using road trains during the non-harvest period of the year is anticipated to generate lower annual daily traffic volumes than harvest period cartage.

Following consideration of the original development application for the land Main Roads WA advised the Shire as follows:

- a) *The existing seal area at the intersection of Wheatbin Road and Midlands Road (M028) is deficient for the RAV 7 swept paths as identified in the Traffic Impact Statement. It is recommended that Wheatbin Road be realigned to include pavement and seal widening to Wheatbin Road in the turning areas to/from Midlands Road to cater for the RAV 7 turning movements. These improvements are required to be funded by the applicant CBH;*



Swept Path Analysis Plan (Source: 2019 Traffic Impact Statement by Roadswest Engineering)

- b) *Main Roads is prepared to support the development application on the condition that the improvements identified for Wheatbin Road / Midlands Road (M028) as per the Traffic Impact Statement are completed by the applicant CBH as part of the proposed expansion works. The improvements will be required to be completed to the specifications and satisfaction of both Main Roads and the Shire of Moora.*

Prior to Council's final determination of the application CBH argued that the recommended realignment of Wheatbin Road to include pavement and seal widening to this road in the turning areas to/from Midlands Road to adequately cater for heavy vehicle (i.e. RAV 7) turning movements is the responsibility of the Shire and Main Roads WA and not CBH. Furthermore, CBH reiterated its policy position regarding off-site expenditure which doesn't support and allow for works of the type, scale and cost recommended by Main Roads WA.

Council considered CBH's position when determining the application but decided to impose conditions on the approval ultimately granted for the following reasons:

- i) the proposed development generates the need for the road upgrade works recommended by Main Roads WA due to the increase to the total grain storage capacity on the subject land and associated estimated average increase in the number of heavy vehicle movements per day during the notional harvest period; and
- ii) the imposition of conditions requiring CBH to fund the design and construction of the required works is consistent with the principles that have been adopted, legally tested and applied by local and State government authorities to development approvals issued throughout Western Australia.

A meeting was held with CBH representatives in Moora on 27 November 2019 to discuss and explain the basis for Council's decision to impose Conditions 7 and 8 on the original development approval issued by Council in October 2019.

On 12 December 2019 CBH submitted a new development application to the Shire requesting Council's approval to amend the original development approval in accordance with the procedural requirements of clause 77(1) of the Deemed Provisions in Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* in lieu of lodging a formal appeal with the State Administrative Tribunal challenging the two conditions of concern. That application was immediately referred to Main Roads WA for review and comment.

By email dated 6 January 2020 Main Roads WA advised as follows:

- *The Traffic Impact Assessment for the development prepared by the applicant recommends that the intersection of Wheatbin Road and Midlands Road be upgraded to cater for the proposed turning movements. It is noted that the RAV rating for both Midlands Road and Wheatbin Road are not being increased as part of the development. However, the existing situation through analysis has identified that the existing layout of the intersection is deficient. As part of the development application it is required to be upgraded. Main Roads does not fund improvements that are associated with private developments, therefore it is not Main Roads responsibility to fund the improvements; and*
- *Main Roads does not therefore support the latest development application to vary the original development approval and is of the view Conditions 7 and 8 should remain.*

COMMENT:

Further subsequent investigations by the Shire Administration have confirmed the following:

- a) Wheatbin Road is a local access road under the care, control and management of the Shire which was originally constructed for the primary purpose of providing direct, convenient access to/from CBH's grain handling and storage facility in Moora;
- b) It is estimated most of the traffic using the Wheatbin and Midlands Roads intersection is directly associated with CBH's activities however the exact volume needs to be confirmed through further detailed assessment to assist Council's consideration of CBH's request in this matter;
- c) The cost to upgrade the Wheatbin and Midlands Roads intersection as recommended in the Traffic Impact Assessment is currently unknown and again needs to be confirmed through further detailed assessment to assist Council's consideration of CBH's request in this matter including options for any future possible cost sharing arrangements;
- d) No allowance has been made in Council's budget for the 2019/20 financial year for any proposed improvements or upgrades to the Wheatbin and Midlands Roads intersection; and
- e) There may be opportunity for the Shire to seek and obtain funding assistance from the State and/or Federal Governments for a proportion of the total cost of the required upgrades to the Wheatbin and Midlands Roads intersection to help reduce the financial burden on CBH and ensure the development proceeds for the benefit of local grain growers and the State economy more generally.

When considering any development application all local government authorities in Western Australia are required to have due regard for the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety where such matters are relevant to the development the subject of the application.

When determining any development application all local government authorities in Western Australia must also consider whether any construction or upgrading of roads in the locality is necessary in order to accommodate the traffic likely to be generated by the development proposed in the application.

Local government authorities typically require proponents of any new development to contribute towards the cost any new road construction and/or road upgrade works identified as being necessary to accommodate the proposed development. Such contributions are secured by way of a condition or conditions on any development approval granted and may be for either the whole, or a proportion, of the total cost of the necessary new road construction or road upgrade works (or both).

In this particular instance it was considered appropriate, having regard for the primary purpose of Wheatbin Road, the findings and recommendations of the Traffic Impact Assessment and subsequent advice received from Main Roads WA, for Council to impose a condition requiring CBH to fund the full cost of the required upgrade works to the Wheatbin and Midlands Roads intersection to accommodate the safe and convenient movement of all existing and additional heavy vehicle traffic generated by the proposed development.

Whilst Council's decision to impose Conditions 7 and 8 on the approval are considered sound in the context of the information and advice received in relation to the application as well as the principles that have been adopted, legally tested and applied by local and State government authorities to development approvals issued throughout Western Australia, it is acknowledged, following further detailed review of CBH's development proposal and subsequent application to remove the two conditions of concern, that CBH may in part have a legitimate argument for the following reasons:

1. The pavement deficiencies along Wheatbin Road at its intersection with Midlands Road are a pre-existing issue that should have been identified and addressed at an earlier stage of development of the existing grain handling and storage facility in Moora as part of the planning assessment and approval process; and
2. The majority but not all heavy vehicle movements at the intersection of Wheatbin and Midlands Roads are directly associated with CBH's activities in the immediate locality. As such it may be considered unreasonable and inequitable to require CBH to fund the full cost of the recommended road upgrade works at this intersection.

Council has three (3) options to deal with CBH's request in this matter, the details and associated implications of which are outlined as follows:

OPTION NO.	OPTION DETAILS	IMPLICATIONS
1.	Approve the latest development application by agreeing to remove Conditions 7 and 8 in their entirety.	<ul style="list-style-type: none"> • CBH are unlikely to lodge an appeal with the State Administrative Tribunal seeking a formal review of Council's decision to remove Conditions 7 and 8 from the original approval; • Avoidance of the time, effort and costs associated with defending any appeal to SAT by CBH; • All costs associated with the required upgrades to the Wheatbin and Midlands Roads intersection will need to be met by the Shire (i.e. the opportunity to require funding by CBH will be lost); • The required upgrades to the Wheatbin and Midlands Roads intersection may be delayed if the Shire is unable to allocate or source sufficient

		<p>funding for the relevant works which may give rise to damage, additional remediation works and traffic safety issues for all road users; and</p> <ul style="list-style-type: none"> • The Shire's agreement to waive Conditions 7 and 8 may set an undesirable precedent for any similar developments in the future that require road construction and/or upgrade works.
2.	<p>Refuse the latest development application by not agreeing to remove Conditions 7 and 8 in their entirety.</p>	<ul style="list-style-type: none"> • CBH are expected to lodge an appeal with the State Administrative Tribunal seeking a formal review of Council's decision not to remove Conditions 7 and 8 from the original approval; • Considerable time, effort and cost will need to be expended by the Shire to defend the expected appeal to SAT by CBH. If the matter cannot be mediated out it is likely to proceed to a full hearing at SAT, the average cost of which is approximately \$60,000 excluding GST with very limited opportunity to recoup these costs through the SAT process (i.e. a costs reimbursement order to CBH by SAT is highly unlikely based on previous cases); and • If the Shire's defence of the SAT appeal is successful, all or portion of the costs associated with the required upgrades to the Wheatbin and Midlands Roads intersection will need to be met by CBH in accordance with the specific requirements of Conditions 7 and 8 as originally imposed or as may be varied by SAT in its final determination. Council's position regarding the imposition of conditions on any development approvals requiring developers to fund road upgrade works when required and deemed necessary will also be affirmed.
3.	<p>Defer consideration and final determination of the application pending resolution of the following matters:</p> <ol style="list-style-type: none"> i) Analysis and confirmation of the total amount of traffic using the Wheatbin and Midlands Roads intersection that is directly associated with CBH's activities in the immediate locality; ii) Preparation of a detailed costing in consultation with Main Roads WA to upgrade the Wheatbin and Midlands Roads intersection as recommended in the Traffic Impact Assessment; and iii) Further discussion and negotiation with CBH regarding a proportionate, shared contribution with the Shire to upgrade the Wheatbin and Midlands Roads intersection based on the information obtained in points i) and ii) above. 	<ul style="list-style-type: none"> • CBH may choose not to lodge an appeal with the State Administrative Tribunal seeking a formal review of Council's decision to remove Conditions 7 and 8 from the original approval if a suitable and equitable cost sharing arrangement can be negotiated (i.e. the time, effort and costs associated with defending any appeal to SAT by CBH may be avoided); • All costs associated with the required upgrades to the Wheatbin and Midlands Roads intersection will need to be shared between CBH and the Shire in accordance with the final agreed cost sharing arrangement; and • The required upgrades to the Wheatbin and Midlands Roads intersection and development and use of CBH's land as proposed and approved may be delayed if the Shire is unable to allocate or source sufficient funding for its share of the relevant works which may give rise to damage, additional remediation works and traffic safety issues for all road users.

In light of the above options and associated implications it is the reporting officer's view that Option 3 is the most appropriate as it will demonstrate a willingness to help resolve the issues and concerns raised by CBH in relation to Conditions 7 and 8 of the original development approval in a fair and equitable manner and avoid any protracted and costly proceedings at SAT. Despite the potential delays to the proposed development, it will also

help the Shire establish a clear basis for the consideration and determination of this and other similar development applications in the future.

POLICY REQUIREMENTS:

Nil. It is noted a number of other Shires in the Wheatbelt Region of Western Australia have amended their local planning schemes and/or prepared and adopted local planning policies requiring development contributions for items of infrastructure that are required to support the orderly development of an area including the upgrading, construction and widening of existing roads and laneways to accommodate additional traffic generated by a subdivision and/or development. Whilst not obliged to do so, the Shire of Moora may wish to consider similar measures as part of the forthcoming review of its local planning framework which will include preparation of a Local Planning Strategy and new Local Planning Scheme. In so doing an equitable system for planning and charging development contributions will be established which will provide certainty for developers, infrastructure providers and the local community and help avoid any future potential disputes.

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Shire of Moora Strategic Community Plan 2012-2022
-

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with CBH's proposed development provided it is implemented in accordance with the conditions of development approval previously granted by Council.

➤ **Economic**

The proposed expansion to CBH's existing grain handling and storage facility in Moora could be expected to have ongoing economic benefits for local primary producers and support industries and services.

➤ **Social**

There are no known significant social implications associated with CBH's proposed development.

FINANCIAL IMPLICATIONS:

As previously advised the proposed expansion to CBH's existing grain handling and storage facility in Moora will have financial implications for the Shire in terms of the maintenance works recommended in the Traffic Impact Assessment submitted in support of the development application. It is understood funds have been allocated in Council's budget for the 2019/20 financial year to undertake some of the required maintenance works with further allocations proposed next financial year to complete any outstanding works.

It should be noted no allocation has or is proposed to be made by the Shire to fund all or part of the upgrade works required for the Wheatbin and Midlands Roads intersection as recommended in the Traffic Impact Assessment (i.e. CBH are required by Conditions 7 and 8 of the original development approval issued by Council in October 2019 to arrange and fund these works in their entirety given the proposed development generates the need for

the road upgrade works due to the increase to the total grain storage capacity on the subject land and associated estimated average increase in the number of heavy vehicle movements per day during the notional harvest period).

Given CBH's request to remove Conditions 7 and 8 from the original development approval in their entirety, there are a number of potential additional financial implications, some of which are itemised in the 'options' table above and others which are yet to be determined and require further investigation prior to final determination of CBH's latest development application.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council defer consideration and final determination of the development application submitted by Cooperative Bulk Handling Limited to amend the development approval issued in October 2019 for a number of proposed upgrades and additions to the existing grain handling and storage facilities on Lots 250 & 4300 Wheatbin Road, Moora pending resolution of the following matters:

- i) Analysis and confirmation of the total amount of traffic using the Wheatbin and Midlands Roads intersection that is directly associated with CBH's activities in the immediate locality;*
- ii) Preparation of a detailed costing in consultation with Main Roads WA to upgrade the Wheatbin and Midlands Roads intersection as recommended in the Traffic Impact Assessment; and*
- iii) Further discussion and negotiation with CBH regarding a possible proportionate, shared contribution with the Shire to upgrade the Wheatbin and Midlands Roads intersection based on the information obtained in points i) and ii) above.*

10.3 APPLICATION FOR DEVELOPMENT APPROVAL – PROPOSED UPGRADES AND ADDITIONS TO CBH'S EXISTING GRAIN HANDLING AND STORAGE FACILITIES ON LOTS 101, 501, 502, 1171 & 4002 GRAIN LANE, WATHEROO

FILE REFERENCE: TP/DA15/1920
REPORT DATE: 4 February 2019
APPLICANT/PROPONENT: Cooperative Bulk Handling Limited on behalf of itself and the Public Transport Authority (Landowners)
OFFICER DISCLOSURE OF INTEREST: Nil
PREVIOUS MEETING REFERENCES: Nil
AUTHOR: Mr Joe Douglas, Town Planning Consultant
ATTACHMENTS: Attachments 1 to 4

PURPOSE OF REPORT:

Consideration of an Application for Development Approval for a number of proposed upgrades and additions to Cooperative Bulk Handling Limited's (CBH's) existing grain handling and storage facilities on Lots 101, 501, 502, 1171 & 4002 Grain Lane, Watheroo.

BACKGROUND:

The applicant is seeking Council's development approval for a number of proposed upgrades and additions to its existing grain handling and storage facilities on Lots 101, 501, 502, 1171 & 4002 Grain Lane, Watheroo including:

- i) removal of an existing redundant weighbridge, relocation of an existing on-site loading ramp and installation of new safety barriers on both sides of an existing internal vehicle accessway;
- ii) removal of two (2) existing emergency open bulkheads used for grain storage purposes, each comprising a total capacity of 30,000 tonnes (i.e. 60,000 tonnes in total);
- iii) installation of one (1) new 310 metre long x 35 metre wide open bulkhead with 1.8 m high wall frames on a new bitumen sealed pad comprising a total storage capacity of 37,200 tonnes;
- iv) installation of one (1) new 270 metre long x 35 metre wide open bulkhead with 1.8 m high wall frames on a new bitumen sealed pad comprising a total storage capacity of 32,400 tonnes;
- v) installation of a new hopper pit, elevator and ground conveyor in between the two proposed new open bulkheads;
- vi) construction of new bitumen sealed vehicle accessways surrounding the new replacement open bulkheads referred to in points iii) and iv) above; and
- vii) various upgrades and additions to existing stormwater drainage infrastructure on the subject land, including all associated earthworks, in accordance with recommendations contained in a stormwater drainage report prepared on behalf of CBH by consulting engineers BG&E Resources.

Under the terms of the application the proposed development will, if ultimately approved by Council, result in a 9,600 tonne increase to the total grain storage capacity on the land and an associated estimated average increase of up to twenty (20) heavy vehicle movements per day (i.e. from 146 to 166 movements per day) during the notional harvest period being mid-October to mid-January.

A full copy of the development application including all supporting documentation and plans is provided in Attachments 1 to 4. Council should note at the time of writing this report CBH was still in the process of fine tuning some aspects of the application for resubmission to the Shire. As such the site development plan included in the attachment to this report is still preliminary with an updated version to be received and tabled in due course.

The subject land is located in the northern part of the Shire in the south-western portion of the Watheroo townsite and has been extensively developed and used by CBH for grain handling and storage purposes for many years. The land comprises freehold land owned by CBH as well as Crown land controlled by the Public Transport Authority for railway purposes, covers a total combined area of approximately 18.38 hectares and is relatively flat throughout with the natural ground level being approximately 260 metres AHD. The land has been extensively cleared as a result of its historical development and use and doesn't contain any native vegetation or any other features identified as being of regional environmental significance. It should also be noted the land is not designated as being flood prone however the western segments have been designated by the Fire and Emergency Services Commissioner as being bushfire prone.

All vehicle access to/from the land is via its direct frontage to Grain Lane, a sealed and drained local road under the care, control and management of the Shire of Moora, which provides a direct connection to Midlands Road to the east which is a sealed and drained State Road under the care, control and management of Main Roads WA.

Immediately adjoining and other nearby land uses are variable in nature and generally described as follows:

- North – A partially constructed road reserve with industrial, public recreation and broadacre agriculture (i.e. cropping & grazing) beyond;
- South – Broadacre agriculture (i.e. cropping & grazing);
- East – An operational railway reserve with Midlands Road, low density residential development and broadacre agriculture (i.e. cropping & grazing) beyond; and
- West - Broadacre agriculture (i.e. cropping & grazing).



Location & Lot Configuration Plan (Source: Landgate 2020)

COMMENT:

All of the land comprising CBH's existing grain handling and storage facility in Watheroo is classified 'Industrial' zone in the Shire of Moora Local Planning Scheme No.4 (LPS4).

Council's stated objectives for the development and use of any land classified 'Industrial' zone are as follows:

- a) To provide for the needs of industry to support the community;
- b) To provide appropriate buffers between industry and adjacent land uses, so as to avoid land use conflicts;
- c) To provide landscaped buffers along the branch of the Moore River to the established industrial area;
- d) To avoid direct discharge of stormwater drainage or the discharge of any deleterious substances into the branch of the Moore River; and
- e) To avoid non-industry related uses establishing in the industrial area.

It is significant to note the subject land is also listed in Schedule 3 of LPS4 as being restricted in terms of its future development and usage (i.e. Restricted Use No.5). Schedule 3 entitled 'Restricted Uses' clearly stipulates the subject land may only be developed and used for 'rural industry' purposes with all other uses that would otherwise be permissible within the 'Industrial' zone not permitted.

Schedule 3 also contains the following conditions which are applicable to any future development and use of the subject land:

- a) Provide for transport infrastructure for storage and or processing of bulk grain including connection to the State rail system; and

- b) Noise, vibration, light, and emissions to the atmosphere are to be managed in accordance with statutory requirements so that the amenity of nearby sensitive uses, including residential development is not adversely affected.

Despite clear recognition of the existing development and use of the subject land in LPS4, Council's development approval is still required for any further development for 'rural industry' purposes given it is listed as being a discretionary (i.e. a 'D') use in the Zoning Table of LPS4.

The application has been assessed with due regard for the specific objectives and standards of the Shire's local planning framework including LPS4 and all relevant local planning policies as well as the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This assessment, which included formal consultation with Main Roads WA and internal review by the Shire Administration, has confirmed the proposal is generally compliant or capable of compliance with the following requirements:

- Land capability and suitability;
- Lot boundary setbacks;
- Amenity of the locality including potential environmental, visual and social impacts;
- On-site vehicle access and parking;
- Stormwater drainage management; and
- Bushfire risk mitigation.

Notwithstanding the above conclusion Council should note the following issues have been identified during assessment of the application that require consideration:

i) Buffer Separation Distance to Sensitive Land Uses

The Environmental Protection Authority's (EPA's) Guidance Statement No.3 entitled 'Separation Distances between Industrial and Sensitive Land Uses' recommends a minimum buffer separation distance of 500 metres between any sensitive land use (e.g. residential dwellings) and grain elevators such as those currently used and additional ones now proposed at CBH's facility in Watheroo.

Despite the EPA's buffer distance recommendation, it is significant to note there are a large number of existing dwellings and vacant residential lots located less than 500 metres from the grain elevators currently used on CBH's land which have not precluded the issuance of development approvals by Council for CBH's existing facilities in the townsite. Furthermore, it is understood the Shire has no record of any formal complaints from those living or working within 500 metres of the facility. It's fair to say people are generally accepting of such operations in small country towns like Watheroo given their historic development prior to the introduction of contemporary planning control mechanisms and the significant economic benefits to their local communities.

In light of the above conclusion, it is considered unlikely the proposed development will have any significant negative impacts on the amenity of any existing or future proposed dwellings in the Watheroo townsite or give rise to any formal complaints provided the use is managed appropriately and in accordance with the conditions imposed on any approval that may ultimately be granted.

ii) Traffic Impacts

The Traffic Impact Assessment prepared and submitted in support of the application confirmed the proposed development will generate an estimated average increase of up to twenty (20) heavy vehicle movements per day (i.e. from 146 to 166 movements per

day) during the notional harvest period being mid-October to mid-January and is likely to have an impact on Midlands Road and the immediate adjacent road network. As such it recommended the following works be undertaken to ensure the safe and convenient movement of heavy vehicles to and from the site:

- Redesigning and reconstructing the intersection of Ellis Street and Midlands Road, including road shoulders, which has insufficient width to accommodate safe and convenient turning movements for RAV 7 rated heavy vehicles **or** pavement repairs and resurfacing of this intersection if redesign and reconstruction are not considered feasible;



Swept Path Analysis Plan (Source: 2019 Traffic Impact Assessment by Roadswest Engineering)

- Redesigning and reconstructing the intersection of Ellis Street and Grain Lane to address the current potential conflict issues in the event of a road train stopping at the railway crossing with its rear trailers overhanging into the westbound lane on Ellis Street which may block westbound traffic and cause queuing over the railway line **or** pavement repairs and resurfacing of this intersection if redesign and reconstruction are not considered feasible;



Swept Path Analysis Plan (Source: 2019 Traffic Impact Assessment by Roadswest Engineering)

- Re-install all pavement markings at the railway crossing;
- Upgrade all road signs and pavement marking to the latest Australian Standards and Main Roads WA guidelines;
- Installation of new improved signage to adequately guide all vehicle movements through the site; and
- Replacement of a 300mm RCP culvert on Midlands Road near its intersection with Ellis Street.

Main Roads WA, in response to the Shire's referral of the application to them for review and comment, advised as follows:

- i) *The Traffic Impact Assessment has identified a number of recommendations and conclusions that include improvements to the adjacent road network as a result of the proposed CBH expansion;*
- ii) *Main Roads would welcome any approach from CBH regarding the improvements required at the intersection of Ellis Street and Midlands Road (M028). Main Roads has two (2) different ways for CBH to achieve this:*
 - a) *CBH provides designs for Main Roads approval and engages a contractor themselves to construct the improvements, through a Complex Works Application; or*
 - b) *CBH provides the funding for Main Roads to complete the designs and engage a construction contractor through Main Roads procurement.*
- iii) *From the information provided Main Roads has no objection to the development application subject to the list of recommendations included in the Traffic Impact Assessment being completed by the applicant (CBH) and included as conditions on any development approval ultimately granted.*

The recommendations contained in the Traffic Impact Assessment and those provided by Main Roads WA have been the subject of further discussion with the Shire's Chief Executive Officer and Manager Engineering Services as well as CBH. Whilst the Shire Administration are supportive of Main Road WA advice in this matter, CBH has advised it is unwilling to solely fund the intersection upgrades recommended in the Traffic Impact Assessment on the basis there are legacy issues at the intersections and the fact there are other RAV users of the relevant roads. CBH therefore confirmed that, at best, it would be prepared to enter into discussions and negotiations with Shire for a potential shared financial contribution to undertake the required upgrade works.

The heavy vehicle access issues identified in the Traffic Impact Assessment and proposed upgrade works are not dissimilar to those identified for the proposed expansion to CBH's grain handling and storage facilities in Moora which remain unresolved. In light of this fact it is recommended Council adopt a similar approach in dealing with this proposal for CBH's facility in Watheroo by deferring consideration and final determination of the development application pending resolution of the following matters:

- i) *Analysis and confirmation of the total amount of traffic using the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections that is directly associated with CBH's activities in the immediate locality;*
- ii) *Preparation of a detailed costing in consultation with Main Roads WA to upgrade the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections as recommended in the Traffic Impact Assessment; and*
- iii) *Further discussion and negotiation with CBH regarding a proportionate, shared contribution with the Shire to upgrade the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections based on the information obtained in points i) and ii) above.*

It is the reporting officer's view that the course of action recommended above is again the most appropriate as it will demonstrate a willingness to help resolve the issues and concerns raised by CBH in a fair and equitable manner and avoid any protracted and costly proceedings at SAT. Despite the potential delays to the proposed development, it

will also help the Shire establish a clear basis for the consideration and determination of this and other similar development applications in the future.

POLICY REQUIREMENTS:

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- State Planning Policy 4.1 – State Industrial Buffer
- EPA Guidance Statement No.3 – Separation Distances between Industrial and Sensitive Land Uses

LEGISLATIVE REQUIREMENTS:

- Planning and Development Act 2015
- Planning and Development (Local Planning Schemes) Regulations 2015
- Shire of Moora Local Planning Scheme No.4

STRATEGIC IMPLICATIONS:

- Shire of Moora Strategic Community Plan 2012-2022

SUSTAINABILITY IMPLICATIONS:

➤ **Environment**

There are no known significant environmental implications associated with this proposal provided it is implemented in accordance with the conditions of any development approval that may ultimately be granted.

➤ **Economic**

The proposed expansion to CBH's existing grain handling and storage facility in Watheroo could be expected to have ongoing economic benefits for local primary producers and support industries and services.

➤ **Social**

There are no known significant social implications associated with this proposal.

FINANCIAL IMPLICATIONS:

There are a number of potential financial implications for the Shire if Council were to agree to make a financial contribution to undertake the road upgrade works recommended in the Traffic Impact Assessment. The likely costs are yet to be determined and require further investigation, discussion and negotiation with CBH prior to final determination of the development application.

VOTING REQUIREMENTS:

Simple Majority Required

OFFICER RECOMMENDATION

That Council defer consideration and final determination of the development application submitted by Cooperative Bulk Handling Limited for a number of proposed upgrades and additions to its existing grain handling and storage facilities on Lots 101, 501, 502, 1171 & 4002 Grain Lane, Watheroo pending resolution of the following matters:

- i) *Analysis and confirmation of the total amount of traffic using the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections that is directly associated with CBH's activities in the immediate locality;*

- ii) ***Preparation of a detailed costing in consultation with Main Roads WA to upgrade the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections as recommended in the Traffic Impact Assessment; and***
- iii) ***Further discussion and negotiation with CBH regarding a proportionate, shared contribution with the Shire to upgrade the Ellis Street / Midlands Road and Ellis Street / Grain Lane intersections based on the information obtained in points i) and ii) above.***

11. ELECTED MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL

13. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

RECOMMENDATION

The meeting moves behind closed doors to discuss a matter that if disclosed would reveal information that has a commercial value to Council pursuant to Section 5.23 (2) (c)(e) of the Local Government Act 1995.

13.1 LEASE OF FLOOR SPACE – HYDROTHERAPY AND DENTAL CENTRE – LOT 394 DANDARAGAN STREET, MOORA

Provided to Councillors under confidential cover.

14. CLOSURE OF MEETING