

# **ATTACHMENTS**

**Ordinary Council Meeting**

**Wednesday, 21 December 2022**



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To whom it may concern,

As the residents at Lot 104 Brumby Chase (75 Brumby Chase, Morangup), Martin and Kathryn Kallane, we thank you for the opportunity to express our views (side of the story) regarding our application to register a third dog on our property.

Firstly, we would like to address the reasons for our application for a third dog and put them into perspective. We have offered refuge to a friend struggling with mental health issues (including PTSD) in the way of a home, given the current rental crisis in Western Australia where there are a minimum of 30 applications for a rental property, less than 1% of homes vacant in the Perth metro area and the cost of a rental property and living is constantly rising, we have taken our friend in so she is not forced to join the homeless population of our state. Our friend has a dog, her dog offer's her emotional support and company during these hard times of life that are so rife in our current day and age (as many animals do).

There are currently no reported issues with the 3<sup>rd</sup> dog (Border Collie Cross) on the application at all. In fact, our friend takes "River" (Border Collie Cross) with her everywhere she goes, he is not left alone on the property to roam, and all gates and fences are secure when she is home with him. Also, we would like to note that our friend had been staying with us for **only 2 weeks (on and off)** at the time the report from our neighbours was made, we had not firmed any arrangement due to our friend suffering a bad episode of PTSD and needing our help and support more than us worrying about what arrangements were to be made, we had therefore **not yet** put a request for a third dog in to the shire, we were however well aware of the requirement. The moment we firmed the arrangement for our friend to seek refuge and a space to help her heal and feel safe, we submitted an application and paid the fee's necessary, to ensure that we were doing the right thing.

We would like to secondly acknowledge that we understand there have been previous issue's where our dogs and our neighbours from Lot 106 Brumby Chase are concerned (let it be noted we do not have any issues with any other neighbours in our area).

Referring to only the most current issue which occurred in **March 2021** that saw our Red Cloud Kelpie standing with 2 fences in between him and our neighbour's livestock "barking only", resulting in a complaint from our neighbours and a **very mild** "dog attack" offence being issued to us from the Rangers of Toodyay Shire. Given there was in fact "no physical attack" against any livestock animal and the cause of the issue simply being a tree had fallen on our fence and we were unaware, we understand our neighbours concern for their livestock and the issue with our fences was rectified immediately to the satisfaction of our Rangers requests at the time. We have had no further issues. Any previous issues to March 2021 that may be mentioned by our neighbours, we suggest shall be rendered defective given these issues occurred **8 years ago**, and were involving our Red Heeler, Limerick (deceased), who was shot by the same neighbours who now seem to have an issue with every observation they make involving us and what is happening on our property.

Yes, Limerick bit the neighbour, she put her had inside our car and he felt threatened (anyone who owns an animal knows not to do this), yes, Limerick had a habit of chasing livestock, this is no longer an issue as Limerick is no longer with us. Other dogs should not be treated the same way.

Given there has been such an extended period between incidents (1 incident 8 years ago, 1 incident 1 year ago), and we have and always will commit to doing the right thing to ensure we are adhering to the shire's rules, We believe we deserve a break here, as we are not actively trying to do the wrong thing and never will.

In conclusion, we ask you to consider the above facts when contemplating approval for our application, as this is not a question of us simply wanting a 3<sup>rd</sup> dog in the way of a new puppy or new hunting dog etc. on our property it is a question of not rendering a struggling human homeless when we could help her have a place to call home and feel safe with her dog.

Again, we thank you for the opportunity to express our perspective regarding this matter and trust the right decision will be made.

Kind Regards,  
Martin & Kathryn Kallane



3-6 DOG PERMIT RANGER INSPECTION

**Date of Inspection:** Wednesday 27 July 2022

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**Property Address:** 75 Brumby Chase, Morangup WA

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**Name of Owner:** Katheryn Kallane

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**Phone Number(s):**

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**Email(s):**

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**Date of Application:** 05/07/2022

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**Ranger(s):** Couper

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|                             |           |                      |                 |  |                  |               |   |
|-----------------------------|-----------|----------------------|-----------------|--|------------------|---------------|---|
| Dog Name:                   | Barnsey   | Registration Number: | 2200113         | Breed:                                   | Red Cloud Kelpie |               |   |
| Colour:                     | Brown/Red | Microchip Number:    | 941000017448825 | Age (Years):                             | 7                | Age (Months): | 4 |
| Sterilised (Please circle): | No        | Sex (Please circle): | Male            | Restricted Breed (eg. Pit Bull Terrier): |                  | No            |   |

|                             |       |                      |                 |  |          |               |  |
|-----------------------------|-------|----------------------|-----------------|--|----------|---------------|--|
| Dog Name:                   | Vinny | Registration Number: | 2200112         | Breed:                                   | Dashound |               |  |
| Colour:                     | Red   | Microchip Number:    | 900006000132663 | Age (Years):                             | 11       | Age (Months): |  |
| Sterilised (Please circle): | No    | Sex (Please circle): | Male            | Restricted Breed (eg. Pit Bull Terrier): |          | No            |  |

|                             |       |                      |  |  |                 |               |  |
|-----------------------------|-------|----------------------|--|--|-----------------|---------------|--|
| Dog Name:                   | River | Registration Number: | Not previously registered in any local government. | Breed:                                   | Border Collie X |               |  |
| Colour:                     | Black | Microchip Number:    | 953010001311233                                    | Age (Years):                             | 6               | Age (Months): |  |
| Sterilised (Please circle): | Yes   | Sex (Please circle): | Male   | Restricted Breed (eg. Pit Bull Terrier): |                 | No            |  |



Dog/s Microchip database & Local Government information is current?

Yes

Date the owner was notified/requested to update:

N/A

Are the fences and gates capable of confining the dog?

No

or,

Is there an area built to effectively confine the dog (other than tethering)

Yes

Is the outside area clean and tidy?

Yes

Is there evidence of dog refuse in the yard?

Yes

Are there dog odours in the yard?

No

Approximate size outside dog space?

Property size is 34.6895 hectares and the area built to confine the dogs is approximately 100 Square metres.

Does the applicant demonstrate an ability to control the dogs?"

No, the owners did not demonstrate control of the dogs at the time of inspection.

Materials/type and Height of Fencing:

Boundary fencing is a standard rural fencing 900mm high in large sections.

Confinement area fencing / gates:

- The right hand side and rear of the confinement area is made from corrugated iron floor to roof.
- The fencing on the left hand side of the confinement area is made from a combination of corrugated iron, cattle yards, chicken wire and reo-mesh to a height of approximately 1500mm.
- The fencing / gates on the front section of the confinement area is made from corrugated iron, chicken wire and standard rural gates to a height of approximately 1100mm.

Modifications required?

No modifications are required on the boundary fencing as the owners have been directed to keep the dog(s) inside their dwellings, inside of the area built to effectively confine the dogs, or to be in control and supervised when out of these areas.

Katheryn was advised that the front section of the confinement area required modifications:

- The fencing / gates are to be raised in height in order to match the left hand side of the confinement area (approximately 1500mm).
- The gates are to have self-closing mechanisms installed.

19 August 2022 – Rangers re-inspected the containment fencing/gates and found that the requested modifications had been undertaken (Fencing/gates had been raised with Galvanised pipe and reo-mesh) NFA.

It is the dog owner's responsibility to maintain this area to effectively confine the dogs as per the *Shire of Toodyay Dogs Local Law / Dog Act 1976*.



#### Locking Devices on Gates:

One of the confinement area gates has a simple drop down catch to stop the door.  
The other gate simply slides into place but does not have a locking devise.

#### Modifications required?

Katheryn was advised that the gates on the confinement area required a self-locking devise to suit the self-closing gates.

19 August 2022 – Rangers re-inspected the containment gate locking mechanisms and found that the requested modifications had been undertaken (One gate has a self-closing latch and the other is locked shut) NFA.

It is the dog owner's responsibility to maintain this area to effectively confine the dogs as per the *Shire of Toodyay Dogs Local Law / Dog Act 1976*.

#### Housing:

Katheryn's dogs (Barnsey and Vinnie) are reportedly kept inside the house with them, are supervised on the property, or in the dog confinement area when the owners are away from the property.

Fiona Stewart's dog (River) is reportedly kept inside the dwelling with her, is supervised on the property, or in the dog confinement area when they are away from the property.

#### Water Supply:

The dogs are provided water bowls inside and outside of the house and the dwelling.

#### Condition of Existing Dogs:

The three dogs appeared to be in a good physical condition of good nature

#### Dog(s)/Owners History:

The Shire of Toodyay Rangers issued two cautions to Katheryn Kallane on 07/02/2022 (NFN20811)

- DCA0074 S.33D(2A) Dog attack or chase causing NO physical injury.
- DCA0075 Clause 3.1 Failing to provide means for effectively confining a dog.

An agreement with Katheryn was made to keep the dogs inside the house, supervised on the property, or in the dog confinement area when the owners are away from the property.

The Shire of Toodyay does not have any other recorded history of compliance matters regarding any dogs on the property before or after this compliance matter.

#### Application supported by the ranger?

Yes

#### Recommendations:

The Rangers support the 3-6 dog permit approval under the condition that Fiona Stewart's dog (River) will be removed from the permit & property if Fiona moves away from the property.

All of the dogs must remain effectively confined / controlled at all times and if a 3-6 dog permit is granted then it may be revoked at any time.

3 DOG APPLICATION – LOT 104 BRUMBY CHASE, MORANGUP



SCHEDULE OF SUBMISSIONS

3 DOG APPLICATION – LOT 104 BRUMBY CHASE, MORANGUP

| #  | NAME               | ADDRESS  | SUMMARY OF SUBMISSION  | DEVELOPMENT SERVICES COMMENTS ON SUBMISSION  |
|----|--------------------|----------|--|--|
| 1. | Resident/Ratepayer | Supplied | I know the dog involved in the 3 dog application and don't have any issues with having the three dogs on the property next door.   | 1.Note the submission.   |
| 2. | Resident/Ratepayer | Supplied | We have no problems at all with the owners of Lot 104 Brumby Chase having 3 dogs on their property   | 1.Note the submission  |
|    |                    |          | <p>The purpose of this letter is to advise that we do not support the application by the owners of Lot 104 Brumby Chase Morangup for the keeping of Three dogs on their property for the following reasons.</p> <ol style="list-style-type: none"> <li>The owners have previously on multiple occasions demonstrated an inability to contain Two dogs on their property, resulting in witnessed attacks on our livestock where Shire of Toodyay Ranger Services have been called to attend, and</li> <li>Experienced livestock losses by us over the past Eight years, totalling in excess of</li> </ol> | <ol style="list-style-type: none"> <li>Note the submission</li> <li>The applicant has worked with the Ranger to ensure the dogs have an adequate confinement area and are confined to the property.</li> <li>The dog in question was involved in "non-physical attack" were the Red Cloud Kelpie was barking at the neighbours livestock through fencing.</li> <li>The loss of stock and costs associated with, was not a result of the dogs in this application.</li> </ol> |

3 DOG APPLICATION – LOT 104 BRUMBY CHASE, MORANGUP

| # | NAME | ADDRESS | SUMMARY OF SUBMISSION   | DEVELOPMENT SERVICES COMMENTS ON SUBMISSION  |
|---|------|---------|---|--|
|   |      |         | <p>3. \$25,000 being attributed to dog attacks. Shire of Toodyay Rangers had been made aware of these and have attended on occasion.</p> <p>4. We believe that the presence of an additional dog on this property will greatly increase the possibility of future attacks on our livestock causing us to incur further financial loss as well as our having to endure the distress of attending to injured and or deceased stock. It is therefore requested that the application not be approved.</p> | <p>5. This is speculative. We must rely on facts and not what may happen in the future</p> |

SHIRE OF TOODYAY

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## Shire of Toodyay Policy Manual

**ADMINISTRATION POLICY**

|                        |                               |
|------------------------|-------------------------------|
| <b>POLICY NO:</b>      | <b>A.15</b>                   |
| <b>POLICY SUBJECT:</b> | <b>Keeping of 3 to 6 Dogs</b> |
| <b>ADOPTION DATE:</b>  | <b>19 June 2012</b>           |
| <b>LAST REVIEW</b>     |                               |

**STATEMENT OF INTENT**

To provide guidance to the owners or occupiers of land within the Shire of Toodyay on the circumstances where more than two (2) but less than six (6) dogs may be kept on their premises. The policy provides the basis for approving more than two (2) and less than six (6) dogs on a property, including consultation with adjoining owners, ensuring adequate boundary fencing and that all other requirements of the *Dog Act 1976* are achieved.

This policy will provide for the delegation of authority to deal with these matters, such that the keeping of between three (3) and six (6) dogs may be approved in an efficient and timely manner.

**OBJECTIVES**

- To provide clear guidance to Council, staff and the public on the circumstances under which between three (3) and six (6) dogs may be kept on a property.
- To provide delegated authority to the Chief Executive Officer to approve between three (3) and six (6) dogs on a property.

**DEFINITIONS**

'Authorised officer' means a person appointed by the Shire of Toodyay to exercise powers on behalf of the Shire of Toodyay under the *Dog Act 1976* (section 29(1)).

'Property' means an area of land with a residence which a person has a lawful right to occupy and is clearly demarked by way of a fence or clearly defined barrier.

**STATUTORY POWERS**

This policy is made pursuant to Section 2.7(2) (b) of the *Local Government Act 1995* and provides clarification to Clause 3.2 of the *Shire of Toodyay Dogs Local Law*, which has been made pursuant to the *Dog Act 1976*.

## Shire of Toodyay Policy Manual

**POLICY STATEMENT**

1. An owner or occupier of land within the Shire of Toodyay shall not be allowed to keep more than two (2) dogs on a property, without the prior written approval of the Council.
2. No person within the Shire of Toodyay will be permitted to keep more than six (6) dogs on a property under any circumstance. This requirement will not apply to a dog kennel facility approved under the provisions of the Shire of Toodyay Local Planning Scheme No 4.
3. The maximum amount of dogs that can be considered for any one property is set out in the table below:

| Site   | Maximum Number of Dogs that could be approved   |
|--|---|
| <ul style="list-style-type: none"> <li>• Property zoned 'Residential' and 'Town Centre'.</li> <li>• Property zoned 'Residential Development' with site area less than one hectare (1ha).</li> </ul>                            | 2 dogs  |
| <ul style="list-style-type: none"> <li>• Property zoned 'Residential Development' with site area greater than one hectare.</li> <li>• Property zoned 'Rural Living', 'Rural Residential' and 'Special Residential'.</li> </ul> | 3 dogs  |
| <ul style="list-style-type: none"> <li>• Property zoned 'Rural'.</li> </ul>  | Up to 6 dogs. If approval sought for more than 3 dogs, must be demonstrated that at least half the number of dogs on the property are working dogs associated with an agricultural pursuit. |

4. An application to have more than two (2) dogs on a property must be accompanied by the following information:
  - a) Contact details of the applicant, including their full postal address;
  - b) Complete details on the property on which the dogs will be kept;
  - c) The reasons for which they require the permit; and
  - d) The total number of dogs to be kept on the property.
5. Prior to determination, all applications to keep between three (3) and six (6) dogs on a property will be referred to adjoining landowners (whose property boundaries are within a 50 metre radius of the subject land) for public comment. Adjoining landowners will have 21 days from the date of referral to lodge a written submission on the proposed application. Where no

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 Local Planning Policy No LPP.15 – 3 – 6 Dogs

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Shire of Toodyay Policy Manual

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response is received, Council will take the view that the adjoining owners have no objection to the application.

6. Prior to determination of an application to keep three (3) to six (6) dogs on a property, an authorised officer of Council may inspect the subject property at any time to inspect fencing, dog numbers and registration of dogs.
7. Council reserves the right to revoke any approval to keep three (3) to six (6) dogs on a property if it is considered that a breach or offence against the *Shire of Toodyay Dogs Local Law* or the *Dog Act 1976* has been committed. In this circumstance, the Council may require that the number of dogs on the property be reduced to a maximum of two (2) within 14 days.
8. The Chief Executive Officer is delegated authority to perform the functions of Council in respect to the following:
  - a) The determination of applications to keep between three (3) and six (6) dogs on a property, where the application meets all requirements of this policy, the *Shire of Toodyay Dogs Local Law* and no written objection has been received from adjoining landowners during the notification period;
  - b) The determination of applications to keep between three (3) and six (6) dogs on a property, where the application meets all requirements of this policy, the *Shire of Toodyay Dogs Local Law* and a written objection is received which is not considered sufficient reason for refusal of the application;
  - c) To refuse any application that does not comply with section 3 of the policy; and
  - d) To refuse applications to keep more than six (6) dogs on a property that are not in connection with a dog kennel facility approved under Council's relevant Local Planning Schemes.
9. Any application not considered to fall within the delegation parameters defined in Part 8 will be referred to Council for determination.
10. All dogs within the Shire of Toodyay must meet the requirements set out in PART 3 of the *Shire of Toodyay Dogs Local Law – Dogs to be confined*.

**(Refer to LPP.15)**

**Adopted as Administration Policy Council Meeting 19 June 2012**

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Local Planning Policy No LPP.15 – 3 – 6 Dogs

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## PLANNING APPLICATION

500 SALT VALLEY RD, HODDYS WELL 6566



Connecting research, industry and community to create enabling spaces  
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ABN 37 609 340 835



Hugo De Vos  
Manager Development and Regulation  
Shire of Toodyay  
Fiennes St, Toodyay WA 6566

12<sup>th</sup> October 2022

Dear Hugo,

**RE: Retrospective Approval application for Land Use and Storage Structures on  
Lot 500 Salt Valley Rd Hoddys Well 6566**

I submit this document and associated drawings on behalf of my client in support of the application as described above.

The subject land is use is zoned "rural" under Local Planning Scheme (LPS) 4. My client is seeking retrospective approval for the land use of "Transport Depot" on a portion of the land at the location of the approved building envelope, for the parking of 2 or more commercial vehicles, and for the purpose of refueling and maintenance of these vehicles. This application supports the premise that the land use is appropriate for, and will not affect the amenity of the area. The land is also subject to a native vegetation covenant which is also addressed in this application, I put forward that the ongoing management of the vegetation will not be impacted by this land use.

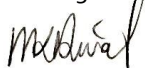
My clients are also seeking retrospective approval for 2 transportable storage structures (sea containers) to be located on the subject land, and is applying to a variation to the front setback in relation to the siting of these structures. This application will put forward that the proposed location has no impact on the amenity of the closest neighbors, or vehicles travelling along Salt Valley Road.

This application document is supported by associated site plan drawings.

My clients acknowledge that the land use commenced prior to planning approval and realises that approval should have been received prior to work being undertaken. They have ceased further development and have been actively working towards obtaining planning compliance.

Please do not hesitate to contact me should you wish clarification on any point, or would like to discuss the application in further detail.

Kind Regards,



Shelly Dival CF



Connecting research, industry and community to create enabling spaces

0433 510 416 | shelly.dival@enablingspaces.com.au  
PO Box 11 Toodyay WA 6566  
ABN 37 609 340 835



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 ABN 37 609 340 835



## INTRODUCTION & BACKGROUND

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The subject property at Lot 500 Salt Valley Rd was used as a gravel pit by the Main Roads Department (MRD) in approximately the 1950's/60's for gravel extraction for road construction, anecdotal evidence also suggests that as vacant land it was also used unofficially by local residents after the MRD. The pit was not reinstated to current day standards as the current land topography shows the remnants of the pit, with multiple ground levels and trees on higher levels at the original natural ground level with minimal soil surrounding them as gravel was extracted. Newer growth is seen on the uneven floor of the old pit. The lot itself is generally rugged terrain, with a large gully running through the central area, the old pit covers the front portion of the site, along its width along Salt Valley Road. The remainder of the location is natural bushland.

In 2003, the land was part of a larger sub-division and a native vegetation covenant was placed over the area, including Lot 500<sup>1</sup>.

The existing house and additions, the shed and associated infrastructure were constructed by previous owners.

The current work shed – which is in the location of this land use application, was also constructed by a previous owner.

### **The existing infrastructure is not part of this application.**

My clients own and operate a small earthmoving business as a husband and wife team. There are no employees. The business owns several machines and low loaders for machine transport, along with a selection of attachments for the machines. It is proposed to base the parking of the machines and undertake routine maintenance on the machines from the property at the area of the existing work shed.

Activity undertaken on the site has included creating a bushfire asset protection zone around the shed, with the dual use of vehicle movement and parking space. Stormwater runoff control was undertaken within this zone and the area of the building envelope. An area was cleared of vegetation beyond the protection zone and building envelope, based on the verbal advice of the officer at DPIRD my client acted in good faith due to this advice. This advice has now been shown to be incorrect, and ongoing management practices are based on the updated advice.

While from a governance perspective, a native vegetation covenant does not influence a land use application, refer correspondence from DPIRD, Attachments 1 & 2, it is acknowledged a

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<sup>1</sup> Refer to attachment – extract from title, native vegetation memorial

consideration of this application is to ensure appropriate management of the vegetation can occur with this proposed land use. We submit that this is achievable and provide detail in this document.

#### LAND PARTICULARS – PLANNING PARAMETERS

| Item  | Details   |
|---|---|
| Address                                       | Lot 500 Salt Valley Road, HODDYS WELL 6566  |
| Size  | 2011778m <sup>2</sup> (20.1ha)  |
| Regional Scheme                               | No regional scheme applicable   |
| Local Planning Scheme(LPS)                    | Shire of Toodyay Scheme No. 4   |
| LPS-4 Scheme zoning                           | Rural   |
| Avon River Valley special control area        | Not applicable  |
| Landscape Protection Area                     | Not applicable  |
| Wetlands / river channel special control area | Not applicable  |
| State Planning Policies (SPP) –               | SPP 3.7 – Building in Bushfire Prone Areas - BAL assessment not required, infrastructure is existing.<br><br>Requirements under "Planning for Bushfire Protection Guidelines" |
| Aboriginal and Heritage Site                  | <b>Nil</b> plans or places applicable   |
| Special Control Areas                         | <b>Nil</b> special control areas applicable   |

## NATIVE VEGETATION COVENANT BACKGROUND & MANAGEMENT

### BACKGROUND

My clients undertook due diligence in regard to the native vegetation memorial at the time of purchasing the property. When no management documents could be discovered, through relevant channels or agencies, they received verbal advice from an officer at the Department of Primary Industries and Regional Development (DPIRD)<sup>2</sup> which was that they could clear 10% of the vegetation. My clients had no desire to do that as they wanted to preserve as much bush as possible and only create an appropriate circulation space around the shed and. The vegetation in the area was thin, with low bushes and patches of no vegetation due to the old gravel pit, there were low areas of boggy wet land and several trees, one in particular was quite large though posed a safety threat as it had minimal soil around it's base (refer drawings for schematic). The current clearing outside of the allowable fire protection zone and building envelope, represents approximately 1,400m<sup>2</sup> or 0.05% of the site's total land area, and we acknowledge this has been of concern by the Shire and members of the public and has subsequently been the subject of discussion between my clients and DPIRD. The old gravel pit had a vertical face on one boundary from excavation, my clients undertook remedial work on this face for stabilisation and safety, which included storm water control, by creating a pitched bank (refer to plans).

### OUTCOME

Since undertaking further investigation which highlighted the previous advice as incorrect, my clients have had detailed discussions with Deputy Commissioner of Soil and Land Conservation, Buddy Wheaton regarding the covenant and the intended land use and including management moving forward, they now have clarification of the requirements in regard to the covenant. A letter from the Deputy Commissioner summarising their discussion is attached reference, and further clarification as requested by your department was followed up with the Deputy Commissioner by my clients and confirmed to you in correspondence by the Project Officer<sup>3</sup> which outlines,

- No further clearing to be undertaken
- The department does not require any rectification work to be undertaken
- The covenant does not restrict land use as long as vegetation is protected and activities do not have a negative impact on the land.

Note: Clearing is permitted if it is required to meet the obligations under the Bushfires Act 1954.

<sup>2</sup> Refer to the section – Native vegetation covenant

<sup>3</sup> Attachments 1 & 2



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With this clarification in regard to the Native Vegetation Covenant, this document will outline management planning and practices during the running of the business to ensure protection of the vegetation in relation to,

- Bushfire's Act 1954
- Environmental Practices
- Landscaping

#### RETROSPECTIVE APPLICATION - PROPOSED LAND USE – TRANSPORT DEPOT

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Under Shire of Toodyay LPS #4, the definition of “transport depot” is;

Premises, or a portion of a premises, use for the parking or garaging of two or more commercial vehicles for financial reward, and (i) may include the maintenance and refueling of those vehicles and the storage of goods brought to the premises by those vehicles, provided that those activities are ancillary to the parking or garaging of the commercial vehicles; and (ii) may include the transfer of goods or persons from one motor vehicle to another. - AMD 4 GG 07/01/14

#### PLANNING PARAMETERS FOR PROPOSED LAND USE

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Shire of Toodyay Local Planning Scheme 4 (LPS-4)

Shire of Toodyay Local Planning Strategy 2017 (Planning Strategy)

#### BUSINESS ACTIVITIES

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The business proposed to be based at the premises is an earthworks business. The business has no employees and is operated by the husband and wife owners.

The transport depot will be used as a base for machinery parking and maintenance. Generally, machines are on a job site, and will be at the depot if not being moved directly to another job or are having maintenance undertaken. Two of the low loader trailers will general be parked at the depot, along with the prime mover when not on site with other machinery.

#### Machinery list

1 x prime mover

3 x low loader trailers

2 x excavator

1 x loader



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1 x skidsteer

*The business activities are confined to the immediate area around the shed, and therefore will not impact the native vegetation.*

#### MEETING THE PLANNING PARAMETERS

Under LPS-4 a **Transport Depot** is a permitted use within the rural zone, with the approval of the local government, when exercising discretion and by granting development approval after giving special notice in accordance with clause 64 of the deemed provisions.

This development meets the following objectives under the Planning Strategy

1. Clause 5.2 Objectives, point 4 "minimise the loss of productive agricultural land and areas of native vegetation by consolidating and promote sustainable development in, and adjacent to, existing urban areas".

The subject site is bushland, so while zoned rural, there is no loss of productive agricultural land by the proposed use. Additionally, this property has a memorial against the title to exclude all classes of livestock and to manage appropriately to retain native vegetation and therefore is unable to be used for agriculture. The memorial does not state any prohibited land uses.

2. Clause 5.2 Objectives, point 6 "provide for economic diversification in rural and rural living areas by providing small scale tourism and business opportunities compatible with the surrounding areas.

The proposed land use, and its associated business is compatible with the surrounding area. For example, within a 10 km radius of Lot 500 the zoning is predominantly "rural" with smaller areas zoned "rural residential".

The rural residential areas are over 700 metres (Sandplain Rd) and over 1km (Salt Valley Rd) from the location of the proposed depot to the closest boundary, and therefore will not be affected by the depot particularly as most of the lots in these rural residential sub-divisions do not front either Salt Valley, Sandplain or Toodyay Roads which are the main traffic routes for both heavy and light vehicles.

Within this 10km radius of Lot 500, there are numerous businesses relevant for comparison within the rural zone and provide examples that alternative business opportunities can be undertaken successfully in this locality without loss of amenity, therefore showing that the land use proposed in this application is compatible with the surrounding area.

Several of these businesses are extractive industries on Clackline Road, which are active pits with multiple heavy vehicles travelling in the area to and from the pits, and with machines working



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regularly during the day in the pit. In comparison, the estimated vehicle movement is minimal for the depot at Lot 500 and there is no active machine movement on a regular basis during normal operating hours and movements at the depot would be low speed movement for loading and unloading machines and moving machines for maintenance.

There are also several Special Use zones (SUZ) supported by LPS-4 within the 10 km radius of Lot 500 and situated within this locality providing supporting evidence for this application that a wide variety of businesses within differing industries are supported in this locality under the scheme, they are,

SUZ #2, Pt. Avon Loc 27620 – Private Recreation and Caravan Park

SUZ #4, Avon Location 27443 Toodyay Road – Trout farm and associated facilities, restaurant, picnic area and holiday resort.

SUZ #5, Lots 111 – 115, 117 & 118 Clackline-Toodyay Road – Emu Farm, tannery and workshop showroom, Art & Craft Gallery, eating facility and accommodation units.

SUZ #12, Lot 1 Salt Valley Road, Hoddys Well, Landfill

SUZ #14, Lot 11 Chitty Road, Toodyay, Waste Disposal and treatment & rural uses.

3. Clause 5.2 Objectives, point 14 “ensure the future development takes advantage and makes the most efficient use of infrastructure that is available”

The subject land is approximately 600 metres from Toodyay Road, and is situated on Salt Valley Road, both these roads are sealed and both currently have regular heavy vehicle traffic. The infrastructure is therefore suitable for the movement of the machinery from the depot to job sites and no further infrastructure is required.

#### NATIVE VEGETATION MANAGEMENT & BUSHFIRE ACT 1954

#### BACKGROUND

During due diligence, discrepancies have been discovered in regard to the building envelope on the property. This discrepancy and approvals by a previous administration (mentioned in the correspondence to my client from Deputy Commissioner Wheaton) has resulted in the house and shed being built in an area of approximately 125 metres from the approved envelope, and therefore separated from the work shed, which is within the approved envelope, by a similar



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