



Job Ref: 9419
3 December 2022

Chief Executive Officer
Shire of Ashburton
PO Box 567
TOM PRICE WA 6751

Attention: Mr Ben McKay – Manager Town Planning

Dear Mr McKay

**Regulation 17 Amendment Application
Lot 300 (No. 5) Back Beach Road, Onslow (DAP/21/02078)**

We refer to the abovementioned Development Application (DAP/21/02078) which was previously considered by the Regional Joint Development Assessment Panel ('RJDA'). As the Shire is aware, the RJDA resolved to grant conditional approval at its meeting held on 23 December 2021 and subsequent approval for an amended (Form 2) application on 24 August 2022.

Rowe Group acts on behalf of Mineral Resources Limited ('MinRes'; 'Client'), the proposed developer of Lot 300 (No. 5) Back Beach Road, Onslow ('subject site'), with the input of the Buurabalayji Thalanyji Aboriginal Corporation ('BTAC'), the determined Native Title holders of the subject site. As instructed by our Client, our office has prepared this request to amend aspects of DAP Approval DAP/21/02078 in accordance with Regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011* (the 'DAP Regulations') and clause 77 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the 'Deemed Provisions').

With respect to this request, please find enclosed the following documents for the Shire's consideration:

- A completed and signed Shire of Ashburton Application Form for Development Approval;
- A copy of the current Certificate of Title;
- A copy of the updated Development Application Plans;
- An updated BAL Rating assessment;
- A technical note prepared by Uloth and Associates addressing traffic related matters; and
- A technical note prepared by Stantec addressing noise related matters.

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BACKGROUND

At its meeting held on 23 December 2021, the RJDAP resolved to grant conditional approval for a high-quality transient workers accommodation resort at the subject site. Following further detailed consideration of the proposal, the RJDAP, at its meeting held on 24 August 2022, granted approval for minor amendments to the form of the development, and amendments to various conditions of development approval.

Further to recent and ongoing discussions with the Shire, it is understood that the Shire is of the view the current primary access to the development via Third Avenue is problematic for the following reasons:

- Increases the potential for traffic conflict within the town centre and residential traffic; and
- Increases the potential for traffic conflict with the Onslow School.

As such, following a review of the proposal, inclusive of the proposed vehicular access with the project team and the Shire's staff, this Application seeks approval to amend the form of the approved development by way of taking primary access via Back Beach Road in lieu of Third Avenue as a means of addressing the Shire's concerns with the approved development.

LOCATION AND SITE DESCRIPTION

The Site is located within the regional town of Onslow which forms part of the local government area of the Shire of Ashburton.

The Site is situated approximately 300m west of the centre of the Onslow Townsite and is bound by State owned 'Conservation, Recreation and Natural Landscape' reservation to the north and north-west (forming Sunrise and Sunset Beaches), Back Beach Road to the south-west and residential land uses to the south and east.

The Site comprises one (1) freehold land parcel, being:

- Lot 300 on Deposited Plan 422325 on Certificate of Title Volume 4014 Folio 669.

The Site has a total land area of 20.45ha, with a frontage of 467m to Back Beach Road and 114.17m to Third Avenue.

Refer to **Attachment 1 – Certificate of Title**.

At the time of lodging this Application, the Site is owned by BTAC. BTAC is also the Registered Native Title Body Corporate that holds those native title rights on trust for the Thalanyji people. Authorisation of the lodgement of this Application has been provided by BTAC accordingly.

PLANNING AND DEVELOPMENT (DEVELOPMENT ASSESSMENT PANELS) REGULATIONS 2011

The ability for the Shire to amend an approval granted by a DAP is outlined in Regulation 17A of the DAP Regulations and clause 77 of the Deemed Provisions.

Regulation 17A of the DAP Regulations states the following:

- (1) An owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply, under the relevant planning instrument, for the responsible authority under that instrument to amend or cancel the development approval (an application).*
- (2) For the purposes of subregulation (1), the provisions of the Act, the Planning and Development (Local Planning Schemes) Regulations 2015, the Planning and Development Regulations 2009 and the relevant planning instrument apply to the making and determination of, and the review of a decision on, an application as if the development approval –*
 - (a) had not been granted pursuant to a DAP application; and*
 - (b) had been granted by the responsible authority*

Clause 77 of the Deemed Provisions (which applies pursuant to regulation 17(A)(2) above), states the following:

- (1) An owner of land in respect of which a development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following –*
 - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;*
 - (b) to amend or delete any condition to which the approval is subject;*
 - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approval;*
 - (d) to cancel the approval.*
- (2) An application under subclause (1) –*
 - (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and*
 - (b) may be made during or after the period within which the development approved must be substantially commenced.*

This Application is therefore submitted and requested for approval under Regulation 17A (1) and (2) of the DAP Regulations and clause 77 of the Deemed Provisions, for determination by the Shire of Ashburton.

Amendments to Development Approval

In accordance with clause 77(1)(c) of the Deemed Provisions a number of minor modifications to the approved form of development are proposed, as shown in the amended Development Application Plans provided at

Attachment 1. The amendments to the approved development are summarised as follows:

- Primary access to the development has been reconfigured to be taken via Back Beach Road;
- Changes to the configuration / orientation of the main carpark as a result of the new entry road;
- Changes to site levels and topography as an outcome of detailed design development to provide safe and compliant path of travel and access in accordance with the requirements of the *National Construction Codes*;
- Minor amendments to the layout of the 'gymnasium', 'indoor recreation' and 'administration' buildings to improve the flow and function of the development also resulting from the new entry road;
- Minor increase to the size of accommodation pods as a result of detailed design changes;
- Reduction in the number of accommodation pods from 125 to 104 (including three (3) accessible pods) resulting from the new entry road;
- Relocation of a multipurpose outdoor court and outdoor facilities at the northern portion of the site.

With respect to the above, following a review of the development in conjunction with the Shire of Ashburton staff, and as a result of the primary access reconfiguration, other minor adjustments to the development were required to maintain the high-quality function and flow of the proposal. It is noted, however, that all amenities included within the approved Application have been maintained, with the amendments being minor in nature with no external and façade/ material modifications proposed.

In support of the amended site layout and access via Back Beach Road, as agreed with the Shire of Ashburton, the following technical addendums have been provided:

- Technical addendum to the Traffic Impact Assessment prepared by Uloth and Associates addressing traffic related matters;
- Technical addendum to the Acoustic Report prepared by Stantec addressing noise related matters; and
- Technical addendum to the Bushfire Management Plan prepared by Linfire addressing bushfire related matters.

The outcomes of the updated technical reporting are summarised below:

- Traffic
 - › A swept path analysis of the intersections at Back Beach Road / Simpson Street and Back Beach Road / Entry Road confirms the existing road network is capable of catering for all potential traffic movements to access the site by light vehicles, buses and heavy rigid (service) vehicles; and
 - › A swept path analysis of the internal carpark and road network confirms the proposed vehicles can safely traverse the internal road network.

- Noise
 - › The proposed amended layout remains compliant with the *Environmental Protection (Noise) Regulations 1997* and thereby satisfies the Shire's requirements.
 - › The anticipated noise volume generated by the new entry road is significantly less than the noise generated by the Onslow Salt operations and will not cause further undue impact to the neighbouring dwellings.
- Bushfire
 - › The amended BAL Contour Plan demonstrates that all habitable buildings (i.e. accommodation pods, gym, tavern, restaurant and administration areas) are in areas of BAL-29 or lower, and therefore the proposed amendments remain compliant with *State Planning Policy 3.7 – Planning in Bushfire Prone Areas*.

Amendments to Approval Conditions

Further to the above, in accordance with clause 77(1)(b) of the Deemed Provisions, it is also requested that Conditions 8 and 9 of Development Approval DAP/21/02078 are deleted from the approval. For completeness, Conditions 8 and 9 state the following:

8. *Prior to the commencement of construction, the Traffic Impact Statement is to be updated to the satisfaction of the Shire of Ashburton to address the following matters:*
 - a) *The full extent of the traffic impacts the development will have on the locality;*
 - b) *Assess the full potential impact of the development;*
 - c) *Include the likely post-development traffic volumes;*
 - d) *The impact is to be assessed for 10 years after full opening of the development;*
 - e) *The application relies on the assumption that majority of the 500 occupants will travel to and from the site by bus. The Shire expects that other scenarios are considered within the Traffic Impact Assessment documents whereby the use of work and private vehicles is also factors into transport arrangements. This is typical of the operation of other significant sized workforce accommodation facilities in the Shire of Ashburton.*
 - f) *Road condition and any necessary upgrades arising from the development including potential cost contributions.*
9. *Prior to the commencement of the use, any road upgrades or contributions arising from the development and articulated by satisfying Condition No. 8 are to be undertaken to the satisfaction of the responsible local government.*

Historically, the Shire's Administration and Council's position with respect to access to the site is that access should be provided via Back Beach Road. In this regard, it is noted that the Shire's Administration and Council supported the inclusion of the following Advice Note within the Responsible Authority Report prepared to the RJDAP on 24 August 2022:

The Shire of Ashburton is prepared to consider an application from the owner of Lot 300 under Regulation 17A of the Planning and Development (Development Assessment Panels) Regulations 2011 to delete or amend Conditions 8 and 9, if it can be demonstrated to the Shire's satisfaction that:

- (a) Vehicle access / egress connection will be provided to Back Beach Road;*
- (b) To the extent deemed necessary by and where agreed with the Shire, the proponent will contribute towards the upgrading of:*
 - (i) Back Beach Road up to and including the intersection with Simpson Street.*

While the abovementioned Advice Note did not form part of the amended approval granted by the RJDAP, as the form of development has been amended to provide the primary form of access from Back Beach Road, Conditions 8 and 9 are superfluous and should be deleted.

In addition to the above, it is also requested that Condition 12(K) of Development Approval DAP/21/02078 be deleted from the approval. In this regard, it is noted that Condition 12(K) was included by the RJDAP at its meeting held on 24 August 2022 to further reinforce the obligations by the Applicant under Conditions 8 and 9 and on the basis of primary access being taken via Third Avenue which was considered incapable of catering for the proposed traffic volumes. As such, given access is now being taken via Back Beach Road, serviced by the newly constructed Onslow Ring Road which caters for a significantly larger volume of vehicles, Condition 12(K) is also superfluous and should be deleted.

CONCLUSION

The proposed modifications to the DAP Approval (DAP/21/02078) as amended, are consistent with clause 77 (1) of the Deemed Provisions. The amended proposal seeks to reduce potential traffic conflicts between the development and the residential area / primary school areas to address concerns from the Shire and community.

We trust the above provides clarity with respect to our proposed amendments and request the Shire's favourable determination of the matter in a timely manner.

Should you require any further information or clarification in relation to this matter, please contact Mr Greg Rowe or the undersigned on 9221 1991.

Yours faithfully,



Adrian Dhue
Rowe Group

Encl.