



**DEVELOPMENT SERVICES ATTACHMENTS
ORDINARY MEETING OF COUNCIL
WEDNESDAY 17 FEBRUARY 2021**

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The background of the page is a photograph of a rural landscape. It shows rolling green hills in the distance, a line of trees in the middle ground, and tall, thin grasses in the foreground. A large green curved graphic element is also present at the top of the page.

Local Planning Policy 20 Telecommunications Infrastructure

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1. Statutory Context

The Shire of Chittering, as enabled under, Schedule 2, Part 2, Division 2 – ‘Local Planning Polices’ of the deemed provisions, hereby adopts this Local Planning Policy (LPP) regarding Telecommunications Infrastructure.

Any LPP prepared under this part shall be consistent with the Scheme and if any inconsistency arises the Scheme shall prevail.

A LPP is not part of the Scheme and shall not bind the Local Government in any respect of any application for development approval, but the local government shall have due regard to the provisions of any policy, and the objectives which the policy is designed to achieve before making its decision in accordance with the deemed provisions.

This LPP applies to all land zoned within the Scheme area.

2. Definitions

“above ground telecommunications infrastructure” refers to any line, equipment, apparatus, tower, antenna or any other structure that is visible above ground level.

“low-impact facility” means a facility used for telecommunications as described in Section 3.1 - Facilities of the *Telecommunications (Low-impact Facilities) Determination Act 1997*.

Note: Under the *Telecommunications Act 1997* certain facilities cannot be low-impact facilities, namely designated overhead lines, a tower that is not attached to a building, a tower attached to a building and more than 5 metres high, an extension to a tower that has previously been extended, and/or an extension to a tower if the extension is more than 5 metres high.

“Shire” means the Shire of Chittering inclusive of the Council of the Shire of Chittering, or a delegated staff member pursuant to Council policy

“telecommunications carrier” means a telecommunications company that is licensed by the Australian Communications and Media Authority as a carrier.

“telecommunications infrastructure” as defined in Local Planning Scheme No.5 and State Planning Policy 5.2, Telecommunications Infrastructure means any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, in or in connection with a telecommunications network.

3. Policy Statement & Objectives

This policy is complementary to *State Planning Policy 5.2: Telecommunications Infrastructure (SPP5.2)*. In assessing development applications for telecommunications infrastructure (non low-impact), the Shire is required to have due regard to SPP5.2, including visual impact considerations on a case by case basis.

However, SPP 5.2 makes it clear that telecommunications carrier licences incorporate standards set by the *Australian Radiation Protection and Nuclear Safety Agency* and those licences include substantial safety margins to address human health. It is therefore not within the scope of SPP5.2, Local Planning Schemes or local planning policy to address health and safety matters, or to outline setback or buffer distances for telecommunications infrastructure.

The objective of this policy then is to facilitate the coordinated development of Telecommunications Infrastructure in appropriate locations within the Shire; and to minimise adverse impacts of Telecommunications Infrastructure, including amenity, environment, and heritage

4. Statutory Application for Development Approval

Local Planning Scheme No.5 provides for the use permissibility in the Scheme Area within the various zones. This policy accordingly serves as an addendum assessment tool for the purposes of:

- a) promoting a consistent approach in the assessment and determination of applications for Development Approval for Telecommunications;
- b) managing the environmental, cultural heritage, visual and social impacts of Telecommunications Infrastructure through appropriate provisions intended to minimise any potential adverse impacts from such Telecommunications Infrastructure;
- c) facilitating the provision of Telecommunications Infrastructure in an efficient and environmentally responsible manner to meet community needs; and
- d) ensuring that Telecommunications Infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons.

This Planning Policy should be read in conjunction with the WAPC SPP 5.2 and the Commonwealth Telecommunications Act 1997. SPP 5.2 makes it clear that telecommunications carrier licences incorporate standards set by the *Australian Radiation Protection and Nuclear Safety Agency* and those licences include substantial safety margins to address human health. It is therefore not within the scope of SPP 5.2, local planning schemes or local planning policy to address health and safety matters, or to outline setback or buffer distances for telecommunications infrastructure.

5. Development Requirements

- 5.1 The Shire recognises that it is bound by Federal legislation relating to telecommunications infrastructure and that it has no jurisdiction over the location, installation, or upgrading of low-impact facilities. The Shire will, however, provide comment when notified of a carrier's intent to install low-impact facilities by way of encouraging background colour matching and the removal of obsolete infrastructure.
- 5.2 The Shire recognises the right of landowners/applicants to submit development applications for telecommunication infrastructure deemed to be other than low-impact under the Telecommunications Act 1997. The Shire also acknowledges its obligation to make a recommendation to the Western Australian Planning Commission (WAPC) or determine the application in its own right.

Upon receiving a development application for telecommunications infrastructure, which is not a low-impact facility, the proposal will be advertised for comment for all properties within a 1000 metre radius.

In making a recommendation to the WAPC, or in determining the application, the Shire will have due regard to:

- the provisions outlined in State Planning Policy 5.2: Telecommunications Infrastructure;
- compliance with the *Telecommunications Code of Practice 1997*;
- the topography of the site and surrounding area, the size, height and type of the proposed facility, the location and density of surrounding vegetation, and the general visibility of the proposal from surrounding development Additional Information;
- the merits of the particular proposal, including the need for services to be located to optimise coverage; and
- submissions received in response to public consultation, noting that submissions on health or safety grounds cannot be considered.

Site Plan
14 Red Poll Ct, Lower Chittering
Home Business - Dog training classes



SCHEDULE OF SUBMISSIONS – PROPOSED HOME BUSINESS (DOG TRAINING), 14 RED POLL CT, LOWER CHITTERING

PUBLIC SUBMISSIONS			
Submitter	Comment	Proponent Response	Shire Officer Response
Public 1 - SUPPORT	No comment		Noted.
Public 2 - OPPOSE	<p>We OPPOSE this application for the following reasons:</p> <ol style="list-style-type: none"> 1. We chose to retire to Lower Chittering 18 years ago for a peaceful life. The inevitability of 5 dogs at a time, barking, 3 time a day, is not acceptable, let alone on a weekend when we often have family and friends up to stay. 2. Unfortunately dogs are already causing problems around here with their constant barking. One starts and it sets the others off. Not to mention wandering dogs (just look at the Chittering Facebook page!) 3. We run sheep on our property and have previously experienced our sheep being spooked by barking dogs, especially when lambing, sometimes resulting in broken fences and it can make them really flighty and difficult to muster. 4. We have also experienced the horrific results from dogs attacking sheep, some breeds more than others, and so do not want the risk of any of these dogs getting out, as we are so close. 5. Whilst we admire the initiative of the applicants, this endeavour should be carried out in a public area, not privately, close to too many neighbours in a residential area. 	<ol style="list-style-type: none"> 1. Noted. The proposed development is committed to obeying the provisions of the <i>Western Australian Dog Act 1976</i> which prohibits any persistent noise by barking dogs. Dogs generally bark while unattended and given the animals are supervised at all times, excessive dog barking is not anticipated. 2. Noted. While this comment is not pertinent to this proposal and more so a general grievance, secure fencing and supervision will result in no 'wandering dogs'. 3. Noted. The presence of the submitter's sheep does not in some way prohibit the ability of nearby landowners to accommodate dogs. 4. Noted. The dogs are supervised and cared for at all times during training sessions and the property is securely fenced. This development does not increase the likelihood of the submitter's sheep being attacked by dogs. 5. Noted. The property zoning (Rural residential) is appropriate for the land use. <p>The submission provided is not viewed as having planning merit and is based on generic and unfounded comments towards dog behaviour. Rare examples of poor dog behaviour should not be accepted as normal practise and certainly not what a professional dog training enterprise entails.</p>	<p>Noted. The proposed home business is not expected to negatively affect neighbours use/enjoyment of their land as the scale of the proposal is small (limited to 5 dogs, 3 classes per day on weekends only). Many of the concerns raised can be addressed and mitigated through conditions of approval, including ensuring secure fencing of the area at all times and limits to class sizes and hours of operation. The proposed home business may contribute to improving the behaviour of dogs in the area due to the nature of the business, addressing the neighbour's concerns. The submitter's suggestion of carrying out the classes in a public area is not relevant to the proposal, and may be counterintuitive due to the inability to securely fence a public space.</p>
Public 3 - OPPOSE	<p>We oppose the application for a weekend dog training business in a quiet residential area.</p> <p>My wife and I moved to Maryville for a peaceful retirement, especially at weekends when family and friends visit.</p> <p>It is unacceptable to have more dogs in the area, as there is a real probability of barking and training noise.</p> <p>We expect Council to protect the interests of ratepayers at all times, as there already 32 dogs in the street and one bark will set them all off.</p>	<p>Noted. The land is zoned Rural - residential. The lot size enables a zoning that caters for a broad range of land uses. This is a land use that is able to be undertaken.</p> <p>The suggestion that 32 dogs are present in the street seems to be exaggerated for dramatic effect.</p> <p>Having additional dogs on site for a limited period of time, with limited operating days and with animals being under constant supervision, it is suggested that no adverse impact on the amenity of adjoining landowners or residents will occur.</p>	<p>Noted. The impacts of additional dogs from the proposed training home business are expected to be minimal due to the size and frequency of classes. The dogs will not be on the property permanently. The number of dogs that reside on the street is not relevant to the proposal.</p>

*Note: Comments are as per original submission received by the Shire.



9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Retrospective Airfield and Educational Establishment Land Use with Associated Buildings: Lots 1543 and 2941 (RN 887) Brand Highway, Muchea*

Applicant	M. Byrne
File ref	A11726
Author	Temporary Principal Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Development Plans 2. Application and operation details 3. Schedule of Submissions

Executive Summary

Council is requested to consider an application for a retrospective airfield and educational establishment land use and associated outbuilding on Lots 1543 and 2941 (RN 887) Brand Highway, Muchea. The item is being forwarded for Council’s determination as an objection was received during the public consultation period.

IMAGE 1: LOCATION PLAN

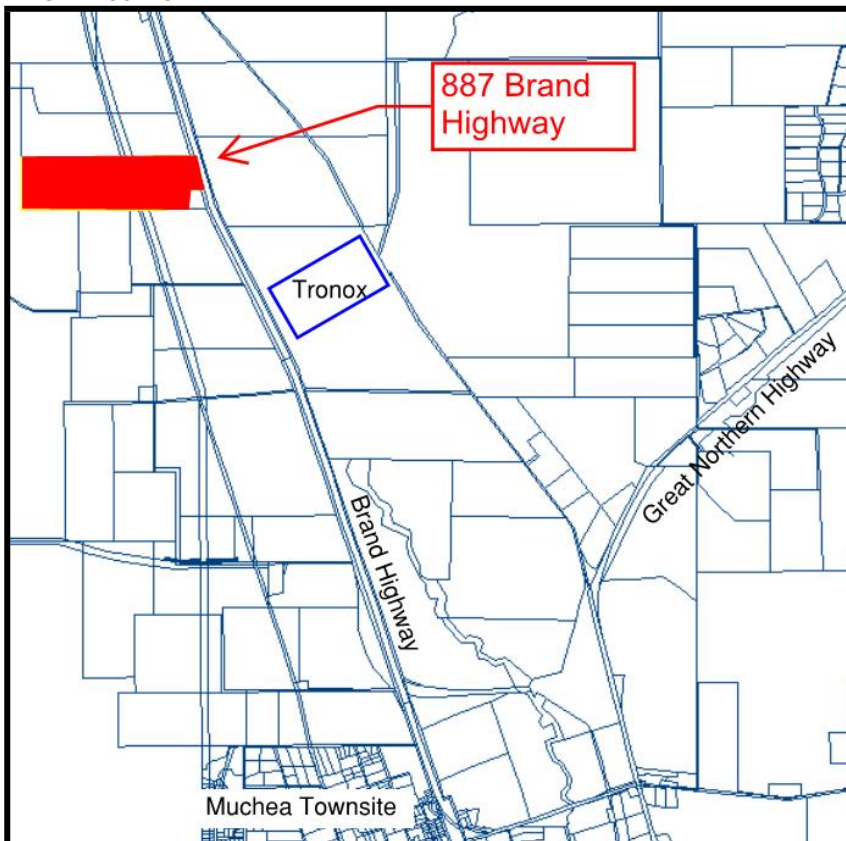


IMAGE 2: SITE PLAN



Background

An application for Development Approval has been received for the use of Lots 1543 and 2941 (RN 887) Brand Highway, Muchea as an 'Airfield' and 'Educational Establishment'. These land uses are already occurring on the site as a 'hangover' from a previous temporary development approval that has since expired. The applicant is seeking to regain development approval.

The subject property is located within land zoned for 'Agricultural Resource' under *Local Planning Scheme 6* (LPS6). The 'Airfield' and 'Educational Establishment' are both listed as an 'A' Use, which requires the Shire to consult with surrounding neighbours before considering the application in accordance with LPS6.

The application comprises a flight training school, including ground based theory and private aircraft activities. The proposal is assessed within the land use classification of an 'Airfield' and 'Educational Establishment'. Details and plans of the application are provided in Attachment 1, which include existing and proposed buildings associated with the proposed development.

The proposal initially involved two scenarios and flight routes for aircraft taking-off from the airstrip in both an easterly and westerly direction depending on the wind direction of the day. The direction of the take-off is required to be flexible (east or west) depending on the wind direction as aircraft typically need to take-off into the wind to achieve suitable 'lift'. The proposed take-off flight route to the east was in close proximity to a neighbouring property (Lot 200 Brand Highway), which was met with an objection during the mandatory advertising period. Subsequently, the proposal was modified by the applicant in an effort to address the concerns held by the objector.



The proposal now consists of the following:

- Existing runway extended 300m to the west;
- Aircraft predominantly taking-off in a westerly direction;
- Easterly take-offs (point where aircraft leaves the runway) occur a minimum of 500m from the property boundary of Lot 200;
- Aircraft easterly take-off turning manoeuvre occur no closer than 400m from property boundary of Lot 200; and
- During westerly landings, aircraft pass no closer than 50m from property boundary of Lot 200, with an altitude of approximately 150m (as aircraft passes over Brand Highway).

The facility is proposed to be used for flying lessons (Topfun Aviation) and 'fly ins' where small student groups attend the property in their private aircraft for ground based seminars and workshops held by instructors. These activities attract four to five aircraft at a time and is likely to occur five times a year.

Flying lessons comprise general circuits (see **Attachment 2** for circuit course), take offs, landings and practice engine failures. Any training falling outside general circuit training (such as practice engine failures) occurs in an alternative location, outside of the Shire of Chittering's boundaries. The applicant's report details that lessons and 'fly-ins' are undertaken on public holidays and most weekends (i.e. Friday through to Sunday), with the activity primarily occurring during the Summer months required on any available flight day. An available flight day would be determined by a number of factors, including, but not limited to, weather and deactivation of airspace by the Royal Australian Air Force - Pearce (RAAF) and may not occur every weekend. Therefore, flight time is likely to be in the vicinity of 1-2 hours on any available day. While not part of the application, the Shire has since been advised that the landowner also uses the runway for personal use of a private aircraft.

887 Brand Highway, Muchea has a total area of 86.53ha and is located approximately 5.2 kilometres north of the Muchea Townsite. The property is used for residential purposes and a medium scale honey production (an apiary).

The subject lots are surrounded by a mixture of land uses. To the south, the lots border horse stables and a recreational paintball facility in the south-west. The western boundary is adjacent to State Forest, with the remaining surrounding areas being mostly pasture for grazing purposes and equine activities. The Tronox plant is located south-east of the lots.

Council has previously considered a proposal for the retrospective airfield and educational establishment at this site. On the 21 February 2018 Ordinary Meeting of Council, Council resolved to support the application for 12 months and, subject to complying with all conditions of approval, a further extension for five years would be granted.



The details of this approval are provided below:

That Council issue development approval for the Retrospective Airfield for Lots 1543 and 2941 (RN 887)

Brand Highway, Muchea subject to the following Conditions:

1. *All development is to occur in accordance with approved plans.*
2. *The approval is for a trial period of 12 months and expires on 21 February 2019 (approval period). After the initial 12 month trial period, provided the proponent has complied with all relevant Regulations and satisfied the Conditions of this approval, an extension shall be granted for a further period of five years.*
3. *No more than four 'fly ins' are permitted within the approval period.*
4. *No more than five aircraft are permitted to attend a 'fly in' unless prior approval is sought and obtained from the Shire of Chittering.*
5. *Circuit routes are to be in accordance with the approved Circuit Plan.*
6. *No stunt flying, acrobatics, gliding or parachuting is to occur within three nautical miles of Greenside Airfield.*
7. *Operational times are restricted to:*
 - a. *0700 to 1900 for each weekday (subject to airspace being deactivated by Pearce Base);*
 - b. *Saturday 0700 to 1900; and*
 - c. *Sunday and Public holidays 0800 to 1700.*
8. *No more than one aircraft is permitted to undertake circuit training at any one time.*
9. *No more than two hours of flight activity per day is permitted within three nautical miles of Greenside Airfield.*
10. *Public Liability Insurance is to be held at all times and proof of policy is to be provided to the Shire of Chittering within seven days of the date of approval.*
11. *Prior to the expiry of the Planning Approval, a noise assessment is to be undertaken by a suitably qualified professional demonstrating the impact of noise from aircrafts flying from the subject property.*
12. *Storage of fuel on the property for the purposes of the airfield is not to exceed 999L.*
13. *All fuel is to be stored within a lockable shed with a suitably constructed and bunded floor which is impervious.*
14. *A Management Plan is to be submitted within three months of the date of Planning Approval to demonstrate safe fuel handling practices.*
15. *The aircraft are not permitted to commence take-off, touch-down or "park" within the Dampier Bunbury Natural Gas Pipeline corridor.*
16. *Aircraft are to be restricted in weight to not exceed 2,500kg.*

Administration determined that several conditions of approval had not been complied with and the further extension of a five year period was not granted. It is understood compliance action was not undertaken following the expiration of the initial term, as the applicant lodged the subject application in August 2019 for the Shire to consider.

Consultation/Communication Implications

Local

Consultation was undertaken in accordance with Clause 64 of the *Planning and Development (Local Planning Scheme) Regulations 2015* (Regulations). A total of four potentially affected landowners were consulted with one objection being received. The objection is provided in the Schedule of Submissions (**Attachment 3**). It is noted that two submissions were received from this same objector at different times, as the application was modified by the proponent following the first advertising period. The proposal was modified in an effort to alleviate some concerns held by the objector however, the objection was still maintained.



State

The proposal was referred to the following state agencies:

- (1) Department of Planning, Lands and Heritage;
- (2) Main Roads WA;
- (3) Department of Defence;
- (4) Civil Aviation Safety Authority; and
- (5) Australian Gas Infrastructure Group.

Response were received from the Australian Gas Infrastructure Group, Department of Planning, Lands and Heritage, Main Roads WA and the Civil Aviation Safety Authority. All responses had no objection to proposal, but made some suggestive comments. These comments can be viewed in the Schedule of Submissions in Attachment 3.

Legislative Implications

State

- *Planning and Development (Local Planning Schemes) Regulations*

In considering an application for development approval the local government is to have due regard to Sch. 2, Pt. 9, Cl. 67 of the Regulations – ‘Matters to be Considered’. The primary matters of consideration relevant to the application have been listed and discussed below:

(c) Any approved State planning policy;

State Planning Policy 2.5 (SPP2.5) identifies that sensitive land uses (dwellings) should be afforded a reasonable standard of rural amenity.

The initial proposed circuit route and position of the runway would likely have had an impact on a neighbouring residence (Lot 200) as a result of intermittent aircraft noise. The applicant responded to this aspect by adjusting the proposal to increase the separation distance between aircraft taking off, and the nearest dwelling.

It is considered that the noisiest aspect of the proposal is when an aircraft is taking off from the ground as the aircraft’s engine is often operating at high revolutions, to achieve a suitable level of thrust for take-off. This is opposed to landing an aircraft which has very little need for thrust, and can operate significantly quieter. The proposed separation distance of approximately 400m from an aircraft taking-off and the closest property boundary (Lot 200) in addition to the increased altitude for westerly landings is considered to be sufficient to minimise the noise and nuisance levels experienced at Lot 200. It is not expected that all noise impacts will be eliminated through these additional separation distances, but it is considered that the existing dwelling on Lot 200 will be afforded a reasonable standard of rural amenity, with the separation distances in place.

(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;

The subject site is listed as falling within a registered Aboriginal site. The classification of the registered site is noted as being a low classification and, therefore, it is reasonable to conclude that the existing runway does not affect the classification as there is no disturbance to ground levels apart from level gravelling.



- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.*

The physical built development (sheds and runway) are not considered to be incompatible with the rural setting and are unlikely to have any effect on the amenity of the area.

The primary aspect of the development that may be considered incompatible with its setting is the noise and nuisance generated from the aircraft taking-off, and to a lesser degree, landing. As discussed above, Lot 200 is the closest property that contains a dwelling that may be impacted by the development, which is evident through the negative submission received. Officers do consider however, that the compromises made by the applicant, including the 300m extension of the runway and modifying the easterly take-off route, adequately manage these impacts as experienced from Lot 200.

It is also noted that the runway is existing, and can be used by the subject landowner's private aircraft for rural purposes without the need for Development Approval. In this context, an aircraft can be considered a rural vehicle that causes some level of permitted noise and nuisance, not dissimilar to the operation of a tractor, or other rural machinery.

Based on the above, the proposed development is considered compatible with its rural setting given the applicant's adjustments to the proposal to mitigate impacts on Lot 200.

- (n) *the amenity of the locality including the following –*
- (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development.*

With respect to the environmental impact, the primary matters of concern relate to the extension of the runway into an area of the property that contains native vegetation, and the management of fuel and refueling aircraft.

The 300m runway extension is pivotal for Officers to consider this development proposal being acceptable, as it allows for an increased separation distance between aircraft taking off and landing, and the neighbouring Lot 200. Aerial photography indicates that vegetation will be impacted by the runway extension and, if it is native vegetation, its removal will require the consent of the Department of Water and Environmental Regulation. Whilst the application was not referred to this Department due to the runway extension being proposed late in the process, Officers' note that vegetation does not appear to be significant, and is likely to be low lying regrowth. From this, it is not expected that removing the vegetation will be met by any resistance from the Department. Nonetheless, it is the obligation of the applicant/landowner to make the necessary enquiries as to whether a clearing permit is required or not. If approved by Council, this can be included as an Advice Note to remind the applicant of their obligation.

Storage of aviation fuel on site and the refueling of aircraft presents an environmental risk in event that fuel is spilled or leaked into the environment. The proposal does not have a designated fuel tank as it stores fuel only in 200 litre drums or jerry cans. Whilst it is understood that the bulk storage of fuel on site is controlled under the *Dangerous Goods Safety (Storage and Handling of Non-explosives) Regulations 2007*, it is still considered appropriate to ensure proper equipment and practices are employed to mitigate any potential risk to the environment. The applicant has provided management measures in the application to mitigate the likelihood of spills occurring, and steps to take in the event of a spill. Officers consider that these management practices are suitable



for the scale of the development proposed, and consider it appropriate to enforce these measures through a condition of approval, should Council approve the application.

With respect to the local character, the locality is considered to be rural in nature with intermittent aircraft noise from the nearby Pearce RAAF Base. Increased noise has occurred due to the educational establishment and resultant increase in aircraft use, noting that the property appears to have a limestone runway for personal aircraft use prior to 2010. It is also understood that the subject area is impacted by noise as a result of vehicular traffic along Brand Highway. Whilst additional noise impacts are expected to be created as part of the proposed development, it is not considered to be of a level that would adversely impact the character of the locality.

With respect to the potential social impacts of the development, it can be argued that providing local learning opportunities for the craft of flying, can provide social benefit to the community at large.

- (r) *the suitability of the land for the development taking into account the possible risk to human health and safety.*

The main concern for human health and safety identified during the consultation process is the disturbance to stock, potentially injuring the stock or people. Noise is also considered to be an issue in relation to the rural enjoyment. However, the subject locality is within an existing aircraft noise area and is adjacent to major regional highway (Brand Highway). These factors combined with the added separation distance of the aircraft from the nearest property, are considered acceptable.

- (s) *the adequacy of –*
 (i) *the proposed means of access to and egress from the site; and*

The proposal utilises an existing access point from Brand Highway. As this is a road managed by Main Roads WA (MRWA), their comment was requested and obtained during the advertising period. MRWA had no objection to the proposal due to the limited number of increased traffic generated from the site, but had a preference that one of the two access points into the property were closed. The second access point in question services a house on the subject property, which is not a consideration of this application. As such, and purely from a planning perspective, it is not believed to be reasonable to close an access point not related to the development being applied for. It is on this basis that the current access arrangements can remain, with no modifications required.

- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*

Topographical images indicate that the aircraft landing strip was established in 2008-2010 with upgrades to the runway occurring in following years. The expired Development Approval allowed various outbuildings and extended the airfield use to the education of pilots which has subsequently increased the use of the airfield during the weekend. This has resulted in increased vehicular traffic to the subject property and increased use of the airfield. The proposal provides an alternate and closer option for club members to undertake flight training within close proximity to Perth, and provides an opportunity for community members to pursue an aviation opportunity.

- (y) *any submissions received on the application*

Administration received an objection from an adjoining owner as detailed in the Schedule of Submissions (**Attachment 3**).



- Dampier to Bunbury Pipeline Act 1997 (DBPA)

All development applications that have impact on the Dampier to Bunbury Natural Gas Pipeline are required to be referred to the governing body for the pipeline. Please refer to the Schedule of Submissions (Attachment 3) for the full response from the Australian Gas Infrastructure Group (AGIG). The AGIG made the following recommendations:

- (i) Prior to any works that occur within the pipeline easement, consent is required under the *Dampier to Bunbury Pipeline Act 1997* from the DBNGP Land Access Minister; and
- (ii) Notification is required to be made in the event that additional, or larger/heavier aircraft will be utilising the airstrip so that a risk review can be undertaken.

As the *Dampier to Bunbury Pipeline Act 1997* is not legislation administered by the local government, it is considered appropriate that the proponent is simply reminded of their obligations under this Act, through advice notes on an approval, should Council choose to approve the application.

Local

- Shire of Chittering Local Planning Scheme No. 6 (LPS6)

LPS6 defines the subject property as falling within the 'Water Prone Area – Ellen Brook Palusplain' Special Control Area (SCA). The primary objectives of this SCA are to protect people and assets from the high water table and seasonal inundation, and to protect the environment from contamination and excess nutrients due to the area's susceptible nature, caused by the high water table.

It is considered that the primary risk to these objectives is the potential for fuel to enter the environment during storage or refueling activities. This issue has previously been addressed in this report. It is recommended that a suitable approach to address this risk is the imposition of a fuel storage and refueling management plan as a condition of development approval, if Council approve the application.

Policy Implications

State

- State Planning Policy 2.5 Rural Planning (SPP2.5)

The intent of SPP2.5 is to provide guidance to planners dealing with land uses within rural areas. In addition, SPP 2.5 intends to protect land assets as well as to ensure compatibility between land uses.

SPP 2.5 does not provide specific planning guidance for decision makers in relation to airfields. The WAPC's position as per Section 5.12.2 (b) is that "*single dwellings and other sensitive land uses on rural land should be afforded a reasonable standard of rural amenity.*" The Shire is therefore required to take into account dwellings that maybe adversely impacted by the proposal.

The objection from the adjoining landowner at Lot 200 indicated that rural amenity is mostly impacted by ongoing noise and nuisance from aircraft flying overhead and in close proximity to the property. This issue has been addressed in report and is considered to be acceptable, following adjustments made by the applicant, to the proposed flight paths. The adjustments made, increasing the separation distances between aircraft and the boundaries of Lot 200, are considered acceptable to afford the occupiers of Lot 200 a reasonable standard of rural amenity.

Local

Nil

**Financial Implications**

Nil

Strategic ImplicationsLocal

Nil

State

Nil

Site Inspection

Site inspection undertaken: Yes.

Site inspections and meetings were undertaken by various Shire officers during the application process.

Triple Bottom Line AssessmentEconomic implications

Should Council determine that issuing an approval for the subject proposal is appropriate, the development may increase visitors to the Shire.

Social implications

Concerns relating to noise pollution and the impact to rural amenity have been raised by an adjoining landowner.

Environmental implications

A portion of the lot is described as a conservation category wetland. Although the runway does not appear to affect the wetland, the area is known to have a high water table. Leaking of hydrocarbons from onsite fuel storage and aircraft can cause contamination of the site. Appropriate construction of fuel handling and storage areas can alleviate these issues and can be enforced through an appropriate condition of development approval

Officer Comment/Details

The subject application is unique due to the fact that the land use is occurring both on the ground, and also CASA regulated airspace.

In the context of 'Planning', the Shire can typically only regulate an activity or land use that is occurring on the ground of a property. It is not typical for 'Planning' to control the movements of aircraft in the air as this is governed by CASA. However, it is considered that as the landing and taking off of aircraft are very closely associated with the operation of the 'Airfield' land use, this can and should, be regulated through the Planning process. This is further enforced through the development's potential impacts to surrounding land, and the inherent nature of 'Planning' as a discipline itself, to avoid or manage the occurrence of land use conflict.

It is considered that the modified proposal presented to the Shire will afford the neighbouring properties a reasonable level of rural amenity. The context of the proposal is needed to be taken into consideration when making a decision on this application. The subject lot is adjacent to a major highway, and



surrounding land being used for rural purposes which can include operation of rural machinery and equipment. The level of amenity expected on rural land adjacent to a highway, cannot be the same as expected in a residential area, or similar. This being said, it is important to ensure the neighbouring properties are not subjected to unregulated, non-rural activities and therefore it is vital that the operation of the Airfield is managed appropriately.

It is recommended that the application is approved subject to the imposition of appropriate conditions that are targeted at protecting the amenity of the locality.

OFFICER RECOMMENDATION

Moved Cr Davis / Seconded Cr Angus

That Council approve the application for development approval for an 'Airfield' and 'Educational Establishment' on Lots 2941 and 1543 (RN887) Brand Highway, Muchea subject to the following conditions:

1. All development shall be in accordance with the approved plans;
2. Prior to the use of the approved buildings associated with the educational establishment, all recommended fire mitigating measures contained within the Bushfire Management Statement dated 28 January 2020 shall be established and thereafter maintained to the satisfaction of the Shire;
3. No aircraft that take-off in an easterly direction shall enter the 'red area' defined on the approved 'Easterly Take-off Plan' at any time;
4. No aircraft that land in a westerly direction shall enter the 'red area' defined on the approved 'Westerly Landing Plan' at any time;
5. No more than five 'fly ins' shall occur within any 12 month period with a maximum of five aircraft, not ordinarily associated with the approved airfield and educational establishment, permitted per 'fly in', without the prior approval of the Shire;
6. Operation of the airfield shall not occur outside of the following hours:
7:00am – 7:00pm Monday to Saturday, inclusive; and
9:00am – 5:00pm Sunday and Public Holidays;
7. No aircraft that has a manufacturer's registered noise emission greater than 74 decibels is permitted to use the airfield at any time without the prior approval of the Shire; and
8. The approved 'Fuel Spill Mitigation Program for Greenside Recreational Airfield' shall be implemented at all times to the satisfaction of the Shire.

Advice Notes:

Note 1: If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.

Note 2: If an applicant or owner 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 made within 28 days of the determination.



- Note 3: The applicant is advised that this is not a Building Permit. A Building Permit is required to be obtained from the Shire prior to commencement of construction of the proposed buildings. The applicant is encouraged to contact the Shire's Principal Building Surveyor on (08) 9576 4600 for further information.
- Note 4: The applicant is advised that the westerly extension of the existing runway may require the clearing of native vegetation. The applicant should contact the Department of Water and Environmental Regulation on (08) 6364 7000 to determine whether a clearing permit is required, prior to commencement of works.
- Note 5: The applicant is advised to contact the Australian Gas Infrastructure Group on (08) 9223 4300, if a larger aircraft is being used to that described in the Application for Development Approval, with respect to protecting the Dampier to Bunbury Natural Gas Pipeline.
- Note 6: The applicant is advised to contact the Civil Aviation Safety Authority to obtain any necessary approvals for the proposed flight paths and flying operations associated with the approved airfield.

AMENDMENT

Moved Cr Gibson / Seconded Cr Ross

That the following Condition 9 be added:

9. That the proposed runway extension in the northeast direction be constructed.

CARRIED 7/0

7:44PM

Cr Gibson provided the following reasons:

I think the solution is to angle the runway away from the neighbour. The applicant has stated that they will do that eventually, to include... 'That the proposed runway extension to the northeast direction should be undertaken in the next two years'. The applicant has agreed that they would do that, perhaps we should remind them on this recommendation, this is the way that they should be going. Whatever they do they will still be heading towards the neighbour's house. The neighbour's primary objection appears to be the stock, but they are going over his house every day. The northeast runway should be obtained in the next couple of years.

Cr Gibson sought clarification on the length of time for the approval. Mr Stuart advised that there is no time limit on the any of the conditions of this request.

**AMENDMENT**

Moved Cr Gibson / Seconded Cr Hughes

That Condition 6 be amended to read as follows:

6. Operation of the education establishment aspect of the airfield dictate these hours:
 7:00am – 7:00pm Monday to Saturday, inclusive; and
 8:00am – 5:00pm Sunday and Public Holidays.

CARRIED 7/0

7:47PM

Cr Gibson provided the following reasons:

Council have received a request to change the Sunday's and Public Holiday's from 8am until 5pm.

Cr Gibson sought advice from the Executive Manager Development Service's on how to word the amendment. Mr Stuart suggested that Condition 6 be amended with the following words...*That the operation of the educational establishment aspect at the airfield dictate these hours.*

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 030520

Moved Cr Davis / Seconded Cr Angus

That Council approve the application for development approval for an 'Airfield' and 'Educational Establishment' on Lots 2941 and 1543 (RN887) Brand Highway, Muchea subject to the following conditions:

1. All development shall be in accordance with the approved plans;
2. Prior to the use of the approved buildings associated with the educational establishment, all recommended fire mitigating measures contained within the Bushfire Management Statement dated 28 January 2020 shall be established and thereafter maintained to the satisfaction of the Shire;
3. No aircraft that take-off in an easterly direction shall enter the 'red area' defined on the approved 'Easterly Take-off Plan' at any time;
4. No aircraft that land in a westerly direction shall enter the 'red area' defined on the approved 'Westerly Landing Plan' at any time;
5. No more than five 'fly ins' shall occur within any 12 month period with a maximum of five aircraft, not ordinarily associated with the approved airfield and educational establishment, permitted per 'fly in', without the prior approval of the Shire;
6. Operation of the education establishment aspect of the airfield dictate these hours:
 7:00am – 7:00pm Monday to Saturday, inclusive; and
 8:00am – 5:00pm Sunday and Public Holidays;
7. No aircraft that has a manufacturer's registered noise emission greater than 74 decibels is permitted to use the airfield at any time without the prior approval of the Shire; and
8. The approved 'Fuel Spill Mitigation Program for Greenside Recreational Airfield' shall be implemented at all times to the satisfaction of the Shire.



9. That the proposed runway extension in the northeast direction be constructed.

Advice Notes:

- Note 1:** If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of the determination, the approval will lapse and be of no further effect.
- Note 2:** If an applicant or owner 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 made within 28 days of the determination.
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- Note 6:** The applicant is advised to contact the Civil Aviation Safety Authority to obtain any necessary approvals for the proposed flight paths and flying operations associated with the approved airfield.

CARRIED 7/0
7:48PM

APPLICATION FOR DEVELOPMENT APPROVAL



6177 Great Northern Highway
PO Box 70
BINDOON WA 6502

(08) 9576 4600

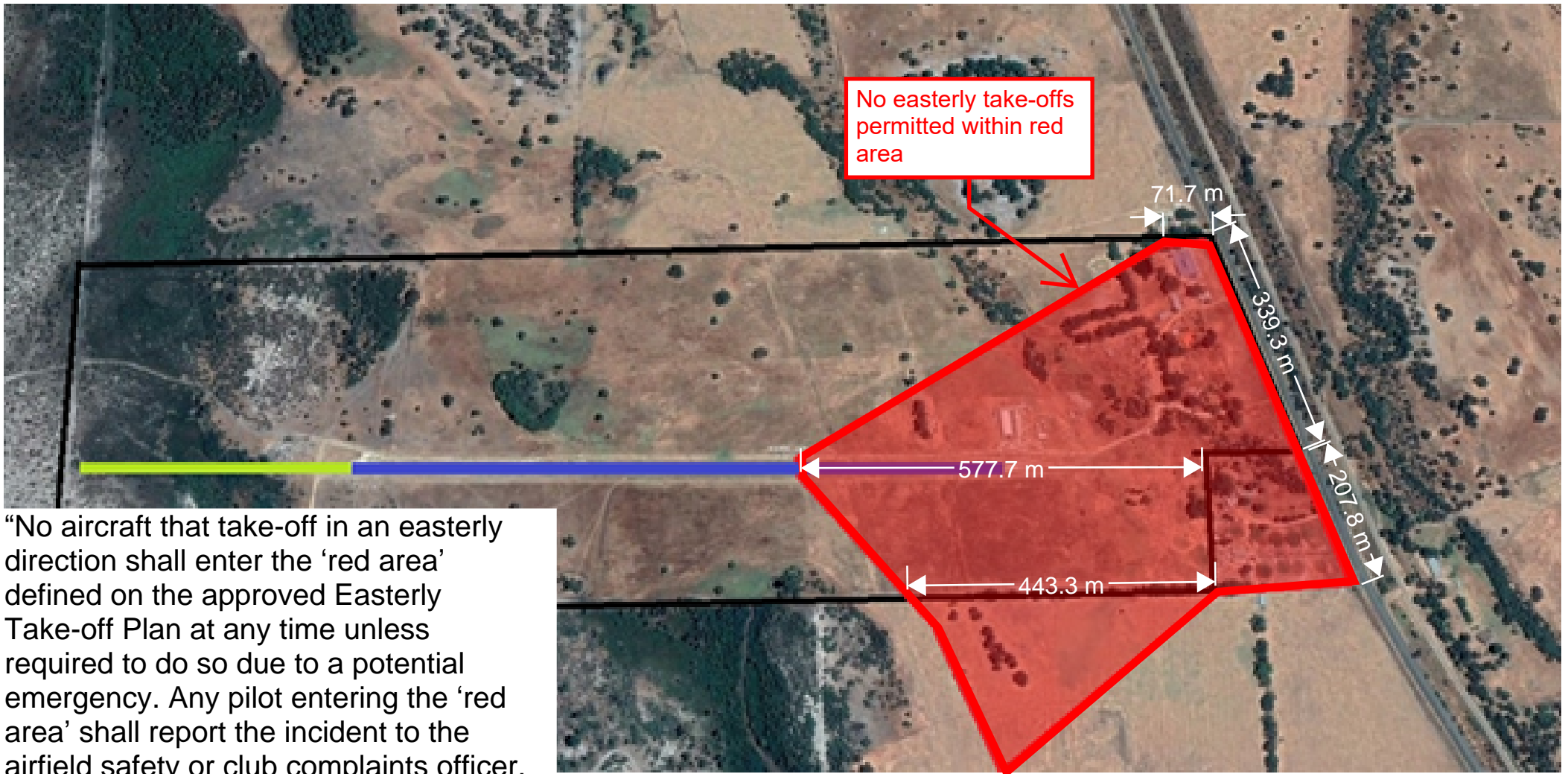
chatter@chittering.wa.gov.au
www.chittering.wa.gov.au

Office Hours
8:30am – 4:30pm
Monday to Friday

This application is to be submitted with at least **two copies of all plans which are no larger than A3 in size.**
A separate application is required for a Building Permit.

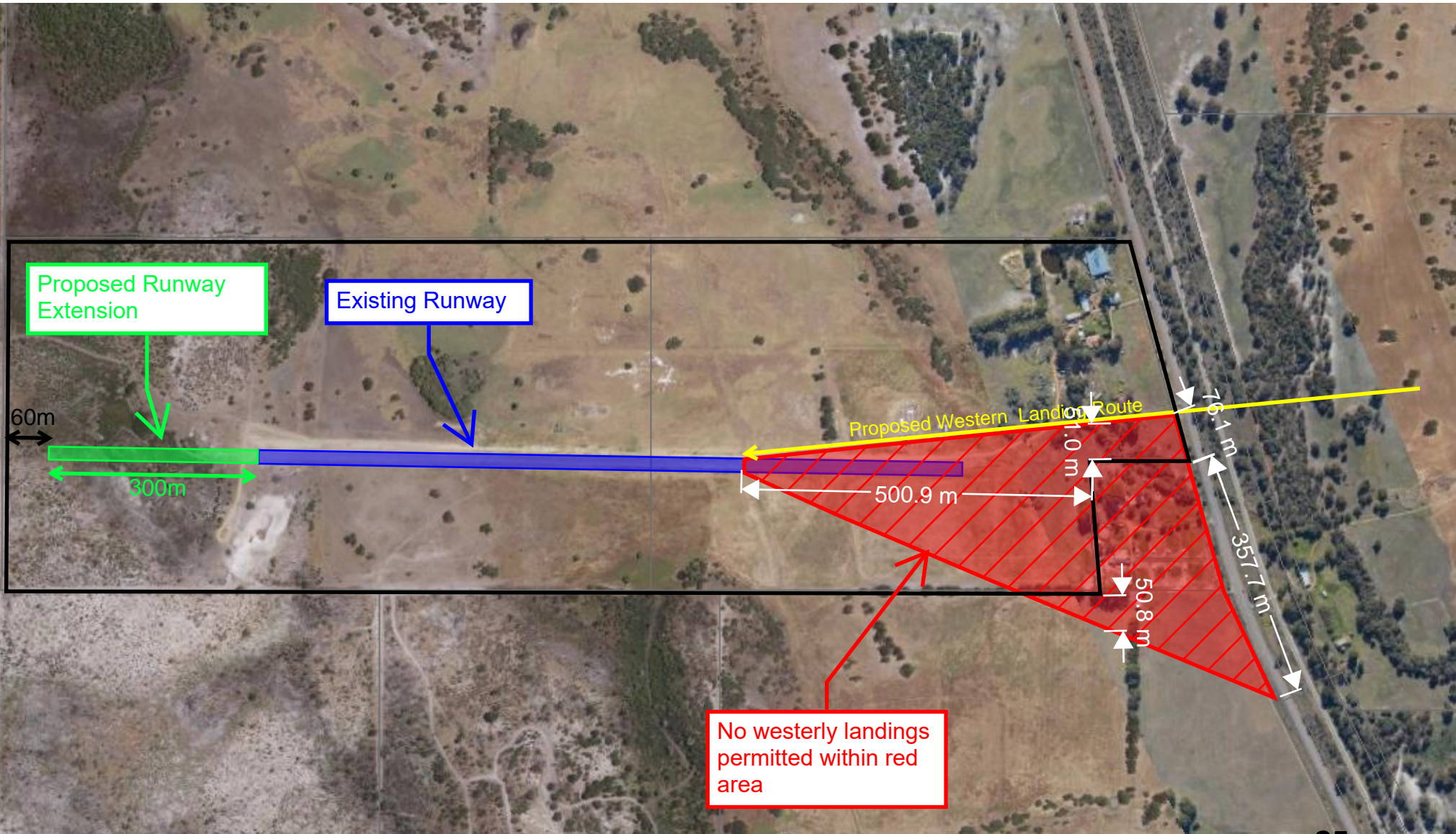
Owner/Detail			
Name	Kimberly James Fewster		
Address	887 Brand Highway Muchea 6501		
ABN (if applicable)			
Contact Numbers	Home		Work
	Mobile	0427252829	Fax
	Email	westausthoney@gmail.com	
Contact Person	Michael Byrne, Jack Donsen, Kim Fewster		
Owners Signature	<i>sign →</i>	Date	12/08/2020
Owners Signature		Date	
<i>The signature of the owner(s) is required on all applications. This application will not proceed without that signature. For the purposes of signing this application an owner includes the persons referred to in the Planning and Development (Local Planning Schemes) Regulations 2015 Schedule 2 clause 62(2).</i>			
Applicant/Detail			
Name	Kimberly James Fewster		
Address	887 Brand Highway Muchea WA 6501		
Contact Numbers	Home		Work
	Mobile	0427252829	Fax
	Email	westausthoney@gmail.com	
Contact Person			
<i>The information and plans provided with this application may be made available by the local government for public viewing in connection with the application.</i> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
Applicants Signature		Date	
Property Details			
Lot No	1543 +2941	House/Street No	887
Diagram/Plan No		Cert. of Title Vol. No	
Title encumbrances (easements, restrictive covenants etc)			
Street name	Brand Highway	Suburb	Muchea
Nearest Street Intersection	8.87 km from great northern highway going north on the left hand side		
Proposed Development			
Nature of development	<input type="checkbox"/> Works	<input checked="" type="checkbox"/> Use	<input type="checkbox"/> Works & Use
Is an exemption from development claimed for part of the development?	<input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes – Please specify: <input type="checkbox"/> Works <input type="checkbox"/> Use
Description of proposed development works and/or land use	Continued Use of approved Educational Establishment and Airfield on lots 1543 +2941 Rn887 Brand Highway Muchea previous DA A11726/P020/17		
Description of exemption claimed (if relevant)			
Nature of any existing buildings and/or use	Existing general Purpose shed , Transportable club rooms and toilet block as per building approval A11726/B18/224		
Approximate cost of proposed development (ex GST)	\$ 20000	Estimated date of completion	08/2020 08/2022
OFFICER USE ONLY			
Officer Initials	Date Received	LGA Reference #	

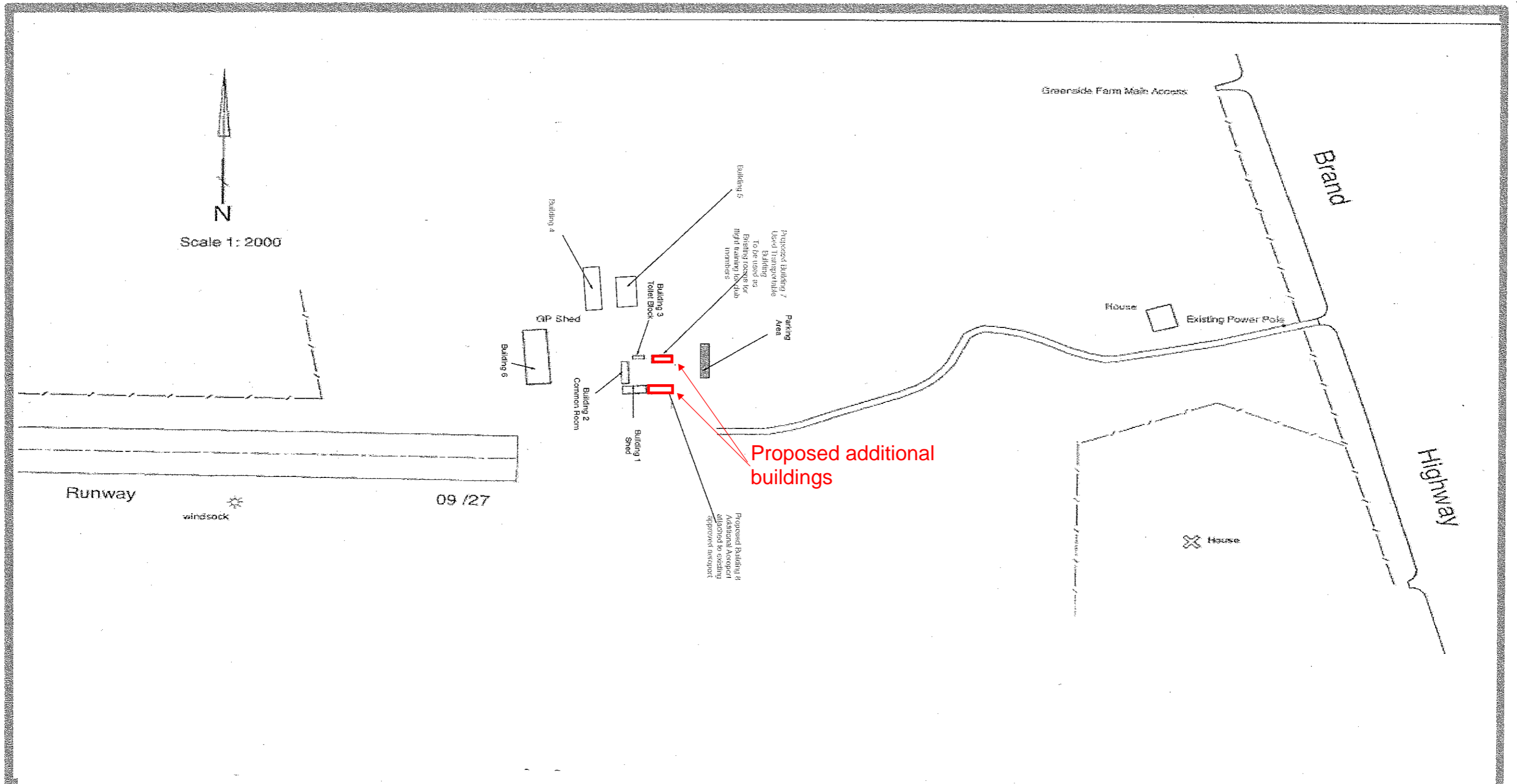
Revised Easterly Take-Off Plan 887 Brand Highway, Muchea



“No aircraft that take-off in an easterly direction shall enter the ‘red area’ defined on the approved Easterly Take-off Plan at any time unless required to do so due to a potential emergency. Any pilot entering the ‘red area’ shall report the incident to the airfield safety or club complaints officer, who shall maintain a register of such occurrences and make this available to the Council on request.”

Greenside Airfield - Lot 1543 and 2941 (887) Brand Highway, Muchea
Westerly Landing Plan





Kim Fewster and Greenside Recreational Flyers Club
 Site Address Lots 1543 and 2941 (RN887 Brand
 Highway Muchea)

Drawings By
 Michael Byrne
 0408473307

Date 09/08/2020
 Version 2
 Page 1

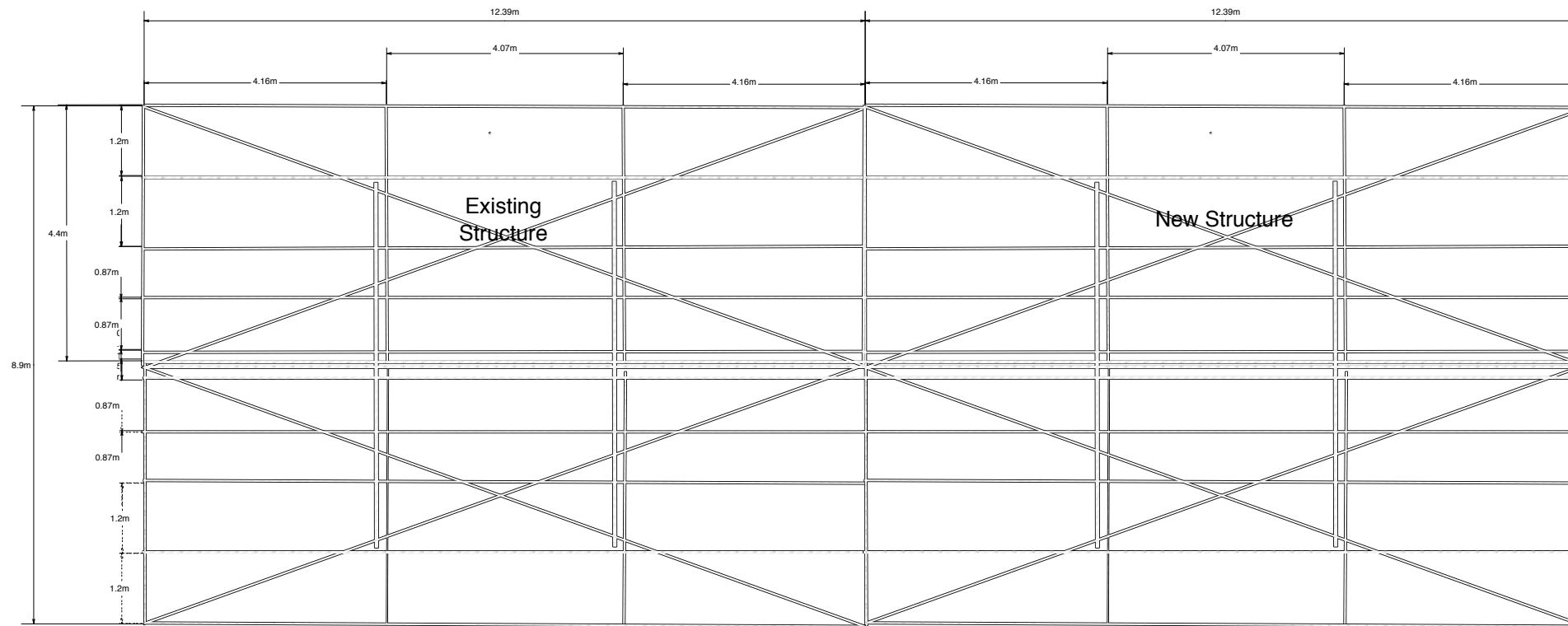
Legend

Building 7
 Used transportable
 building for Briefing
 Room

Building 8
 GP Shed

Existing Aero Port Structure

New Aero Port Structure



Greenside Recreational Flyers Club Aero Port
Elevations
Site Address Lots 1543 and 2941 (RN887 Brand
Highway Muchea)

Scale 1:100

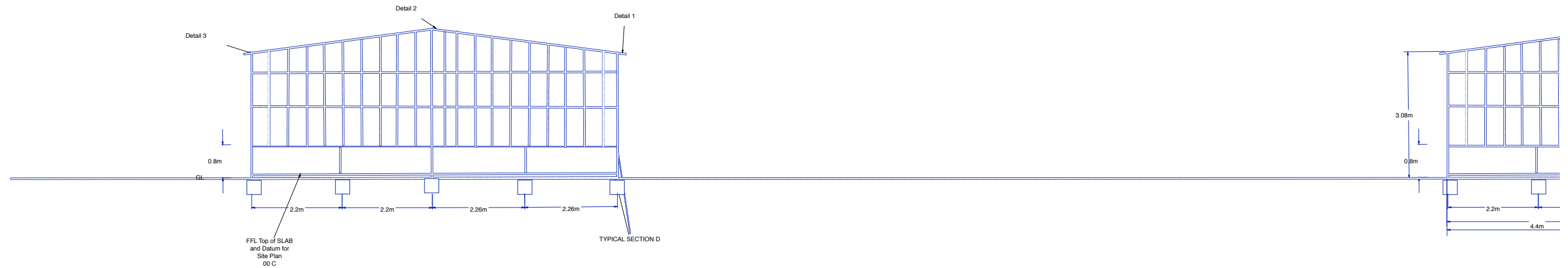
Building 8 Floor Plan

Drawings By
Michael Byrne
0408473307

Date 09/08/2020
Version 1

Building 8 Elevations

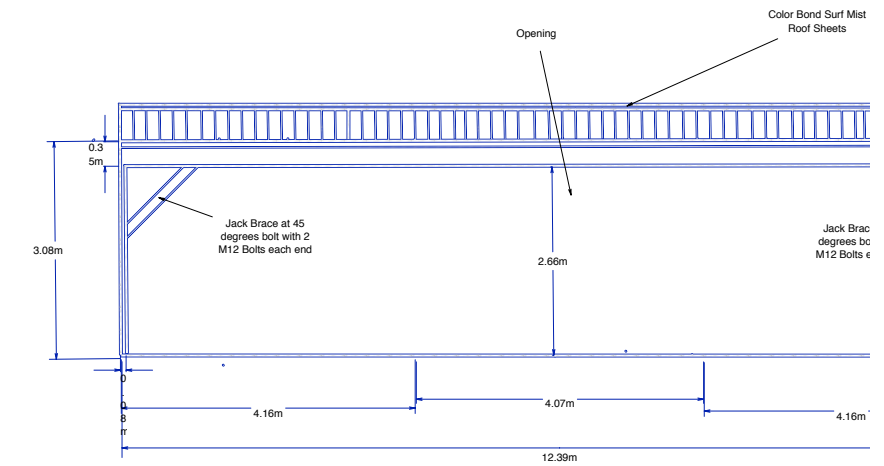
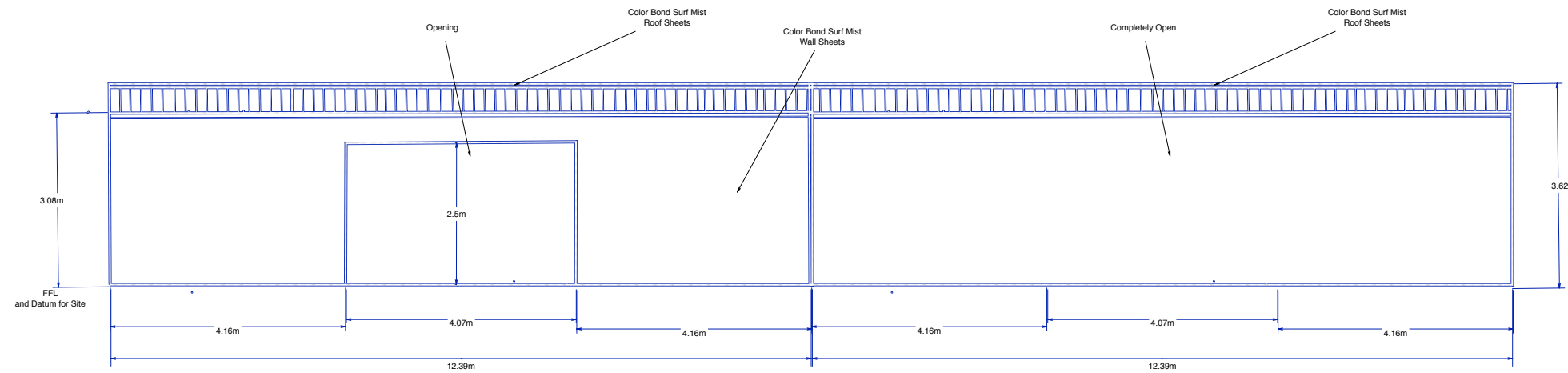
Existing West Elevation



North Elevation Existing

North Elevation New

South Elevation Existing



Greenside Recreational Flyers Club Aero Port
 Elevations
 Site Address Lots 1543 and 2941 (RN887 Brand
 Highway Muchea)

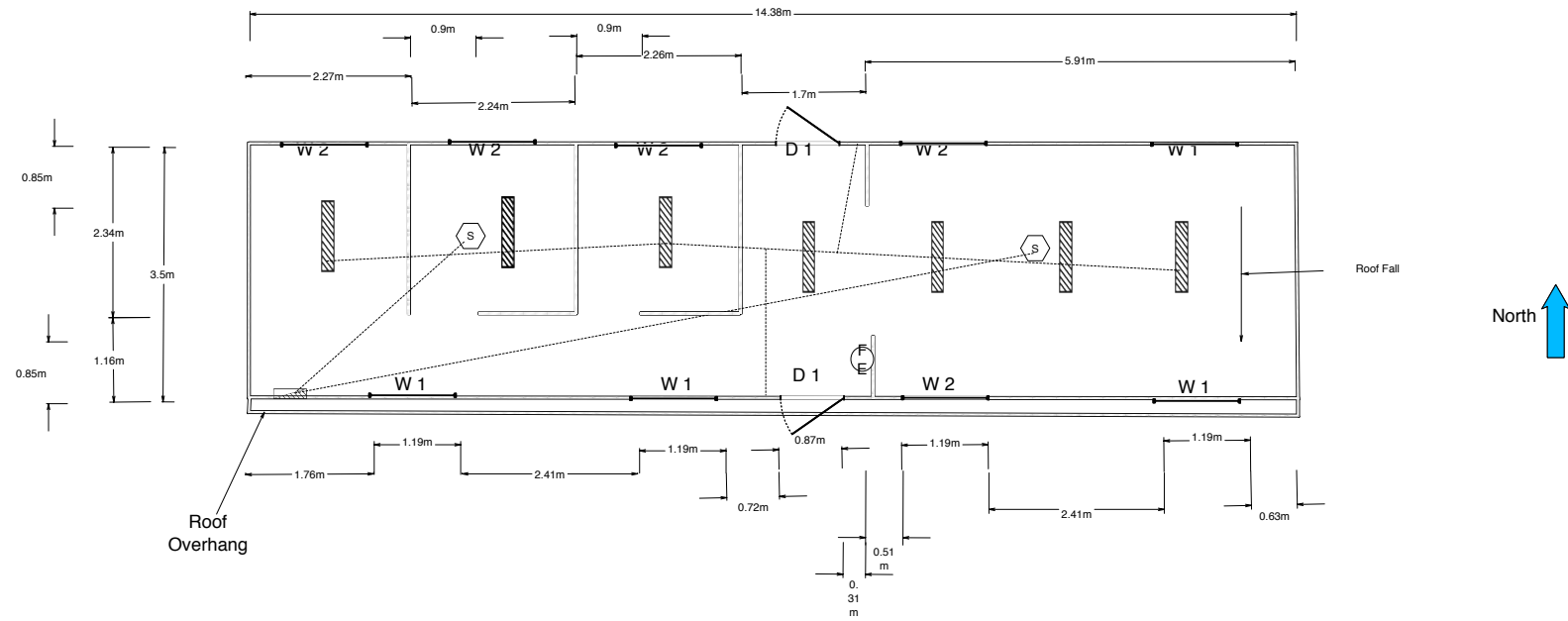
Scale 1:100

Building 8 Elevations

Drawings By
 Michael Byrne
 0408473307

Date 09/08/2020
 Version 1

Floor Plan



Building 7
Greenside Recreational Flyers Club Briefing Room
Floor Plan
Site Address Lots 1543 and 2941 (RN887 Brand
Highway Muchea)

Drawings By
Michael Byrne
0408473307

Date 09/08/2020
Version 1

Scale 1:100

Legend

W 1 = 1190mm width by 900 mm Height sliding glass window with half fixed glass with dead lock and flyscreen

W 2 = 1190mm width by 400 mm Height sliding glass window with half fixed glass with dead lock and flyscreen

D1 = 870mm width by 2050mm Height wheel chair accessible door with 140 mm snib handle with Glass light of 400mm by 400 mm centred in top 1/3 Door

Single Flourcenant Tube with diffuser



Hard Wired smoke detector to australian standards



Distribution Board With Circuit Breakers



1800 mm Height Wall
Wall material thickness 40mm sandwiched foam



2.5kg Fire Extinguisher Powder



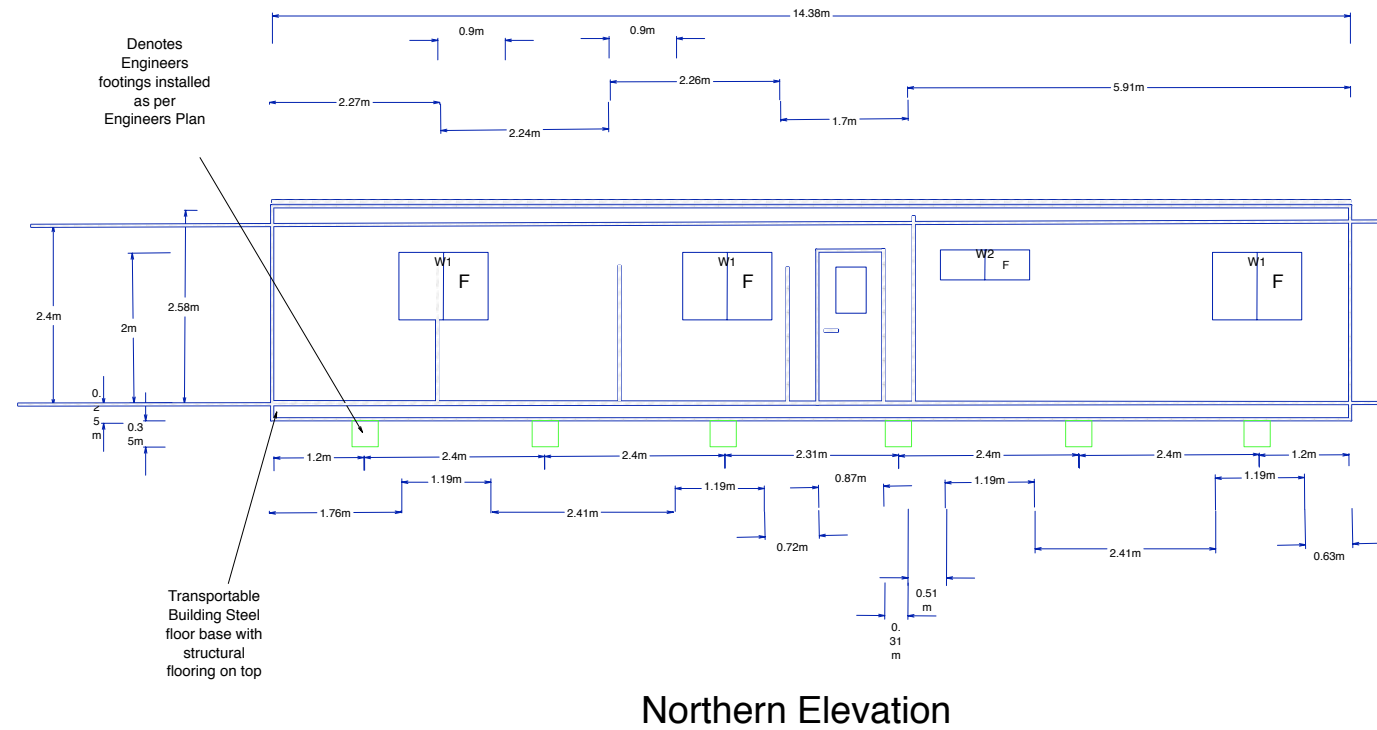
Denotes Roof Overhang in colour Bond trim Deck White



Denotes external Wall Structure
Wall material thickness 40mm sandwiched foam



Denotes electrical layout and switching



Building 7
 Greenside Recreational Flyers Club Briefing Room
 Northern Elevation
 Site Address Lots 1543 and 2941 (RN887 Brand
 Highway Muchea)

Drawings By
 Michael Byrne
 0408473307

Date 09/08/2020
 Version 1

Legend

W 1 = 1190mm width by 900 mm Height
 sliding glass window with half fixed glass with
 dead lock and flyscreen

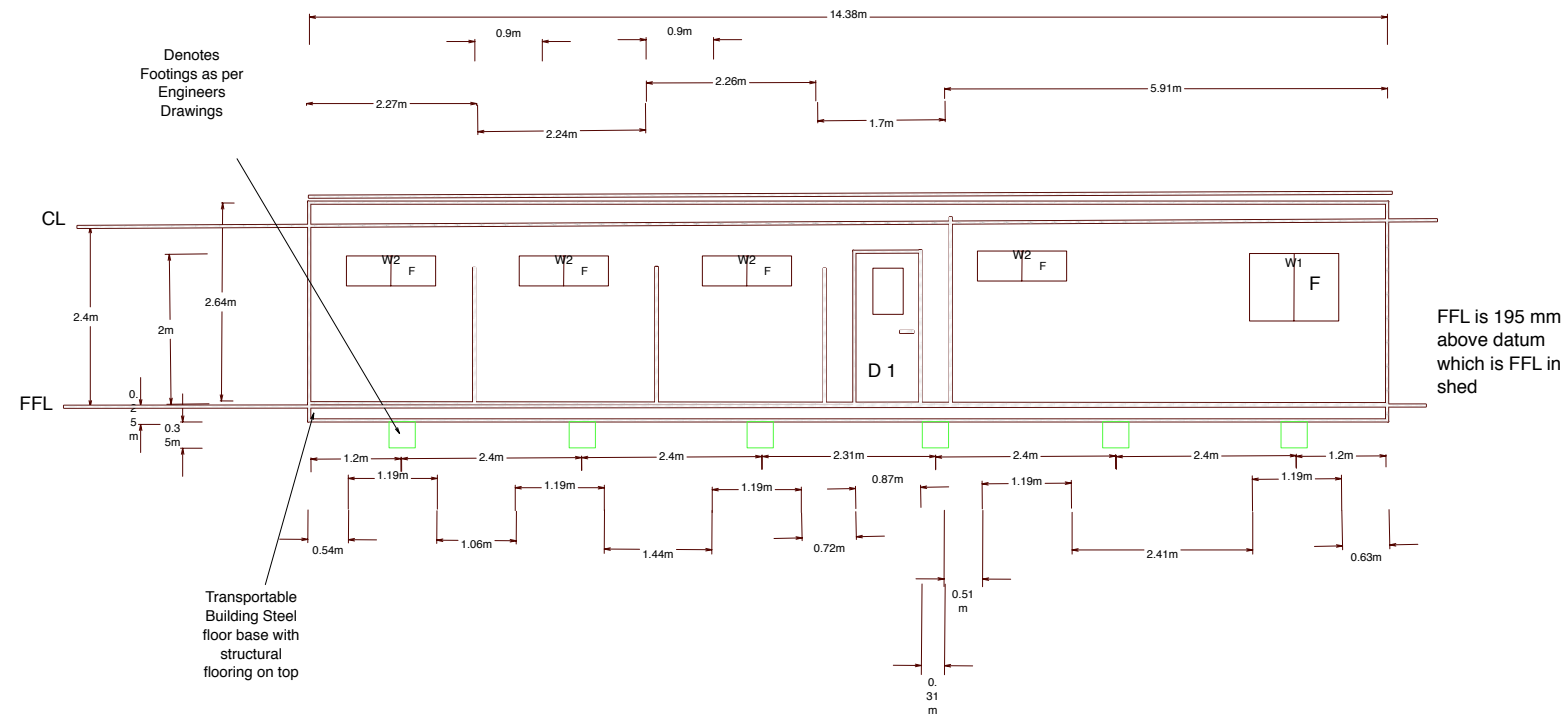
W 2 = 1190mm width by 400 mm Height
 sliding glass window with half fixed glass with dead lock
 and flyscreen

D1 = 870mm width by 2050mm Height wheel
 chair accessible door with 140 mm snib
 handle with Glass light of 400m by 400 mm
 centred in top 1/3 Door

Denotes Internal Walls 40mm Sandwich
 Construction

Denotes colour Bond trim deck Roof Sheeting
 in White

Southern Elevation



Building 7
 Greenside Recreational Flyers Club Briefing Room
 Southern Elevation
 Site Address Lots 1543 and 2941 (RN887 Brand
 Highway Muchea)

Drawings By
 Michael Byrne
 0408473307

Date 08/08/2020
 Version 1

Legend

- W 1 = 1190mm width by 900 mm Height sliding glass window with half fixed glass with dead lock and flyscreen
- W 2 = 1190mm width by 400 mm Height sliding glass window with half fixed glass with dead lock and flyscreen
- D1 = 870mm width by 2050mm Height wheel chair accessible door with 140 mm snib handle with Glass light of 400mm by 400 mm centred in top 1/3 Door

Denotes Internal Walls 40mm Sandwich Construction

Denotes colour Bond trim deck Roof Sheeting in White

Fuel spill mitigation program for Greenside Recreational Airfield**Background**

1. Refuelling procedures for aircraft is strictly regulated by the Civil Aviation Safety Authority (CASA)
2. CASA regulate this under Civil Aviation Order 20.9 a copy of which is attached as an addendum to this document.
3. The airfield has no corporate refuelling onsite.
4. Aircraft operators rely on drum stock or jerry can fuel.
5. There are 2 types of fuel used on the airfield.
 - 5.1 MOGAS -motor car gasoline usually 95 or 98 RON usually supplied by a local service station and then transported in on the back of a trailer as per the dangerous goods act or in 20 litre jerry cans.
 - 5.2 AVGAS -aviation gasoline 100 octane purchased from aircraft refuelling companies at Jandakot airport. AVGAS is only supplied in drum stock and then transported in on the back of a trailer to the airfield as per the dangerous goods act.

Fuel Spill mitigation procedures

1. A wheelie bin filled with absorbent material is to be placed near the refuelling area in such a way as to be readily available to use, should there be an accidental spill.
2. All fuel is to be stored as per the dangerous goods act requirements.
3. Aircraft refuelling is to be done as per the CASA regulations.
4. Drums will be inspected as per below outlined guidelines for Avgas or Mogas.
5. When refuelling the aircraft using a manual pump, the fuel nozzle is to be place inside the aircraft wing in such a way as to prevent fuel spillage.
6. In the case of electrical pumping systems, a bowser nozzle is to be used to stop discharge of fuel from the tank once it is full. (Same as a car fuel pump at the local service station).
7. To prevent an accidental fuel spill due to over filling of tank, all operators are to use spill trays under the wing to catch any over fuelling.
8. Persons must remain with the aircraft at all times during the refuelling process and ensure that over filling of tanks does not occur.

As we use different products I have tried to analyse and minimise the risk in relation to each product rather than use a blanket approach that may become impracticable.

Analysis of risk - AvGas

1. AvGas is only supplied in specialist drums of 200 litres capacity
2. AvGas drums are inspected each and every time the refueller fills them
3. The refueller when inspecting these drums is looking for the following
 - i) Rusting of the drum internally or externally, anything that would make the drum unserviceable for the life of the fuel which is 2 years.
 - ii) Any contaminates or left-over fuel are found in the drum they are disposed of at Jandakot by the refuelling company.
 - iii) If contaminates are found to be excessive, the drum is not recertified for use and is condemned.
 - iv) Only if the drum is found to be serviceable, the drum is refilled at and then is sealed and capped with a date sticker placed on the drum with the fuel batch, refuellers details and the date. The refueller also provides a release note on that fuel certifying it as suitable for aviation use.

Because of the above it is extremely unlikely that we would have a spill due to a faulty drum.

Analysis of risk - Mogas

- MoGas is stored in 200 litre drums or 20 litre jerry cans
- MoGas is refuelled at the local service station
- MoGas contaminants are to be disposed of at the local service station
- There is only a minor risk of Mogas drums becoming unserviceable due to rusting.
- MoGas drums will be inspected by the club safety officer and the owner every 2 years and condemned as required.

Materials handling

Analysis in relation to materials handling of AvGas or MoGas

1. Drums need to be moved from area of storage (inside hanger on concrete floor) to outside hangar adjacent to aircraft for refuelling of aircraft per CASA regulations.
2. If a drum were to be stored on a banded pallet, we cannot access and move the drum to be used.
3. Options of using machines like a forklift pose an increased risk of puncture of a drum and or spark's/fire.
4. In addition to the above forklifts fall into the category of "vehicles" according to CASA and as a result are not allowed within 5m of an aircraft.
5. This would then require any aircraft within 5m to be removed from the hangers simply to get to the refuelling materials.

I am strongly advising that use of material handlers like forklifts should not be used on drums and if required only if they are empty, or when full, the drum is sealed and capped.

Analysis of risk using manual materials handlers

Manual materials handlers are custom designed to move drums around and have the following safety features for carrying the load.

- manual materials handlers meet the safe working load requirements for handling of a full drum of avgas/mogas
- manual materials handlers have robust frames and tyres or castors that are designed to be used on multiple surfaces
- manual materials handlers have safety mechanisms that hold the drum to the materials handler so as to minimise the risk of "load Topple"
- They are not home-made but are carefully designed and built by a specialist manufacturer.
- Manual materials handlers have no electrical components, so they pose a no risk of sparks
- Manual materials handlers have no risk of puncture to the drum
- Manual materials handlers are not suitable for use with banded pallets

Analysis of risk using powered materials handlers like forklifts

Powered materials handlers like forklifts are not custom designed to move drums around and should be discouraged.

- powered materials handlers have a higher fire risk due to a spark igniting vapours seeping from a drum
- powered materials handlers pose higher risk of puncture due to accidental mishandling of the drum
- powered materials handlers do not have a custom safety mechanism built into them to stop toppling of the load
- powered material handlers like forklifts are not specifically designed to transport fuel drums

Analysis of risk for a fuel spill at the aircraft

- Risks of fuel spillage from the drum when being transported to the aircraft is minimised by using the correct manual materials handler.
- Uncapped and unsealed drums are to have either the bungs closed in them during transport or the pump installed so as to minimise the risk of spillage.
- When refuelling the aircraft using a manual pump, the fuel nozzle is to be placed inside the aircraft wing in such a way as to prevent fuel spillage.
- In the case of electrical pumping systems, a bowser nozzle is used to stop discharge of fuel from the tank once it is full. (Same as a car fuel pump at the local service station).
- To prevent an accidental fuel spill due to over filling of tank, all operators are to use spill trays under the wing to catch any over fuelling.
- If any over fuelling does occur excess fuel is to be placed into a waste fuel dump drum or sand filled receptacle so it will evaporate.

Conclusion

- manual custom designed material handlers are a much safer method of moving fuel drums.
- manual material's handlers reduce the risk of fire significantly.
- Regular inspections of storage drums for avgas/mogas at least every 2 years to minimise risk of fuel leakage due to drum fatigue.
- The use of spill trays under the wings of aircraft shall be part of the fuel spill mitigation program.
- The use of fuel dump receptacles shall be part of the fuel spill management plan.
- A ready large supply of absorbing material (kitty litter or sand) will be readily available to use as an emergency spill kit to soak up any fuel spill as per a service station spill kit.