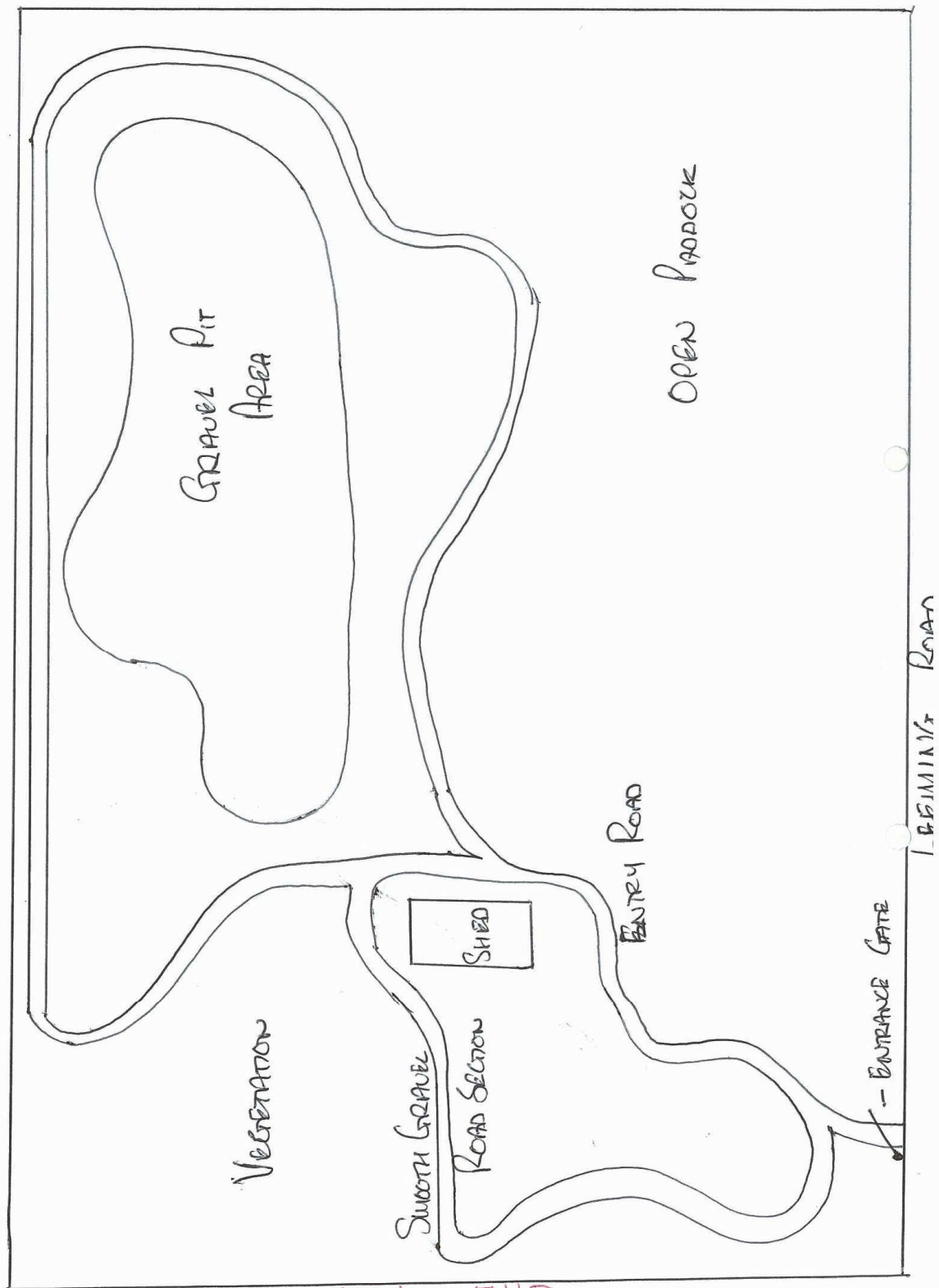


LOCALITY PLAN





SITE PLAN



Site Plan



9. OFFICER'S REPORTS  
9.1 DEVELOPMENT REPORTS  
9.1.2 Application For Use Of 35 Leeming Road, Mount Hardey For Advanced Driver Tuition And Corporate Driver Training Days

When acting as a planning authority in accordance with the powers conferred by the Planning and Development Act 2005 and any relevant scheme, the Council of the Shire is entitled to make decisions based only on proper planning considerations.

FILE NO: LE2.2874, P.641  
COUNCIL DATE: 16 May 2011  
REPORT DATE: 5 May 2011  
LOCATION/ADDRESS: Lot 37 (35) Leeming Road, Mount Hardey  
APPLICANT: Extreme Driving (Mark Haybittle)  
SENIOR OFFICER: R Hooper, CEO  
REPORTING OFFICER: J Jurmann, MPS  
DISCLOSURE OF INTEREST: Nil  
APPENDICES: Locality & Site Plan  
DOCUMENTS TABLED: Nil

**Summary:**

Council is in receipt of a planning application to use Lot 37 (35) Leeming Road, Mount Hardey for advanced driver tuition and corporate driver training days.

The application has been advertised in accordance with the requirements of the York Town Planning Scheme No. 2 and six (6) submissions were received objecting to the proposal, which are the subject of this report.

The proposal has been assessed, together with the content of the objections, and is being recommended for time limited approval subject to the imposition of conditions.

**Background:**

Council received a planning application on 28 March 2011 to conduct advanced driver tuition and corporate training days at 35 Leeming Road, Mount Hardey.

The property is located on the corner of Leeming Road and York-Quairading Road and is approximately 61 hectares in area. It is proposed to use approximately 15 hectares of the property that has a gravel track established for the driving training.

It is proposed to conduct the days three to four times per year on a Saturday and/or Sunday from 8.00 am to 4.30 pm. Participants must use one of the two cars provided. The cars are road registered vehicles that are fitting with roll cages for safety.

In the application submitted to Council, the applicant states that the aim of the days are to provide participants with skills to drive on unsurfaced, gravel roads.

This property has previously been used by the applicant for this purpose without Council approval in 2009. Complaints were received by Council regarding the use, dust and noise issues. The applicant was requested to cease the use and to submit a planning application.

**Consultation:**

The proposed development has been advertised in accordance with clause 7.3.3 of the Scheme, i.e. advert in local newspaper, letter to adjoining landowners and sign erected

on site. Detailed plans of the proposed development and relevant documentation have been on display at the Council offices during the advertising period.

Six (6) submissions were received in response to the exhibition objecting to the proposal.

The following table provides a summary of the issues raised in the submissions and a planning assessment.

Issue	Planning Comment
Don't believe it will only be 3-4 times per year. Is it only 1 day 4 times or 1 week? Previously activities have continued day and night.	Conditions can be imposed restricting hours of operation.
Concerns fencing isn't sufficient to protect neighbouring properties and stock.	Rally area is located at the front of the property away from neighbouring properties. Conditions can be imposed restricting the area to be used.
Noise of vehicles will affect my family lifestyle. Who will be monitoring the noise?	Vehicles used are road registered. Applicant has offered to provide noise reports. Council can also monitor noise if required. Condition can be imposed requiring submission of noise reports.
Increased use of Leeming Road will result in degradation of the road.	It is considered that the increased use by road registered vehicles is unlikely to further degrade Leeming Road. Notwithstanding this, the applicant has offered to grade Leeming Road in conjunction with grading of the track.
Questioning genuineness of proposal for training general public.	Proposal is for driving training, which is similar to advanced driver training days held at race tracks.
Dust from vehicles will affect cattle and sheep grazing, particularly during calving and lambing season.	Conditions can be imposed to require dust suppression. Applicant has advised that a water cart will be on site.
Fire risk is extreme. Car caught fire in the past.	Conditions can be imposed requiring that fire fighting equipment is on site. Applicant has advised that extinguishers and a water cart will be on site.
Recent Scheme Amendment enables subdivision and zoning of some lots rural-residential. Proposal not in the best interest of Mount Hardey in the long-term. Venue unsuitable due to size and location near families.	Agree. Recommended a time limited consent be issued. Applicant agrees that the site is probably not suitable long-term but wishes to establish business in York, and then look for a long-term site.

Likely to be an imposition on ratepayers and voluntary emergency services.	Disagree. If all safety equipment and conditions are met, then the operation should not impose on local services.
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The applicant has been provided the opportunity to respond to the concerns in the submissions, and have provided responses that have been considered in the above planning comments. A copy of the applicant's response is attached to this report.

**Statutory Environment:**

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- a) *The aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area.*

**York Town Planning Scheme No. 2**

The property is zoned General Agriculture and the proposed use for advanced driving tuition and corporate driving training days is not 'listed' (defined) in the Scheme. Clause 3.2.4 states that Council may:

- (a) "determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or
- (b) determined that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.2 in considering an application for planning consent; or
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."

In this case, it has been determined that the use may be consistent with the objectives of the zone (as assessed below) and have followed the advertising procedures of clause 7.2 in consideration of the application.

Clause 4.9 outlines the requirements for the 'General Agriculture Zone' and has been assessed as follows:

4.15.1 – Objectives

- (a) "To ensure the continuation of broad-hectare agriculture as the principal land use in the district encouraging where appropriate the retention and expansion of agricultural activities.
- (b) To consider non-rural uses where they can be shown to be of benefit to the district and not detrimental to the natural resources or the environment.
- (c) To allow for facilities for tourists and travellers, and for recreation uses.
- (d) To have regard to residential use of adjoining land at the interface of the General Agriculture zone with other zones to avoid adverse effects on local amenities."

The proposal is considered consistent with the objectives of the zone for the following reasons:

- (a) It will not impact on the continuation of broad-hectare agriculture;
- (b) Is considered a non-rural use that will be of benefit economically to the district;

- (c) Allows for the establishment of a recreation use for tourists, travellers and locals; and
- (d) There are no residential zones adjoining the property and through conditions of consent, any likely adverse impacts, such as noise and dust, can be managed satisfactorily.

#### 4.15.2 Development

The property and area to be utilised for the driving cannot be seen from the York-Quairading Road and will not detrimentally impact on the rural character of the locality.

#### 4.15.3 Site Requirements

No buildings are proposed in conjunction with the proposal.

#### 4.15.4 Retention of Vegetation

It is not proposed to remove any vegetation in conjunction with the proposal. Some grading of existing tracks will be required to maintain the area to be used.

#### 5.3 – Control of Advertisements

No advertising signage has been requested as part of this application.

#### 5.5 – Development Limited by Liquid Waste Disposal

The site has existing toilet facilities. However, these may require upgrade. There is sufficient land available for the establishment and/or extension of disposal areas.

- b) The requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, which has been granted consent for public submissions to be sought.*

Nil.

- c) Any approved statement of planning policy of the Commission.*

Nil.

- d) Any approved environmental protection policy under the Environmental Protection Act 1986.*

Nil.

- e) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State.*

#### State Planning Policy 2.5 Agricultural and Rural Land Use Planning

The proposed use is not inconsistent with the State Policy, in that the land use will not affect the potential or current use of agricultural land.

#### Draft State Planning Policy 2.5 – Land Use Planning in Rural Areas

The proposal is consistent with the policy measures in the draft document, particularly in that agricultural zones should be flexible and cater for a wide range of land uses that can support primary production, tourism and environmental and cultural pursuits.

- f) Any Planning Policy adopted by the local government under clause 8.8, any policy for a designated heritage precinct adopted under clause 5.1.3, and any other plan or guideline adopted by the local government under the Scheme.*

There are no locally adopted policies that apply to this proposal.

- g) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve.*



Not applicable.

- h) The conservation of any place that has been entered in the Register within the meaning of the Heritage of Western Australia Act 1990, or which is included in the Heritage List under clause 5.1.2, and the effect of the proposal on the character or appearance of a heritage precinct.*

Not applicable.

- i) The compatibility or a use or development with its setting.*

The surrounding uses consist generally of agriculture, with associated residential. The proposal, if managed as indicated on the application, is considered compatible with the setting and is consistent with the zone objectives. Conditions of approval are recommended to ensure that any potential impacts are managed to ensure that neighbouring properties are not detrimentally affected.

- j) Any social issues that have an effect on the amenity of the locality.*

No social issues have been identified during the assessment of this proposal. The proposal is considered to be in the interest of the greater community.

- k) The cultural significance of any place or area affected by the development.*

Not applicable.

- l) The likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment.*

Dust control and precautionary fire measures will be required during operation. Overall the development will not impact on the natural environment if these mitigation measures are employed.

- m) Whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslide, bushfire or any other risk.*

The site is not affected by any natural constraints in regards to the proposed use.

- n) The preservation of the amenity of the locality.*

It is unlikely that the amenity of the locality will be adversely affected by the development if the use is conducted as outlined in the application and in accordance with the recommended conditions of consent.

- o) The relationship of the proposal 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 proposal.*

The proposal is in context with the setting with regards to scale and location of the track.

- p) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles.*

The access to and egress from the site are considered satisfactory for the proposed use. It is recommended that a traffic management plan be submitted to ensure that participants enter and leave the site in a safe manner.

- q) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.*

All access roads have sufficient capacity to cater for the traffic generated from the development. Access to and egress from can be done safely in a forward manner.

r) *Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal.*

Not applicable. The participants will access the site using private transport.

s) *Whether public utility services are available and adequate for the proposal.*

The proposed use does not require public utility services. Private water and sewer systems will be used.

t) *Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities).*

Not applicable.

u) *Whether adequate provision has been made for access by disabled persons.*

Not applicable. Proposal is for use only.

v) *Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.*

No vegetation will be affected by this proposal.

w) *Whether the proposal is likely to cause soil erosion and degradation.*

Dust may be an issue during use. Preventative controls, such as water tankers for suppression will be required.

x) *The potential loss of any community service or benefit resulting from the planning consent.*

The development will not result in the loss of any community service or benefit.

y) *Any relevant submissions received on the application.*

The application was publicly exhibited in accordance with the requirements of the TPS and six (6) submissions were received regarding the proposal.

The content of the submissions are discussed in the 'Consultation' section of this report.

z) *The potential impacts of noise, dust, light, risk, and other pollutants on surrounding land uses.*

The proposed use may result in noise and dust emissions. However, it is considered that these impacts can be managed and it is unlikely that there will be detrimental impacts on neighbouring properties. Conditions of consent have been recommended to manage the potential impacts.

aa) *The comments or submissions received from any authority consulted under clause 7.4.*

Not applicable.

bb) Any other planning consideration the local government considers relevant.

Nil.

### **Policy Implications:**

The proposal is consistent with State and Council Policies. There are no policy implications.

**Financial Implications:**

The adopted application and advertising fees have been paid by the applicant.

**Strategic Implications:**

Key Result Area 2: Economic Development & Tourism

1. Will result in an increased in tourism.
2. May result in an increase of spending within the Shire.

**Voting Requirements:**

**Absolute Majority Required: No**

**Site Inspection:**

**Site Inspection Undertaken: Yes**

**Triple Bottom Line Assessment:**

Economic Implications:

There are no economic implications for Council.

**Social Implications:**

Positive social implications identified through an increase in tourism and potentially spending in York.

**Environmental Implications:**

Environmental impacts identified can be managed appropriately.

**Comment:**

The issues raised in the submissions have been assessed and it is considered that the issues raised can be appropriately managed by conditions of consent.

Council recently granted approval for a time limited consent for twelve (12) months the use of Laurelville for functions and it is recommended that a similar approach be adopted.

Therefore, it is recommended that a time limited consent be issued to ensure that the applicant can conduct the use without impact on the locality.

**RESOLUTION**

**040511**

**Moved: Cr Lawrance**

**Seconded: Cr Boyle**

***“That Council:***

***APPROVE the planning application to use Lot 37 (35) Leeming Road, Mount Hardey for advanced driver tuition and corporate driver training days for a period of twelve (12) months from the date of determination, subject to the following conditions:***

- 1. Development must take place in accordance with the approved plans and supporting documentation.***
- 2. This consent will lapse twelve (12) months from the date of determination.***
- 3. An application for renewal after the initial 12 month period must be lodged in writing, a minimum of 3 months prior to the expiry date.***

- 4. This consent grants approval to use the property four (4) times, Saturday or Sunday, within the 12 months from the date of determination. The hours of operation are restricted to 8.00 am to 4.30 pm. No vehicles are permitted to operation outside the approved hours, with the exception of grading of the track and Leeming Road, which must be carried out during daylight hours.**
- 5. The applicant must notify Council and all adjoining landowners prior to conducting each event. The notification shall provide details of the on-site contact person.**
- 6. Toilet facilities shall be provided on site. Any required on-site sewage management systems shall be approved by Council prior to the installation and use.**
- 7. Noise levels emitted from the use shall not exceed the levels specified in the Environmental Protection (Noise) Regulations 1997 for 'unreasonable noise' for sensitive premises. If any complaints are received, noise monitoring shall be carried out under event conditions by a suitably qualified person at the residence of the complainant(s) and a report shall be submitted to Council within one month from the date of the complaint demonstrating compliance with this condition prior to conducting any further events.**
- 8. Dust suppression must be carried out when necessary to ensure that dust created from the activity does not detrimentally impact on neighbouring properties or the use of public roads.**
- 9. Fire fighting equipment must be available on site at all times during the event. Events shall not be held during periods when 'Harvest Movement Bans' are in force.**
- 10. Leeming Road shall be graded from York-Quairading Road to the entrance of the property to Council's satisfaction following each event.**
- 11. The applicant shall submit evidence of public liability insurance for each event prior to conducting the first event.**

**Notes to the approval:**

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

**Note 2: Where an approval has so lapsed, no development is to be carried out without the further approval of the local government having first been sought and obtained.**

**Note 3: If an applicant is aggrieved by this determination there is a right of appeal under the Planning & Development Act 2005. An appeal must be lodged within 28 days of the determination.**

**Note 4: Under the provisions of the York Town Planning Scheme No. 2, Council can extend a consent following receipt of a written request. Any applications for renewal will be advertised in accordance with the provisions of the Scheme."**

**Note 5: Any food preparation shall comply with the requirements of the Food Act 2008.**

**Note 6: Potable water supplied on site shall meet the requirements of the Department of Health and the Australian Drinking Water Guidelines.**

**Note 7: Council's records indicate that the shed on the property does not have Council approval. Council can issue a retrospective building approval upon application.**

**Amendment**

**Moved: Cr Scott**

**Seconded: Cr Boyle**

***"That condition 4 be amended to include the following 'No use of the property by Extreme Driving in the period 1<sup>st</sup> November to 30<sup>th</sup> April each year due to the potential fire danger'."***

**Amendment**

**Moved: Cr Hooper**

**Seconded: Cr Walters**

***"That Council:***

***Defer this matter until legal advice is received on the constraints able to be placed on the landowner and the proponent if there are activities outside of the approved conditions."***

***Amendment become the Motion and was put and CARRIED: 5/1***