

### 9-4-3 Lower Chittering Sport and Recreation Facility – Stage 1

Report date	3 April 2019
Applicant	Shire of Chittering
File ref	A11560; 15/01/16
Prepared by	Acting Chief Executive Officer
Supervised by	Not applicable
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

#### Executive Summary

The Shire has received a Building Better Regions Fund grant of \$4.71m towards the Lower Chittering Sport and Recreation Facility (Stage 1). The other key party to the project is the Immaculate Heart College, which promised a \$2m contribution.

The Council at its 20 March 2019 meeting, resolved that the Chief Executive Officer seek an agreement with Immaculate Heart College for its \$2m contribution and the purpose of this report is to provide the necessary information to enable that agreement to be confirmed.

Discussions with the College have been progressing and the College advises that a self-supporting loan is requested, to enable the facility to be constructed, however it has not been able to provide information on what type of security it can offer to facilitate that funding source being provided. A legal agreement between the Shire and the College is required to support that arrangement.

As with the construction of any significant community facility, there will be a number of challenges to address, however it is apparent from the research undertaken as part of the grant application, and the Shire's own strategic planning priorities, that this is a project worthy of being successful for its grant contribution. This report amongst other things, recommends that the Shire provide a self-supporting loan facility to the Immaculate Heart College.

#### Background

The Council at its 17 October 2018 Meeting.... *authorised the Chief Executive Officer to negotiate a funding commitment from Immaculate Heart College as a contribution towards the capital cost of the project.* That occurred and the grant application was submitted, and was successful. A Building Better Regions Fund grant of \$4.71m was subsequently offered. This project will involve the Shire of Chittering, in partnership with Immaculate Heart College, developing the Lower Chittering Sport & Recreation Facility. The project will be developed using a multi-stage approach, with this Stage 1 costing an estimated \$9.71m. This partnership approach is designed to deliver a significant benefit to both the development and operational phases, in that costs can be shared, providing both parties with access to quality infrastructure with a significantly reduced financial cost. The Immaculate Heart College provided the Shire with a commitment for a contribution of \$2m.

Immaculate Heart College is an incorporated Catholic school and classified as an Australian Public Company, Limited by Guarantee. A company limited by guarantee is a specialised form of public company designed for non-profit organisations. Companies limited by guarantee are subject to the *Corporations Act 2001* (Cth) and administered to by the Australian Securities and Investments Commission (ASIC). Like incorporated associations, this legal structure designates an organisation as a separate legal entity. A company limited by guarantee can for example, be sued, legally lease a property, borrow money, enter into contracts, or hold

assets in its name. Like many corporate structures however, a company limited by guarantee is only as financial as its current operations and the limit of the liability of the company's members.

The Council at its 20 March 2019 meeting, resolved that *"the Chief Executive Officer to seek an agreement with Immaculate Heart College for its \$2m contribution for Council's consideration."*

The College seeks a self-supporting loan through the Shire of Chittering on the following basis, however it was able to provide information on what type of security it can offer to facilitate that funding source being provided at the time this report was prepared -

Details	Immaculate Heart College Position
Loan amount	\$2,000,000 (\$1,725,000(LCSRC) + \$275,000(land))
Loan term	20 years
Borrower Details	Immaculate Heart College LTD (ACN: 147 801 590)
Loan repayments (at say 4% interest)	\$148,000pa
Loan Security Offered	Note: Yet to be provided by the College

Immaculate Heart College has in more recent times asked for a modification to the configuration of the contributions from the Shire/Immaculate Heart College (IHC). The grant application was for the split to be \$3m Shire and \$2m IHC. The IHC's existing \$2m contribution includes the value for the 3ha of land the Shire has agreed to sell to it (valued at \$275,000). The IHC wished to seek a separate grant from the State Government to assist with the land purchase cost (33<sup>1</sup>/<sub>3</sub>% grant which equals \$91,657<sup>1</sup>). It seemed to be in everyone's interests to allow that change and the Department of Industry, Innovation and Science (federal) was accepting of this modification also. That will though, require a change to the contribution configuration that makes up the Building Better Regions Fund Grant Agreement. That change now sees the IHC's contribution for the Lower Chittering Sport and Recreation Centre (LCSRC) effectively reduced to \$1,725,000. The total IHC payment to the Shire remains unchanged at \$2m as both sums \$1,725,000(LCSRC) + \$275,000(land) are still be paid directly to the Shire. The Shire's total contribution will therefore, subject to the end price of the facility, still remain at a \$3m (via a loan) but the 2019/20 budget will now highlight that the land sale revenue (\$275,000) will be utilised towards the Lower Chittering Sport & Recreation Facility costs.

The Shire borrows its funds through WA Treasury. WA Treasury sets limits for local government borrowings to guard against defaults, and to also manage the State's financial credit rating. Chittering has the capacity to borrow \$5m from the WA Treasury (\$3m for its contribution and \$2m as a Immaculate Heart College Self-Supporting Loan) but the Shire's ongoing authority to lift that borrowing level for other future projects may meet stricter Treasury application guidelines. To that extent, it would be much better for the College to raise its own funds as a self-supporting loan in effect, potentially reduces the Shire's capacity to fund future projects via additional loan borrowings.

<sup>1</sup> The Immaculate Heart College representative at the Agenda Forum (9 April 2019) advised that the grant is for 1/3, not 1/2, as was outlined in the Agenda Forum document.

## Consultation/Communication Implications

### Local

Immaculate Heart College

### State and Federal

Nil

## Legislative Implications

### State

If self-supporting loan funds are required, that loan will be accessed through WA Treasury.

### Local

- Local Government Act 1995 S6.20 outlines the power of the local government to borrow funds.
- Local Government (Financial Management) Regulations 1996 (Reg 29) outlines regulations relating to borrowings information required in accounting notes.

## Policy Implications

### State

Nil

### Local

Nil

## Financial Implications

The Building Better Regions Fund grant provided \$4.71m towards the project, and the Shire will be required to contribute \$3m (loan funds) for its share. The other major funding partner is Immaculate Heart College and its commitment is \$2m.

It is understood that during the process of planning for the project after finalising the grant application, the \$2m Immaculate Heart College contribution now includes its payment for the land (approximately 3ha) to be purchased from the Shire. That land has a value of \$275,000.

The College has indicated it would prefer to make its contribution through a self-supporting loan facility (through the Shire of Chittering's WA Treasury borrowing capacity). This will mean that the Shire will need to borrow \$5m. The College's annual repayment for a \$2m loan over 20 years at an approximate 4% interest rate will be approximately \$148,000pa.

Based on a 50% share of the average anticipated maintenance/operations costs (\$200,000) and estimated loan repayment commitments (\$200,000) the Shire will be responsible for approximately \$400,000pa of expenditure. With user and commercial hire fees, a net financial position of approximately \$350,000 could be anticipated. \$350,000 represents an approximate 6% rate increase, which could be spread over the next three financial years, to provide a phased in approach of 2%/year. There is also a high degree of confidence that with rates growth in the Shire coming from development on existing blocks, and new development within the Muchea Industrial Park, that this 2% allowance could well be less.

From a risk management perspective, the construction of a large community facility such as this is considered to be “medium/high” (in light of the potential funding complications, the number of stakeholders, and other impacts of external contractual arrangements). As a medium/high risk matter, the Shire has allocated an officer to be the dedicated Project Officer, so that a good level of monitoring and proactive actions can be achieved. A review of the Long Term Financial Plan should also occur within the next couple of years to more accurately reflect updated circumstances. Specific risks questions at this immediate point in time would include the following –

Risk	Mitigation
Has the validity of the project been satisfactorily proven?	Yes, the Shire’s Community Strategic Plan and it’s Corporate Business Plan; the grant application Business Case (2018); and the Regional Sports and Community Centre Feasibility Study (2016), which included community consultation, and an indication that residents felt that additional facilities are required and a senior oval/indoor recreation centre were priorities. All the above support the legitimacy for the development of a facility of this style.
Is the grant “guaranteed”, even in light of the upcoming Australian Government election?	Once the election is called, the government goes into “caretaker mode” and cannot commit the next Australian Government during that period of time. The contract was executed on 4 April 2019, so the \$4.7m funding allocation is now guaranteed.
What might happen to the \$4.71m grant if there is a change of Australian government?	There is no risk as the contract is already executed. The grant is now “under contract” between the two parties and will be paid to the Shire progressively as the project proceeds.
What might occur if the Shire did not wish to support a self-supporting loan to the Immaculate Heart College?	The College would need to source its contribution from elsewhere.
What if the College cannot raise its \$2m separately?	The project and its financial makeup would need to be revisited. Either the Shire would need to commit the funds itself (in the place of the College); the facility would need to be “downsized” to fit into the lower total budget (subject to Australian Government agreement); or the grant would need to be refused/returned and the project abandoned.
What position might the Australian Government take (in regard to the grant) if the college is no longer a financial partner in the project?	It could take the position that conditional on the Shire replacing the funding commitment of the College (so that the project is constructed as originally planned) there is no objection. Alternatively, it might decide that the grant application is substantially different from that submitted and withdraw the grant funds.
Would the Shire’s reputation be impacted if it refused to now accept the grant and construct the facility?	Generally yes, albeit that view will vary depending on the stakeholder. Our ability to secure future grants would be disadvantaged as we would be seen as “an unreliable applicant”, particularly for future federal government grants. Those members of the community in support of the facility will likely be disappointed, whilst any against it might perhaps hold the opposite view.
What protection is in place to address the potential of the capital cost exceeding the building budget?	A quantity surveyor estimated the capital costs and a tender process will provide a contracted price. A project manager and Reference Group will be in place to provide ongoing monitoring/controls.

Risk	Mitigation
Is the Shire able to undertake any of the civil works itself to take advantage of the grant?	No, the grant includes an "in kind" Shire contribution of \$345,648 that the Shire must make (staff time and plant/equipment and \$100,000 for unfixed furniture etc). Contract earthworks costs are factored into the overall facility construction budget.
What protection is in place to ensure the project is completed by the deadline date of 31 December 2022?	A construction schedule will form part of the construction contract and this will be monitored by the project manager. Current projections indicate the project will be completed several months before this deadline.
If anticipated user demand does not eventuate, how will the revenue impact of that be addressed?	Community consultation, modelling of school numbers, and district growth estimates occurred as part of the grant application process. A local and even regional marketing program may be required closer to the completion time of the facility. Any commercial revenue potential will need to be promoted by way of a dedicated marketing campaign.
What controls are in place to ensure that ongoing maintenance and operational costs are managed in line with expectations?	Existing staff that manage other facilities will monitor and control costs. Use of some contractors may be warranted to ensure annual costs are known in advance.
Will operational management be in place to ensure that the facility runs efficiently and cost effectively?	If additional staff are required, a competitive process of appointment will draw out the best candidates. Use of Key Performance Indicators and regular supervision will be in place to ensure the facility delivers the desired results.
Given the multi-purpose nature of the facility, what governance systems and procedures are in place to mitigate the legal, revenue, and other operational issues that result from a shared facility?	The Reference Group should be retained into the longer term (possibly with modified membership makeup numbers). The <i>Agreement of Operational Use and Costs Responsibility</i> , and the <i>Facility Programming Framework</i> will address cost sharing and usage issues.
How will community and school use of the facility be coordinated?	The <i>Agreement of Operational Use and Costs Responsibility</i> , and the <i>Facility Programming Framework</i> will address cost sharing and usage issues. These documents will need to be recalibrated on an annual basis and the Reference Group (which includes Shire, College, and community representatives) will play a role in that process.

Risk	Mitigation
<p>How have Loan repayment, Operational and Maintenance Costs, and proposed revenue streams, been estimated and accommodated within the Shire's Long Term Financial Planning?</p>	<p>Each party will be responsible for their respective loan/financing costs.</p> <p>The Grant Business Case used the <i>Operational Benchmarks for Australian Public Recreation Centres Maintenance</i> as provided by the University of South Australia, and linked that to the anticipation of the facility being very actively promoted and used for commercial hire. These costs are anticipated to be valid in those circumstances but for the purpose of this report, we have sought out costs from closer Western Australian centres for comparison.</p> <p>Chinkabee oval and centre (\$120,000); Northam (\$455,000); Kellerberrin – a new facility - (\$443,000) and Cunderdin (\$230,000) considered more relevant expenditure comparisons for the present time. The grant application proposed for these costs to be shared equally with the College, however the eventual sharing needs to be refined in combination with community/school usage patterns, and the confirmation of eventual facility costs (which can't occur accurately until the structure and operating model style of the facility is better known).</p> <p>Operational revenues are best anticipated at minimal levels but can vary substantially depending on how the facility is charged out (e.g. will it be available for commercial hire to weddings etc?). The Business Case estimating a potential revenue stream of up to \$618,000pa if an active marketing program and proactive commercial usage was promoted. It would be wise not to use these revenue figures until the firm direction of the facility is considered by the Reference Group. Also worth noting is that some costs (e.g. cleaning, water and electricity) will rise as usage and revenues rise.</p> <p>Based on the Chinkabee (\$120,000); Northam (\$455,000); Kellerberrin (\$443,000) and Cunderdin (\$230,000) examples, a total cost of say \$400,000 would seem prudent for the present. The actual amount will be more accurately understood as we work thorough the agreements with the College and the building's structure is confirmed. There is also the potential for the College to undertake some of the maintenance activities (e.g. cleaning) which might prove to be mutually beneficial.</p> <p>The Shire has included loan fund payment costs into its Long Term Financial Plan but will also need to incorporate its share of facility revenues, as well as its share of operational and maintenance costs once they are confirmed. No future revenue or expenditure allocations have been included as yet.</p>



Risk	Mitigation
What arrangements will be in place to share costs/revenues with the Immaculate Heart College?	<p>The grant application notes that the application was based on "a <i>partnership approach with Immaculate Heart College ...the operational and renewal costs will be split</i>".</p> <p>Another option is for the Council to consider a "phased in" contribution, where the College pays (in addition to its loan repayments) a minimum annual contribution towards the operations/maintenance costs for the first say five years (say \$100,000) and that the percentage share increases gradually from say 25%, to reach 50% over the next five years). A further alternative may be to charge the College base on usage hours, so a closer "user pays" relationship is maintained.</p>
What is the risk level of the College not meeting its repayment or cost sharing commitments?	<p>Based on a 50% share of the anticipated maintenance/operations costs (\$200,000) and estimated loan repayment commitments (\$148,000) the College will be responsible for approximately \$348,000pa of expenditure. With some commercial hire, a potential revenue of say \$100,000pa (shared equally with the Shire) would leave an approximately \$300,000 annual nett expense responsibility for the College.</p> <p>The College financials show Net Income of \$545,769 (2015/16); and \$430,207 (2016/17). This would seem sufficient for the \$300,000 annual payment, but the revenue and expenditure estimates are not confirmed and so the amount could be higher (or perhaps lower!). With a growing student base, it would be expected that over time, the College's financial sustainability will further improve, showing gradual and continuous reductions in risk.</p>

## Strategic Implications

### Local

- Strategic Community Plan 2017-2027  
Focus area: Our community  
Objective: S1.1 An active and supportive community  
Strategy: S1.1.1 Develop and enhance existing recreation and social facilities for local communities (recreational and sporting facilities to service the growing population in the Lower Chittering/Muchea area)

### State

Nil

## Site Inspection

Not applicable

## Triple Bottom Line Assessment

### Economic implications

The Shire may have a lower ongoing borrowing capacity at Treasury if it provides a self-supporting loan to the Immaculate Heart College.

Social implications

On the basis that the project proceeds, there will be positive social and health benefits associated with sporting and recreation facilities to service the growing population in Lower Chittering.

Environmental implications

Environmental implications (if any) will be dealt with as part of the planning and building approval process.

**Officer Comment/Details**

As with the construction of any significant community facility, there will be a number of challenges to address, however it is apparent from the research undertaken as part of the grant application, and the Shire's own strategic planning priorities, that this is a project worthy of being successful of the grant support provided, and worthy of being progressed by Council. There is in place to address these challenges as they arise, a Reference Group and a dedicated Project Officer with building and grant work experience. There is a high degree of confidence therefore that these risk management responses will be adequate to address matters as the building project progresses.

The coming together of two major funding opportunities (Building Better Regions Fund grant and the Immaculate Heart College) and the confirmation from Shire documents that the Lower Chittering Sport & Recreation Facility is a key strategic endeavour, provides the Council and the Chittering community with a unique and beneficial opportunity. The Lower Chittering Sport & Recreation Facility can now be constructed as a Shire facility using the benefit of a sizeable and much appreciated  $\frac{2}{3}$  subsidy towards its capital cost.

Officers are committed to using our best endeavours to bringing the project to realisation as soon as reasonably possible, in order that the Chittering community and the Immaculate Heart College students and families can benefit from the facility.

The Shire's approximately \$350,000 annual cost, in exchange for this new facility, would seem quite acceptable in light of the infrequency that such new facilities are constructed (i.e. the Shire of Chittering will only build a new sport and recreation as community population/need grows sufficiently, and financial opportunity coincides). Whilst \$350,000 represents an approximate 6% rate increase, by planning ahead and spreading that cost over the next three financial years, Council can lower that impact to about 2%/year, and that figure might possibly be lower with additional levels of rates growth coming from development on existing as well as the Muchea Industrial Park properties.

In conclusion, the Lower Chittering Sport & Recreation Facility would seem to be one of those projects born from community engagement, located so as to secure high levels of college/community usage, fortunate to be mutually beneficial and to attract a third party capital subsidy, and timed to maximise the securing of a significant government grant. Many would consider this to be classified as a "once in a life-time opportunity", and it is recommended that Council take full advantage of that most fortuitous combination of "intersecting factors".

**OFFICER RECOMMENDATION**

Moved Cr Tilbury / Seconded Cr Osborn

That Council:

1. Acknowledges the unique and beneficial opportunity available to the Chittering community that is presented with the Building Better Regions Fund grant and the Immaculate Heart College contribution towards the Lower Chittering Sport & Recreation Facility, providing a  $\frac{2}{3}$  subsidy towards the capital cost of this Shire facility;
2. Commits to using its best endeavours to bringing the project to realisation as soon as reasonably possible, in order that the Chittering community and the Immaculate Heart College students and families can benefit from the facility;
3. Requires the Chief Executive Officer to work in consultation with the Councillor representatives on the Lower Chittering Sport & Recreation Facility Reference Group, to secure workable and sustainable agreements with the Immaculate Heart College and other Lower Chittering Sport & Recreation Facility stakeholders, to facilitate the outcomes in (2) and (4) of this resolution;
4. Requires the Chief Executive Officer, in line with resolution (3), to work in consultation with the Immaculate Heart College, to develop a workable and sustainable contract for Council's endorsement, for a Self-Supporting Loan to the College (up to \$2m) for its contribution to the Lower Chittering Sport & Recreation Facility, incorporating at least the following security conditions–
  - a. A maximum sum of \$2,000,000;
  - b. A suitable loan debt security; and
  - c. That any supplementary grants received by the College that link to its use of loan expenditure, are to be remitted to the Shire as "advance principle repayments" to be held in the Shire's Trust Account until it can be remitted to WA Treasury as such;
5. Commits to raising the (up to) \$2m Self-Supporting Loan for Immaculate Heart College as part of the 2019/20 Budget;
6. Highlights a preference for the \$275,000 land payment to be remitted in cash to the Shire upon transfer of the land, and a \$1,725,000 self-supporting loan as the College's contribution to the Lower Chittering Sport & Recreation Facility; but endorses (if the College can adequately prove that option is unsustainable) that a \$2,000,000 Self-Supporting Loan be provided and made up of two components, a contribution to the Lower Chittering Sport & Recreation Facility itself (\$1,725,000) plus the purchase price of the land (approximately 3ha) to be sold by the Shire to the Immaculate Heart College (\$275,000);
7. Authorises the President and Chief Executive Officer to apply the Common Seal and to sign the Self-Supporting Loan Agreement (once developed) on the Shire of Chittering's behalf; and
8. Invites Immaculate Heart College to signing and return the Self-Supporting Loan Agreement in order that the Lower Chittering Sport & Recreation Facility project can be undertaken.

During Cr Tilbury's presentation as Mover of the motion, he stated ".....If you look at this project solely on a simple economic basis, in terms of value for money, our Community will be the benefactor of a brand new sport and recreation facility worth almost \$10M, for an investment of only \$3M! That in itself is unbelievable and we should not look a gift horse in the mouth. Anyone that thinks giving back \$4.71M is a good idea at all – let alone in this current fiscal climate – clearly has no business acumen, is not working in the best interests of our entire Community and quite frankly needs their head read!"

Cr King raised a point of order in regard to the reference "needs their head read" and asked the President to rule on the matter in accordance with the Shire's Council Meetings Local Law clause 8.14 (Adverse Reflection).

8:43PM – meeting adjourned at to allow the President and Chief Executive Officer an opportunity to consult on the question and the Shire's Council Meetings Local Law and to liaise with Cr Tilbury.

8:54PM – meeting reconvened at with all Councillors present.

The President ruled that in accordance with the Shire's Council Meetings Local Law clause 8.15 (Withdrawal of Offensive Language) that the words used were out of place with the expected standards of being a Councillor and it was accepted therefore that they could be concluded as being "offensive or insulting". Cr Tilbury is therefore required to withdraw the expression and make a satisfactory apology.

Cr Tilbury advised the meeting that he withdrew his comments and apologised to anyone that had been offended by them.

**AMENDMENT**

Moved Cr King / Seconded Cr Gibson

That Resolution 6. be deleted and replaced with:

- "6.a. The proceeds from the sale (\$275,000.00) of the land is to be remitted in cash to the Shire upon transfer of the land.
- 6.b. Immaculate Heart College's contribution to the Lower Chittering Sports & Recreation Facility is \$2,000,000."

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4  
9:17PM

Cr King provided the following reason:

*The business case that was remitted to Council indicated that the land purchase was separate to the college's \$2m contribution towards the facility.*

**AMENDMENT**

Moved Cr King / Seconded Cr Gibson

That the following Resolution g. be added:

- "g. That the Acting Chief Executive Officer is to formalise and present to Council for approval, a 'use agreement' with Immaculate Heart College to share up to 50% of the Operation/Maintenance costs of the Lower Chittering Sports Facility in consideration of payment of a-
- a. Fixed annual costs of 25% of the Operation/Maintenance costs of the Lower Chittering Sports Facility, regardless of use; and
  - b. Variable annual cost of up to 25% of the Operation/Maintenance costs of the Lower Chittering Sports Facility based on percent use of the school."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1  
AND WILL NOW FORM PART OF THE SUBSTANTIVE MOTION

9:30PM

Cr King provided the following reason:

The business case is based on capital not operating costs, missing one key aspect, which is the percentage that the school will pay for its share of the use of the facility.

**AMENDMENT**

Moved Cr Gibson / Seconded Cr King

That Resolution 1. be deleted.

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

9:39PM

Cr Gibson provided the following reason:

Resolution 1. does nothing to the recommendation, is superfluous and is misleading.

**AMENDMENT**

Moved Cr Gibson

That Resolution 4.a. be amended by deleting "maximum".

AMENDMENT LAPSED BY WANT OF A SECONDER

9:40PM

Cr Gibson provided the following reason:

Requires the College to make a \$2m capital contribution (in addition to the \$275,000 land purchase).

**AMENDMENT**

Moved Cr Gibson / Seconded Cr King

That Resolution 5. be amended by deleting "Commits to" and replace with "Subject to Resolution 4. considers".

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4  
9:52PM

Cr Gibson provided the following reason:

*Does not believe that the Shire should commit to raising \$2m when there is nothing in place to commit to repay the loan.*

**AMENDMENT**

Moved Cr Gibson / Seconded Cr King

That Resolution 6. by deleting "Highlights a preference for" and replace with "Requires".

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5  
10:00PM

Cr Gibson provided the following reason:

*That Council needs to be positive on what we require and what we don't. Leaving this open like this we will lose the deal and will not be advantageous to the ratepayers. Needs to be clear to what we require.*

**AMENDMENT**

Moved Cr Gibson / Seconded Cr King

That Resolution 6. be amended by amending all references to "\$1,725,000" be replaced with "\$2,000,000".

The question was raised as to whether the amendment proposed by Cr Gibson was in effect the same as the earlier amendment proposed by Cr King (and which was lost on the vote) and whether proposing a similar amendment was in accordance with the Shire's Council Meetings Local Law.

10:05PM – meeting was adjourned to allow the Chief Executive Officer time to consult the Local Law.

10:15PM – meeting reconvened at 10:15pm with all Councillors present.

*The Chief Executive Officer informed the meeting that Cr Gibson's amendment would seem to effectively be the same as an earlier amendment proposal that was put to Council and was lost on the vote. Whilst no relevant reference could be found in the Shire's Council Meetings Local Law, there was a reference in the Department's Guidelines, A Guide to Meetings that stated.... "that if an amendment is substantially the same as an earlier amendment then it should be rejected".*

*Consistent with the Department's Guidelines, A Guide to Meetings, part 8.11 Amending a Motion, "that if an amendment is substantially the same as an earlier amendment then it should be rejected" the Presiding Member ruled with regard to Cr Gibson's amendment that it has the same effect as the previous amendment and was therefore rejected.*

**PROCEDURAL MOTION**

Moved Cr King / Seconded Cr Gibson

That the Presiding Member's ruling be disagreed with.

THE PROCEDURAL MOTION WAS PUT AND DECLARED LOST  $\frac{3}{4}$   
10:20PM

**MOTION**

Moved Cr Gibson

That Council express a vote of no confidence in the Presiding Member.

*The Presiding Member informed the meeting that Cr Gibson's motion cannot be dealt with at this time as only one substantive motion can be dealt with at a time. He would however, allow the motion to be put, following Council's deliberation on the substantive motion before the Council presently.*

**9.4.3 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 110419**

Moved Cr Tilbury / Seconded Cr Osborn

That Council:

1. Acknowledges the unique and beneficial opportunity available to the Chittering community that is presented with the Building Better Regions Fund grant and the Immaculate Heart College contribution towards the Lower Chittering Sport & Recreation Facility, providing a  $\frac{2}{3}$  subsidy towards the capital cost of this Shire facility;
2. Commits to using its best endeavours to bringing the project to realisation as soon as reasonably possible, in order that the Chittering community and the Immaculate Heart College students and families can benefit from the facility;
3. Requires the Chief Executive Officer to work in consultation with the Councillor representatives on the Lower Chittering Sport & Recreation Facility Reference Group, to secure workable and sustainable agreements with the Immaculate Heart College and other Lower Chittering Sport & Recreation Facility stakeholders, to facilitate the outcomes in (2) and (4) of this resolution;
4. Requires the Chief Executive Officer, in line with resolution (3), to work in consultation with the Immaculate Heart College, to develop a workable and sustainable contract for Council's endorsement, for a Self-Supporting Loan to the College (up to \$2m) for its contribution to the Lower Chittering Sport & Recreation Facility, incorporating at least the following security conditions–
  - a. A maximum sum of \$2,000,000;
  - b. A suitable loan debt security; and
  - c. That any supplementary grants received by the College that link to its use of loan expenditure, are to be remitted to the Shire as "advance principle repayments" to be held in the Shire's Trust Account until it can be remitted to WA Treasury as such;
5. Commits to raising the (up to) \$2m Self-Supporting Loan for Immaculate Heart College as part of the 2019/20 Budget;

6. Highlights a preference for the \$275,000 land payment to be remitted in cash to the Shire upon transfer of the land, and a \$1,725,000 self-supporting loan as the College's contribution to the Lower Chittering Sport & Recreation Facility; but endorses (if the College can adequately prove that option is unsustainable) that a \$2,000,000 Self-Supporting Loan be provided and made up of two components, a contribution to the Lower Chittering Sport & Recreation Facility itself (\$1,725,000) plus the purchase price of the land (approximately 3ha) to be sold by the Shire to the Immaculate Heart College (\$275,000);
7. Authorises the President and Chief Executive Officer to apply the Common Seal and to sign the Self-Supporting Loan Agreement (once developed) on the Shire of Chittering's behalf;
8. Invites Immaculate Heart College to signing and return the Self-Supporting Loan Agreement in order that the Lower Chittering Sport & Recreation Facility project can be undertaken; and
9. That the Acting Chief Executive Officer is to formalise and present to Council for approval, a 'use agreement' with Immaculate Heart College to share up to 50% of the Operation / Maintenance costs of the Lower Chittering Sports Facility in consideration of payment of a-
  - a. Fixed annual costs of 25% of the Operation / Maintenance costs of the Lower Chittering Sports Facility, regardless of use; and
  - b. Variable annual cost of up to 25% of the Operation / Maintenance costs of the Lower Chittering Sports Facility based on percent use of the school."

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 4/3  
CRS ANGUS, KING and GIBSON requested that their votes be recorded as being AGAINST the motion.

10:28PM

**MOTION**

Moved Cr Gibson

That Council express a vote of no confidence in the Presiding Member.

THE MOTION LAPSED FOR WANT OF SECONDER

10:29PM

*Cr Gibson provided the following reason:*

*Undue delays in what has been going on here that require a Presiding Member with a bit more nous.*