

AGENDA FOR SPECIAL MEETING OF COUNCIL

WEDNESDAY 27 MARCH 2019

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 6.00PM



Disclaimer

The purpose of this Council meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst Council has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the *Local Government Act 1995* (section 5.25 (e)) establish procedures for revocation or rescission of a Council decision. No person should rely on the decisions made by Council until formal advice of the Council decision is received by that person.

The Shire of Chittering expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of Council, or any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the Council meeting.

Procedure for Public Question Time, Petitions, Deputations and Presentations at Council Meetings

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<p>Petitions A formal Process where members of the community present a written request to the Council.</p>	<p>Deputations A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p>Presentations An occasion where awards or gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government.</p>
---	---	--

Procedures for Deputations

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business.

Notice of deputations need to be received by **5pm on the day before the meeting** and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9576 4600 or email chatter@chittering.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- (a) is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- (b) is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- (c) additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

Procedure for Presentations

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by **5pm on the day before the meeting** and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9576 4600 or email chatter@chittering.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received/awarded by the Shire President or an appropriate Councillor.

Procedure for Petitions

Please note the following protocol for submissions of petitions. Petitions must:

- be addressed to the Shire President.
- be made by electors of the district.
- state the request on each page of the petition.
- contain the names, addresses and signatures of the elector(s) making the request, and the date each elector signed.
- contain a summary of the reasons for the request.
- state the name and address of the person whom arranged the petition for correspondence to be delivered to, as correspondence is not sent to all the signatures on the petition.

Where a petition does not relate to or conform to the above it may be treated as an 'informal' petition and the Chief Executive Officer may at his discretion forward the petition to Council accompanied by an officer report.

Procedure for Public Question Time

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the *Local Government Act 1995*) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Shire President may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the *Shire of Chittering Local Government (Council Meetings) Local Law 2014*:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to two (2) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by **5pm on the day before the meeting and be signed by the author**. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.

Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.

Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council without the permission of the Presiding Member.

TABLE OF CONTENTS

1.	DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS.....	1
2.	RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE.....	1
2.1	Attendance.....	1
2.2	Apologies.....	1
2.3	Approved leave of absence.....	1
2.3.1	Cr Peter Osborn	1
3.	DISCLOSURE OF INTEREST.....	1
4.	PUBLIC QUESTION TIME	2
4.1	Public question time	2
5.	PRESENTATIONS / PETITIONS / DEPUTATIONS	2
5.1	Petitions	2
5.2	Presentations	2
5.3	Deputations.....	2
6.	PURPOSE OF MEETING	3
6.1	Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019	3
6.2	REPLACEMENT REPORT: Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019*	10
7.	CLOSURE.....	15

* indicates separate attachments

Notice is hereby given that a Special meeting of the **Shire of Chittering** will be held on **Wednesday 27 March 2019** in the Council Chambers, Bindoon commencing at **6.00pm**



NEIL HARTLEY
Acting Chief Executive Officer

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member to declare the meeting open.

2. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE

2.1 Attendance

2.2 Apologies

2.3 Approved leave of absence

2.3.1 Cr Peter Osborn

Council approved Leave of Absence for the period inclusive of Thursday 21 March to Thursday 18 April 2019 (Council Resolution 050319).

3. DISCLOSURE OF INTEREST

4. PUBLIC QUESTION TIME

4.1 Public question time

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

5.2 Presentations

5.3 Deputations

6. PURPOSE OF MEETING

At the Ordinary Meeting of Council held 20 March 2019, Council resolved to lay Item '9.1.1 Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019' on the table.

MOTION

That Item 6.1 "Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019" be raised from the table.

6.1 Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019

Report date	7 March 2019
Applicant	Shire of Chittering
File ref	18/02/0023
Prepared by	Executive Manager Development Services
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Draft Local Planning Strategy and Mapping (as advertised) 2. Schedule of Modifications 3. Schedule of Submissions (redacted) 4. Schedule of Submissions CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE

CHIEF EXECUTIVE OFFICER NOTE

Refer to the Ordinary Council Meeting held on 20 March 2019 for a full copy of the above attachments.

Executive Summary

The purpose of this Report is for Council to consider providing final endorsement of the draft Local Planning Strategy (LPS), in conjunction with the Schedule of Submissions and the recommended Schedule of Modifications. The LPS has been subjected to a long advertising period, with 18 submissions being received. Each submission has been assessed individually and collectively, with any changes being subject of, and to, this endorsement.

Background

Despite the Shire having an endorsed LPS that provides guidance towards strategic land-use from 2004-2014, on 28 April 2008, the Western Australian Planning Commission (WAPC) requested the Shire of Chittering to review aspects of its Local Planning Strategy which included:

- i. Reviewing all areas recognised for rural residential, rural retreat and rural small holdings outside of the Priority Development Area (PDA).
- ii. Reduce the size of the PDA by removing those areas that are remote from existing infrastructure and services or have a negative impact on the environmental values.
- iii. Provide a staging plan for development within the PDA recognising areas closest to existing development, services and infrastructure in the initial stage(s).
- iv. Incorporating the Local Biodiversity Strategy and Local Planning Strategy mapping and report.

On 16 November 2009, Council awarded a contract to Greg Rowe & Associates (now Rowe Group) to undertake the Local Planning Strategy Review. Upon completion of the draft, the WAPC in October 2013 certified that the Shire's LPS was consistent with the (then) Town Planning Regulations subject to an additional 30 modifications.

At the conclusion of the submission period, a total of 40 submissions were received from State Government agencies and the community. In summary, the feedback received generally reported confusion with the complexity of the mapping.

Accordingly, the Shire in conjunction with the Department of Planning Lands and Heritage proceeded to rewrite the LPS. Further rationale to this rewrite was that in 2015, the State Government gazetted the *Planning and Development (Local Planning Schemes) Regulations*. These Regulations effectively changed the method in which Local Planning Strategies (and all other legislative functions relating to planning) were required to be drafted.

Council subsequently resolved at its Ordinary Meeting held on 19 July 2017 to authorise the submission of the draft LPS to the WAPC for certification prior to advertising.

Following considerable deliberation at the Department of Planning Lands and Heritage, certification was received from the WAPC on 7 June 2018 and was subsequently advertised to the community, in accordance with the endorsed Consultation Strategy. Consultation with community and development representatives occurred for a period of eight weeks, and consisted of an email out, publication of the Shire's website, marketed via Facebook and made publicly available at two open forums. Given the market demands and economic changes within the Shire, mostly as a result of the road construction upgrades, the LPS is regarded as the key document to guide future land use and settlement patterns within the Shire.

A total of 18 submissions were received in response and have been considered in the recommendation of this report. The draft advertised LPS has not been modified at this point in time. The Department of Planning Lands and Heritage have advised that the WAPC will only consider the original advertised document, which must be submitted together with a Schedule of Submissions and Schedule of Modifications. Full copies of the submissions must also be submitted for their consideration.

Consultation/Communication Implications

Local

The draft LPS was advertised in accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with an extended period as resolved by Council within the endorsed communication strategy at its Ordinary Meeting of 19 July 2017.

The draft LPS document and mapping were available electronically to download on the Shire's website and hard copies were available for perusal at the Shire Office, Library and the Local Member of Parliament's Office in Bindoon. Submission forms were available in hard copy and electronically, together with an on-line submission form. Freehand submissions were also accepted. A total of 18 submissions were received regarding the LPS from the community, landowners, local groups and organisations, and government agencies. A public version of the Schedule of Submissions is attached to this Report (to provide confidentiality to all submitters). A full copy of the Schedule of Submissions, along with the complete submissions, has been provided to Council as a Confidential Attachment due to identification of individuals.

Legislative Implications

State

- *Planning and Development Regulations (Local Planning Schemes) 2015*

Part 3 of the Regulations sets out the process for initiation and adoption of a Local Planning Strategy. The process within the Regulations has been set out in a pragmatic order for which the Shire has followed.

Council's role in enacting the draft Local Planning Strategy is to provide endorsement before which the WAPC will have final determination. The WAPC may modify the LPS as it sees fit, though generally will only do so where consistent with State Planning Policies.

Local

Nil

Policy Implications

State

The draft LPS has been prepared in accordance with the policies of the WAPC and other relevant stakeholders to guide the development of a new Local Planning Scheme. Each State Planning Policy applicable to the LPS has been referenced within the document itself.

Local

A full review of all Local Planning Policies will also be carried out to ensure consistency with the new Strategy. For instance, Council does not have a policy position on mining, however previously resolved to maintain a general presumption against all mining activities within the Shire. To provide a framework for consistent decision making and to communicate to the community support on their stance against large-scale open-cut mines, the Council may wish to develop a policy position on mining in a separate policy at a later date.

Equally, Council does not currently maintain a policy position of the development of tourism related activities. The LPS will set the parameters for which the Policy will be guided, should the WAPC agree to Council's preferred approach.

Financial Implications

The cost of reviewing, advertising and publishing the Local Planning Strategy is in the adopted 2018/2019 Annual Budget. In the event that the Strategy is still under assessment and/or subject to approval by the WAPC after 1 July 2019, the budget will be requested to be rolled over.

Strategic Implications

The new Local Planning Strategy will become an important part of the suite of Council's Strategic documents with appropriate actions and linkages. The Strategy has been developed taking into consideration relevant objectives and actions from the Shire's existing Strategic Plans, including the Community Strategic Plan, Corporate Plan, Capital Works Plan, Economic Development Strategy, Environmental Plan, Heritage and Bushfire Policies and the Annual Budget.

The content of the submissions has guided the recommended proposed modifications to the originally advertised document, which will then be considered by the WAPC.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The Strategy will set the framework for land use planning in the Shire for the next 10 to 15 years. It is imperative that the Strategy accommodates economic opportunities for the sustainable development of Chittering while balancing this with economic drivers that are capable of providing jobs and business within the Shire in appropriate locations.

Social implications

The Strategy aims to address a matter of significant concern within the submissions received from the community, being the issue of mining, and in particular, mining of bauxite. The content of these submissions has been carefully considered and a number of modifications are recommended in response to the concerns/issues raised.

Environmental implications

Similar to social implications, the Strategy aims to address and minimise environmental effects associated with mining type industries. Additionally, the Strategy highlights the need to review the Local Biodiversity Strategy, as well as the identification of buffers surrounding the Western Swamp Tortoise. Ordinarily the Strategy aims to maintain and improve protection of the Shire's natural assets.

Officer Comment/Details

The LPS has been through a number of iterations to this point. Notwithstanding, the detail in the submissions received revealed the need to undertake further changes. Most notably, the changes resulted in four key aspects being at the forefront of modification:

1. Tourism

Tourism has been rewritten to more closely match Council's intentions to provide for tourism opportunities where possible and appropriate in existing zones, rather than incorporating a tourism zone. The latter option (incorporating a tourism zone) could be adverse to start-up ventures and economic planning for the Shire. Additionally, it should be noted that the preferred option generally matches the Shire of Toodyay's Local Planning Strategy – which was endorsed by the WAPC only last year.

This method of regulating tourism is considered to be an appropriate compromise for those submissions requesting to be identified for development for rural living purposes.

2. Bushfire

The Shire is in a unique position that it has had the entire Shire mapped for bushfire risk within the Bushfire Risk Management System. To this end, the Shire has relied upon this System to identify risks associated with the lots existing and identified for development. The risks have been tabled into Bushfire Hazard Levels to identify opportunities and constraints for land use intensification, and the ability to achieve compliance with the bushfire protection criteria, to better inform bushfire risk management measures. To this end, the LPS is considered to comply with SPP3.7.

3. Mining

A number of submissions received addressed the issue of mining, or more to the point, minerals to owner rights in mining.

Additional information relating to this is provided outlining Council's options. As this issue has been addressed in the draft LPS, and contrasting submissions have been received, the following options are offered to consider:

- Option 1 – Designating mining as a 'D' (discretionary) use. The WAPC's Rural Planning Guidelines recommend that where a local government seeks to 'trigger' consultation between the Ministers as outlined in section 120 of the Mining Act, 'Mining Operations' can be inserted into the Zoning Table of a local planning scheme and be designated as a discretionary 'D' use.
- Option 2 – Designating mining as an 'X' (prohibited) use. The Guidelines also advise that 'Mining Operations' should not be designated as an 'X' use in local planning schemes as this may create an expectation that the local government has the authority to approve or refuse all mining-related applications, and may establish an incorrect belief that mining cannot occur. An 'X' use can only be enforced where the Mining Act does not apply, such as Minerals to Owner Land (the extent of which is another unique aspect of the Shire). With the strength of public submissions received, this is recommended to form part of the LPS. If Council chooses this pathway, the Minister for Planning may override this decision.
- Option 3 – Removing all references to mining. Council may choose to remain silent on mining in the draft LPS, however remaining silent on issues is not considered good or proper planning as it is inconsistent with WAPC Guidelines, and may result in community discontent. If Council chooses this pathway, the Minister for Planning may override this decision.

Ultimately, which ever decision is made will follow into the new Local Planning Scheme following its future review and ultimate endorsement.

4. Industry

A number of submissions received refer to the development of industry in the Shire. Council recently endorsed a Scheme Amendment to generally contain all future industry into the Muchea Industrial Park (MIP). The purpose of this was two-fold:

- (i) Prevent the ad-hoc proliferation of industrial based activities without the appropriate regulations to manage impacts such as environmental or noise; and
- (ii) Provide economic support to developing the MIP area for industrial purposes by funnelling industrial based uses into the appropriately constructed lots.

Additionally, the Strategy contained objectives, strategies and actions that were questioned within the submissions as to whether these were representative of the Council's role. As a result, changes were made to the wording to better reflect Council's abilities and intentions through construction of the MIP.

Notwithstanding the above, submissions were received requesting additional uses on agricultural land for use of the existing rail adjacent Brand Highway, for industrial purposes. Being that the uses cannot be contained within the MIP since it does not have rail access. Accordingly, modifications have been inserted into the schedule reflecting such uses. Importantly these lots are not identified for industrial zoning, meaning the properties cannot be used for any other purpose than agricultural based businesses and the associated multi-nodal uses.

These key aspects remain contentious within the LPS regardless of the above. The reasons vary, however each is based on sound reasoning, and orderly and proper planning, to support Council's position.

Should the LPS be approved in accordance with Council's endorsement, the LPS will pave the way for the Shire to grow commercially by providing jobs and economic value. Simultaneously, the LPS will help guide the safekeeping of the Shire's existing assets from bushfire and from landscape destruction.

This document, following approval from the WAPC, will become the single most important land-use document for which all decisions will be cognisant of. Therefore, Council is requested to endorse the LPS, the Schedule of Modifications and the Schedule of Submissions.

6.1 OFFICER RECOMMENDATION

That Council resolves to:

1. Request that the Western Australian Planning Commission:
 - a. Endorse the Revised Local Planning Strategy as the Shire's Local Planning Strategy 2019, with the minor modifications outlined in the Schedule of Modifications;
 - b. Determine the submissions on the draft Local Planning Strategy are sufficiently addressed in accordance with the recommendations in the Schedule of Submissions and Schedule of Modifications; and
 - c. Revoke the existing Local Planning Strategy dated 29 June 2004 in accordance with clause 15 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. Authorises the Chief Executive Officer to forward the endorsed draft Local Planning Strategy 2019 and associated documentation to the Western Australian Planning Commission.

6.1 UPDATED OFFICER RECOMMENDATION

That Council notes that Item 6.1 has been superseded by Item 6.2, and that no further action is required on Item 6.1.

6.2 REPLACEMENT REPORT: Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019*

Report date	22 March 2019
Applicant	Shire of Chittering
File ref	18/02/0023
Prepared by	Executive Manager Development Services
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Draft Local Planning Strategy and Mapping (as advertised)2. Schedule of Modifications3. Schedule of Submissions (public distribution version with names redacted, Councillor version CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE)

Executive Summary

The purpose of this Report is for Council to consider providing final endorsement of the draft Local Planning Strategy (LPS), in conjunction with the Schedule of Submissions and the recommended Schedule of Modifications. The LPS has been subjected to a long advertising period, with 18 submissions being received. Each submission has been assessed individually and collectively, with any changes being subject of, and to, this endorsement.

This report replaces that before Council at its Ordinary Meeting of 20 March 2019.

Background

Despite the Shire having an endorsed LPS that provides guidance towards strategic land-use from 2004-2014, on 28 April 2008, the Western Australian Planning Commission (WAPC) requested the Shire of Chittering to review aspects of its Local Planning Strategy which included:

- i. Reviewing all areas recognised for rural residential, rural retreat and rural small holdings outside of the Priority Development Area (PDA)
- ii. Reduce the size of the PDA by removing those areas that are remote from existing infrastructure and services or have a negative impact on the environmental values.
- iii. Provide a staging plan for development within the PDA recognising areas closest to existing development, services and infrastructure in the initial stage(s).
- iv. Incorporating the local Biodiversity strategy and local planning strategy mapping and report.

On 16 November 2009, Council awarded a contract to Greg Rowe & Associates (now Rowe Group) to undertake the Local Planning strategy review. Upon completion of the draft, the WAPC in October 2013 certified that the Shire's LPS was consistent with the (then) Town Planning Regulations subject to an additional 30 modifications.

At the conclusion of the submission period, a total of 40 submissions were received from government agencies and the community. In summary, the feedback received generally reported confusion with the complexity of the mapping.

Accordingly, the Shire in conjunction with the Department of Planning Lands and Heritage proceeded to rewrite the LPS. Further rationale to this rewrite was that in 2015, the State Government gazetted the *Planning and Development (Local Planning Schemes) Regulations*. These regulations effectively changed the method in which Local Planning Strategies (and all other legislative functions relating to planning) were required to be drafted.

Council subsequently resolved at its Ordinary Meeting held on 19 July 2017 to authorise the submission of the draft LPS to the WAPC for certification prior to advertising.

Following considerable deliberation at the Department of Planning Lands and Heritage, certification was received from the WAPC on 7 June 2018 and was subsequently advertised to the community, in accordance with the endorsed Consultation Strategy. Consultation with community and development representatives occurred for a period of eight weeks, and consisted of an email out, publication of the Shire's website, marketed via Facebook and made publicly available at two open forums. Given the market demands and economic changes within the Shire, mostly as a result of the road construction upgrades, the LPS is regarded as the key document to guide future land use and settlement patterns within the Shire.

A total of 18 submissions were received in response and have been considered in the recommendation of this report. In addition, two further public submissions resultant from deputations were received prior to Council's consideration at its Ordinary Meeting of March 2019. The draft advertised LPS has not been modified at this point in time. The Department of Planning Lands and Heritage have advised that the WAPC will only consider the original advertised document, which must be submitted together with a Schedule of Submissions and Schedule of Modifications. Full copies of the submissions must also be submitted for their consideration.

Consultation/Communication Implications

Local

The draft LPS was advertised in accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with an extended period as resolved by Council within the endorsed communication strategy at its Ordinary Meeting of 19 July 2017.

The draft LPS document and mapping were available electronically to download on the Shire's website and hard copies were available for perusal at the Shire Office, Libraries and the Local Member of Parliament's Office in Bindoon. Submission forms were available in hard copy and electronically, together with an on-line submission form. Freehand submissions were also accepted. A total of 18 submissions were received regarding the LPS from the community, landowners, local groups and organisations, and government agencies. Additionally, two submissions were received as part of deputations to Council at the Ordinary Council Meeting of 20 March 2019. A public version of the Schedule of Submissions is attached to this Report (to provide confidentiality to all submitters). A full copy of the Schedule of Submissions, along with the complete submissions, has been provided to Council as a Confidential Attachment due to identification of individuals.

Legislative Implications

State

- Planning and Development Regulations (Local Planning Schemes) 2015

Part 3 of the Regulations sets out the process for initiation and adoption of a Local Planning Strategy. The process within the regulations has been set out in a pragmatic order for which the Shire has followed.

Council's role in enacting the draft Local Planning Strategy is to provide endorsement before which the WAPC will have final determination. The WAPC may modify the LPS as it sees fit, though generally will only do so where consistent with State Planning Policies.

Local

Nil

Policy Implications

State

The draft LPS has been prepared in accordance with the policies of the WAPC and other relevant stakeholders to guide the development of a new Local Planning Scheme. Each State Planning Policy applicable to the LPS has been referenced within the document itself.

Local

A full review of all Local Planning Policies will also be carried out to ensure consistency with the new Strategy. For instance, Council does not have a policy position on mining, however previously resolved to maintain a general presumption against all mining activities within the Shire. To provide a framework for consistent decision making and to communicate to the community support on their stance against large-scale open-cut mines, the Council may wish to develop a policy position on mining in a separate policy at a later date.

Equally, Council does not currently maintain a policy position of the development of tourism related activities. The LPS will set the parameters for which the Policy will be guided, should the WAPC agree to Council's preferred approach.

Financial Implications

The cost of reviewing, advertising and publishing the Local Planning Strategy is in the adopted Budget. In the event that the Strategy is still under assessment and/or subject to approval by the WAPC after 1 July 2019, the budget will be requested to be rolled over.

Strategic Implications

The new Local Planning Strategy will become an important part of the suite of Council's Strategic documents with appropriate actions and linkages. The Strategy has been developed taking into consideration relevant objectives and actions from the Shire's existing Strategic Plans, including the Community Strategic Plan, Corporate Plan, Capital Works Plan, Economic Development Strategy, Environmental Plan, heritage and bushfire policies, and the budget.

The content of the submissions has guided the recommended proposed modifications to the originally advertised document, which will then be considered by the WAPC.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The Strategy will set the framework for land use planning in the Shire for the next 10 to 15 years. It is imperative that the Strategy accommodates economic opportunities for the sustainable development of Chittering while balancing this with economic drivers that are capable of providing jobs and business within the Shire in appropriate locations.

Social implications

The Strategy aims to address a matter of significant concern within the submissions received from the community, being the issue of mining, and in particular, mining of bauxite. The content of these submissions has been carefully considered and a number of modifications are recommended in response to the concerns/issues raised.

Environmental implications

Similar to social implications, the Strategy aims to address and minimise environmental effects associated with mining type industries. Additionally, the Strategy highlights the need to review the Local Biodiversity Strategy, as well as the identification of buffers surrounding the Western Swamp Tortoise. Ordinarily the Strategy aims to maintain and improve protection of the Shire's natural assets.

Officer Comment/Details

The LPS has been through a number of iterations to this point. Notwithstanding, the detail in the submissions received revealed the need to undertake further changes. Most notably, the changes resulted in four key aspects being at the forefront of modification:

1. Tourism

Tourism has been rewritten to more closely match Council's intentions to provide for tourism opportunities where possible and appropriate in existing zones, rather than incorporating a tourism zone. The latter option (incorporating a tourism zone) could be adverse to start-up ventures and economic planning for the Shire. Additionally, it should be noted that the preferred option generally matches the Shire of Toodyay's Local Planning Strategy – which was endorsed by the WAPC only last year.

This method of regulating tourism is considered to be an appropriate compromise for those submissions requesting to be identified for development for rural living purposes.

2. Bushfire

The Shire is in a unique position that it has had the entire Shire mapped for bushfire risk within the Bushfire Risk Management System. To this end, the Shire has relied upon this System to identify risks associated with the lots existing and identified for development. The risks have been tabled into Bushfire Hazard Levels to identify opportunities and constraints for land use intensification, and the ability to achieve compliance with the bushfire protection criteria, to better inform bushfire risk management measures. To this end, the LPS is considered to comply with SPP3.7.

3. Mining

A number of submissions received addressed the issue of mining, or more to the point, minerals to owner rights in mining. The schedule of submissions and the schedule of changes seeks to address this matter in detail. The changes are intended to be consistent with Council's general presumption against mining, as well as the public submissions received on the matter.

Regardless of the above, Council must be cognisant of the outcomes that may occur whichever direction it chooses to take. Accordingly, the following is a brief description of hypothetical options and outcomes associated with each:

- Option 1 – Designating mining as a 'D' (discretionary) use. The WAPC's Rural Planning Guidelines recommend that where a local government seeks to 'trigger' consultation between the Ministers as outlined in section 120 of the Mining Act, 'Mining Operations' can be inserted into the Zoning Table of a local planning scheme and be designated as a discretionary 'D' use.
- Option 2 – Designating mining as an 'X' (prohibited) use. The Guidelines also advise that 'Mining Operations' should not be designated as an 'X' use in local planning schemes as this may create an expectation that the local government has the authority to approve or refuse all mining-related applications, and may establish an incorrect belief that mining cannot occur. An 'X' use can only be enforced where the Mining Act does not apply, such as Minerals to Owner Land (the extent of which is another unique aspect of the Shire). With the strength of public submissions received, this is recommended to form part of the LPS. If Council chooses this pathway, the Minister for Planning may override this decision.
- Option 3 – Removing all references to mining. Council may choose to remain silent on mining in the draft LPS, however remaining silent on issues is not considered good or proper planning as it is inconsistent with WAPC Guidelines, and may result in community discontent. If Council chooses this pathway, the Minister for Planning may override this decision.

Ultimately, which ever decision is made will follow into the new Local Planning Scheme following its future review and ultimate endorsement. The above is not intended to instil doubt in the process, rather to provide Council with guidance as to the rationale for the reasons for identifying mining based land-uses in the Shire.

4. Industry

A number of submissions received refer to the development of industry in the Shire. Council recently endorsed a Scheme Amendment to generally contain all future industry into the Muchea Industrial Park. The purpose of this was two-fold:

- (i) Prevent the ad-hoc proliferation of industrial based activities without the appropriate regulations to manage impacts such as environmental or noise; and
- (ii) Provide economic support to developing the MIP area for industrial purposes by funnelling industrial based uses into the appropriately constructed lots.

Additionally, the strategy contained objectives, strategies and actions that were questioned within the submissions as to whether these were representative of the Council's role. As a result, changes were made to wording to better reflect Council's abilities and intentions through construction of the MIP.

Notwithstanding the above, submissions were received requesting additional uses on agricultural land for use of the existing rail adjacent Brand Highway, for industrial purposes. Being that the uses cannot be contained within the MIP since it does not have rail access. Accordingly, modifications have been inserted into the schedule reflecting such uses. Importantly these lots are not identified for industrial zoning, meaning the properties cannot be used for any other purpose than agricultural based businesses and the associated multi-nodal uses.

These key aspects remain contentious within the LPS regardless of the above. The reasons vary, however each is based on sound reasoning, and orderly and proper planning, to support Council's position.

Should the LPS be approved in accordance with Council's endorsement, the LPS will pave the way for the Shire to grow commercially by providing jobs and economic value. Simultaneously, the LPS will help guide the safekeeping of the Shire's existing assets from bushfire and from landscape destruction.

This document, following approval from the WAPC, will become the single most important land-use document for which all decisions will be cognisant of. Therefore Council is requested to endorse the LPS, the schedule of modifications and the schedule of submissions.

6.2 OFFICER RECOMMENDATION

That Council resolves to:

- 1. Request that the Western Australian Planning Commission:**
 - a. Endorse the draft Local Planning Strategy as the Shire's Local Planning Strategy 2019, with the minor modifications outlined in the Schedule of Modifications.**
 - b. Determine the submissions on the draft Local Planning Strategy are sufficiently addressed in accordance with the recommendations in the Schedule of Submissions and Schedule of Modifications as attached.**
 - c. Revoke the existing Local Planning Strategy dated 29 June 2004 in accordance with clause 15 of the Planning and Development (Local Planning Schemes) Regulations 2015.**
- 2. Authorises the Chief Executive Officer to forward the endorsed draft Local Planning Strategy 2019 and associated documentation to the Western Australian Planning Commission.**

7. CLOSURE

The Presiding Member to declare the meeting closed.



6177 Great Northern Highway
PO Box 70 Bindoon WA 6502
T: 08 9576 4600 F: 08 9576 1250
E: chatter@chittering.wa.gov.au
www.chittering.wa.gov.au

Office hours: Monday to Friday
8.30am - 4.30pm