

MINUTES FOR ORDINARY MEETING OF COUNCIL

WEDNESDAY 17 APRIL 2019

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.02PM

Closure: 10.32PM



Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "*Unconfirmed*" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

The "*Confirmed*" Minutes are then signed off by the Presiding Member.

Attachments that formed part of the agenda, in addition to those tabled at the Ordinary Meeting of Council are put together as an addendum to these Minutes.

Unconfirmed Minutes

These minutes were approved for distribution on 30 April 2019.



Neil Hartley
Acting Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 15 May 2019.

Signed 

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

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.

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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7:02PM.

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

2.1 Attendance

The following Members were in attendance:

Member:	Cr Gordon Houston	President (Presiding Member)
	Cr Peter Osborn	
	Cr Aaron King	
	Cr George Tilbury	
	Cr Don Gibson	
	Cr Carmel Ross	
	Cr Mary Angus	

Quorum – 4 members

The following Shire staff were in attendance:

Neil Hartley	Acting Chief Executive Officer
Peter Stuart	Executive Manager Development Services
Jim Garrett	Executive Manager Technical Services
Natasha Mossman	Executive Support Officer (Minute Secretary)

Members of
the public: 34

Media: 0

2.2 Apologies

Nil

2.3 Approved leave of absence

Nil

2.4 Announcements

Councillors are to advise of their attendance in their role as an Elected Member at community activities and meetings. As the Chief Executive Officer's office looks after some (not all) appointments for the President and Deputy President; the Agenda includes only those meetings. Councillors are therefore requested to provide additional information at the Ordinary Council Meeting for inclusion in the Council Minutes.

Cr Gordon Houston

- 20 March – Audit Committee and Ordinary Council Meetings
- 27 March – Funding Announcement by the Deputy Prime Minister for \$70 million commitment through the Roads of Strategic Importance (ROSI) initiative for the Wheatbelt Secondary Freight Route (WSFR)
- 27 March – Special Council Meetings (4.30pm and 6.00pm)

Cr Peter Osborn

- 27 March – Funding Announcement by the Deputy Prime Minister for \$70 million commitment through the Roads of Strategic Importance (ROSI) initiative for the Wheatbelt Secondary Freight Route (WSFR)
- 27 March – Special Council Meeting (4.30pm)
- 3 April – CTA Members meeting
- 8 April – meeting with Stringybark Restaurant
- 8 April – meeting with Immaculate Heart College

Cr Aaron King

- 20 March – Audit Committee and Ordinary Council Meetings
- 27 March – Special Council Meetings (4.30pm and 6.00pm)
- 3 April – CTA Members meeting
- 9 April – Information Session
- 9 April – Agenda Forum

Cr George Tilbury

- 20 March – Audit Committee and Ordinary Council Meetings
- 27 March – Special Council Meetings (4.30pm and 6.00pm)
- 4 April – Lower Chittering Sports Facility (Reference Group) meeting
- 9 April – Information Session
- 9 April – Agenda Forum

Cr Carmel Ross

- 20 March – Audit Committee and Ordinary Council Meetings
- 27 March – Special Council Meetings (4.30pm and 6.00pm)
- 29 March – Chittering Chamber of Commerce Sundowner
- 3 April – CTA Members meeting
- 4 April – Lower Chittering Sports Facility (Reference Group) meeting
- 9 April – Events Committee meeting
- 9 April – Information Session
- 9 April – Agenda Forum
- 11 April – Chittering Community Planning Advisory Group meeting

Cr Mary Angus

20 March – Audit Committee and Ordinary Council Meetings
27 March – Special Council Meetings (4.30pm and 6.00pm)
3 April – CTA Members meeting
9 April – Information Session
9 April – Agenda Forum

Cr Don Gibson

20 March – Audit Committee and Ordinary Council Meetings
27 March – Special Council Meetings (4.30pm and 6.00pm)
9 April – Information Session
9 April – Agenda Forum

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

Nil

4.2 Public question time

4.2.1 John Davis, Lower Chittering

The following two statements were presented at the AGM of Electors that were not answered by the President, presiding at the meeting, and were to be placed on notice for full council meeting in April.

Having had a number of years in sports administration in Western Australia, the report I have read is very disappointing to see that the council wants to sell almost a third (3 Hectare) of the public open space to a private school. In the minutes of October 2018, the Council has stated that a significant community consultation was undergone, this is false statement unless the council or its consultants can produce the results and participants in the study.

Question 1: Was the Department of Sports and Recreation invited to take part in the study along with other sporting codes, if not why not?

Answer 1: In response to the preamble to the question, the answer that the President provided at the Annual Electors Meeting was that in the back of the document there should be reference to the consultation bodies involved.

The October 2018 Council report included the following information about consultation -

"In 2016, Council completed a feasibility study for a proposed Regional Sports Facility in Lower Chittering. The feasibility study was externally facilitated (Jill Powell and Associates) and involved a significant level of community consultation. A summary document is included as Attachment 1.

The primary objective of the feasibility study was to assess existing facilities, future demand, social and economic benefits and to determine the suitability of a 10 hectare Council owned green field site in Lower Chittering and the possible consolidation of existing facilities into a regional sporting.

An extensive community consultation process formed part of the feasibility study. Most respondents (88%) stated there was a need for more recreational and social facilities within the Shire. A further 76% stated they would use the proposed new facilities. Based on those responses, the utilisation rate would be 620 persons per week rising to 840 per week over the next ten years.

The feasibility study found no significant engineering factors that would prevent the development of the proposed Chittering Regional Sporting Complex on the 10ha green field site."

Attachment 1 (as referred to above) included the following information as to how the community consultation occurred -

- *Random community survey to 500 household;*
- *Clubs and organised community groups survey;*
- *Advertisement in newsletter for public submissions*
- *Public workshops – two x Bindoon (one day time and one evening); and two x Muchea) one day time and one evening); and one x Lower Chittering (on a Saturday).*

There is no specific reference to any direct consultation with the WA Department of Sport and Recreation within the October report or the Attachment, but there are several references to Department of Sport and Recreation documents, like it Strategic Plan (2016-2018) so it is possible that the consultant relied on those documents to reflect the Department's position on the matter and no direct communication occurred, or perhaps if they did make contact, it was not mentioned within that particular report to the Shire by the consultant.

When a person decides to enter public life such as politicians, councillors and other public office, he/she has to accept the fact that they are more than likely to have adverse comments made against them, that's par for the course, if you don't like it, then get out of it, because it's the nature of the human being to throw abuse.

In a small organisation like the Chittering Council, when there is a conflict of interests and adversity and some things which are said in the heat of the moment, and out of frustration, it would be better to take a step back and discuss problems over a beer or glass of wine or maybe a cup [of] tea/coffee and attempt to resolve the differences. However this was not the case in 2017/2018 when the Shire President and the CEO decided to make a complaint against an elected councillor to the unelected Local Government Standards Panel, there were a total of 6 complaints numbering on items 48 and 57 of the Panels review. The complaints that were made against the long standing councillor of 12 years or so including a couple of years as the Shire president, were in my opinion both frivolous and vexatious in order to attempt to gag the councillor. The order handed down to the councillor

from the Local Gov. Standards Panel was for him to make public apologise on 2 occasions to the Shire President and CEO.

Mr President, at what cost to the ratepayers did the Shire remunerate to The Local Gov. Standards Panel for their deliberations in reaching their decision. YES! Mr President \$6974.00, the highest amount paid in the 2017/2018 year, paid to the Local Gov. Standards Panel for any council in Western Australia. \$6974 for 2 public apologies, (\$3987.00 per apology) I hope you Mr President and the CEO have decided to pay this money out of your own funds instead of inflicting this burden upon the Ratepayers of the Shire of Chittering.

Question 1: I believe the councillor involved has had to pay his own legal fees, so are the ratepayers having to pay for the President and CEO legal costs and if so, what were the costs involved? And did the Shire Council pay those legal costs?

Answer 1: *In response to the preamble to the question, it is most certainly not appropriate to promote that people, even those in public life, should be expected to accept behavior that sits outside of acceptable ethical, legal, and public standards. That is principally why every local government in Western Australia has a Code of Conduct, and why the State Government established a Local Government Standards Panel. Every person in public office should however fully expect to have their work related activities scrutinised. That scrutiny can be undertaken in a polite manner, through proper channels, and within natural justice principles. To do otherwise risks the local government being exposed to a claim of not maintaining a "safe work environment", where its officers (and maybe even Councillors) can lodge compensation claims against the local government. This has in fact occurred recently at both the City of Perth and the City of Cambridge. Any successful claims in this regard would only serve to unnecessarily increase the local government's operational costs and that could potentially also lead to increases in rate levels.*

The question was taken on notice at the Annual Electors Meeting. It was subsequently responded to in writing on 29 March 2019 to Mr Davis. The Answer to this question will be included in the agenda of the 2018/19 Annual Electors Meeting and is outlined below – "There were no legal fees incurred in regard to the lodgement of the complaint to the Standards Panel. There were however legal fees incurred (\$6091.25) in order to address the matter of the Respondent's failure to comply with the Standards Panel Order".

Question 2: Has the Shire Council submitted any input to the Local Government review panel during the public consultation process, due to end in march?

Answer 2: *The question was taken on notice at the Annual Electors Meeting. It was subsequently responded to in writing on 29 March 2019 to Mr Davis. The Answer to this question will be included in the agenda of the 2018/19 Annual Electors Meeting and is also outlined below – "No. Please refer to the Council minutes (item 9.1.9 of 20 February 2019) for the details of Council's position on this subject."*

Question 3: Why are we the last West Australian council to present the accounts of the shire and hold the ratepayers AGM, when the financial year ended on June 30 2018 [sic] almost 9 months ago?

Answer 3: *The question was taken on notice at the Annual Electors Meeting. It was subsequently responded to in writing on 29 March 2019 to Mr Davis. The Answer to this question will be included in the agenda of the 2018/19 Annual Electors Meeting and is also outlined below – "The Shire is not aware whether it is (or isn't) the last*

local government in WA to have its Annual Electors General Meeting. The timing of the meeting is related to a range of issues and must follow the requirements of the Local Government Act (one being, that the meeting is to be held not more than 56 days after the local government accepts the annual report). The Shire's annual audit was undertaken on 15 to 17 October 2018; the audit report was signed off on 19 December 2018; the auditor's report was referred to the next Audit Committee (29 January 2019) where the Committee met with the Auditor, received the Audit Report and the Financial Statements for the 2017-2018 financial year, adopted the Shire's Annual Report (of which the audit report forms a part) and recommended the date for the Annual Electors General Meeting. The Council dealt with the Audit Committee recommendations on 29 January 2019 and the Annual Electors General Meeting was confirmed for 13 March. The Shire therefore met its legislative obligations but will always endeavour to schedule that meeting for as early as possible, in order that electors' discussions can revolve around more recent issues relevant to the financial year recently passed. Many local governments hold their AGM's in the new calendar year following completion of that statutory process and every endeavour will be made in future to coordinate that to occur as early as possible".

4.2.2 Clint O'Neil, Chittering

It is my understanding that Council after approving the expenditure of some \$200,000 of ratepayer funds to develop a project ready sport and recreation facility proposal in Lower Chittering, being an essential element for access to Federal Government financial support for the project, and on being offered significant capital funds, is now questioning whether it has made an error of judgement in supporting the development proposal from inception due to the perceived financial impacts on ratepayers as a whole. It is also my understanding that some ratepayers in the northern portion of the Shire have raised issues concerning the ongoing liabilities that would be incurred by northern ratepayers if Council was to accept the offered significant capital funds on the basis that they would be unlikely to use the facility.

Question 1: If Council's decision on accepting or rejecting the Federal Government capital funding offer is predicated on ratepayer utilisation of a facility within a designated planning and population capture zone, for example Lower Chittering, is it Council's intention to extend the scope, policy and principles of State Planning Policy 3.6 for the efficient and effective provision of public infrastructure and facilities to meet the demand arising from population growth, such that the beneficiaries of the infrastructure and facilities provided, Lower Chittering community, are liable for the ongoing financial costs of the facility in isolation of any other ratepayers in the Shire?

Answer 1: *The Shire does not have a Developer Contribution Plan and therefore acceptance of the Federal Government capital funding offer was not predicated on ratepayer utilisation as described in the question. Developer Contribution Plans do not provide a capacity to include a liability for ongoing financial costs. The grant funding has been accepted and confirmed by way of a formal agreement between the Shire and the Department of Industry, Innovation and Science.*

Question 2: If the Council is of the view that ratepayers, as a whole, should not be responsible for the financial liabilities incurred by capital investments within designated planning zones in the Shire, is it Council's intention to ring fence the rate revenue gained from the Muchea Industrial Park away from revenue disbursement to ratepayers as a whole and assign that revenue to the benefit of ratepayers in the southern portion of the Shire?

Answer 2: *The Local Government Act and its associated Financial Management Regulations does not allow a local government to engage in "geographic" or "ward based" accounting. The emphasis of the legislation is to promote that the local government district must be managed holistically, and this is reinforced by the Local Government Act requirement that each Councillor has a role to "represents the interests of electors, ratepayers and residents of the district". Council has not considered such an option as outlined in the question, and to take such a view in isolation would be illegal.*

4.2.3 Brian Chipchase, Muchea

Question 1: As the school has been unable to provide security of the loan to the tax payers of Chittering Shire by the scheduled time frame as stated in Council minutes, is the Council required to re-develop its plans from now and commence discussions with the next Federal Government on the best way to develop the Shire's sporting facilities without the school involved?

Answer 1: *The \$4.71m Building Better Regions Fund grant has been accepted by the Shire. The application for that grant promoted that the facility would be built on the principle of it being a partnership between the college and the shire. Part of that partnership was the contribution of capital funds by the college, the shire, and the federal government. The grant application outlined why the facility should be provided and the federal government has offered the funds based on the application made. The question of what security the Council wishes to have for a self-supporting loan is a matter entirely for Council and to some degree that question will be answered at tonight's Council Meeting. It may choose not to have any on the basis that the construction of these community facilities is on Shire controlled land and therefore will be an entirely shire owned asset, or it may choose to require 100% loan value coverage on the basis that it will be required to meet any payments missed by the Immaculate Heart College. The Council therefore does not need to re-develop its plans and commence any discussions with the Federal Government, unless perhaps it wishes to now not accept the grant at all and pursue instead, an alternative proposal.*

Question 2: If the new facility is estimating a \$618,000 pa revenue stream, could you please explain how this income would be achieved and how much sporting clubs would be charged for yearly hire of these new facilities per year? Will the running costs of this facility cause substantial increases of existing sporting facilities rent or hire charges for existing clubs in the Shire to try and cover the costs of the new facility?

Answer 2: *The Business Case prepared by Lucid Economics provided an operational revenues estimate of \$618,000. This figure includes rental, food and beverage. That estimate was based on a 2016 University of Adelaide paper titled "Operational Benchmarks for Australian Public Recreation Centres". It studied 27 eastern states centres of varying*

sizes and created models for three different recreation centre sizes. Whilst the Facility might potentially be able to reach that revenue level in time, it is not anticipated that this level will occur in the foreseeable future as the study parameters were for centres operating with between 64,000 and 250,000 visits per year and likely included facilities with revenue producing kiosks/cafes, gymnasiums, and programmed activities/events.

The Shire sets its fees and charges every year as part of the annual budget. Traditionally, fees and charges for sporting clubs bear no resemblance to the costs of providing the service. For example, the annual fee for clubs under an annual user agreement (e.g. a cricket club) is \$363/pa, irrespective of the costs of the provision of the facility required for that activity. This annual user charge entitles the club to use of the oval for practice and competition, and use of the building facility for those occasions and associated events also (including storage where available). In regard to casual or annual user agreement charges for buildings (as opposed to ovals) that the Shire manages, there are standard fees across the two facilities (Mucnea Hall and Lower Chittering Hall). Whilst Council might choose to alter its fee philosophy in the future, that is not currently a consideration. The grant application proposed that the net loss of the centre will in some form be shared between the Shire and the Immaculate Heart College.

4.2.4 Michael Ruffell, Mucnea

Question 1: Does the Council have any confidence that Immaculate Heart College will be able to service the estimated yearly loan and maintenance bills of \$148,000 and \$200,000 respectively, until the completion of Stage 1? Then continue with those repayments into the future, on top of Stage 2 repayments, bringing total yearly repayments of \$500,000?

Answer 1: The Immaculate Heart College has provided a Business Case which concludes that the College can "... meet its obligations to pay its accounts as and when they fall due". The College will however, have many financial and operational challenges to address as it grows. History would indicate though, that the College is a resilient business that has maintained a continuous growth pattern for several years. It has Department of Education endorsement and is entitled to school funding from the relevant government funding bodies. Aside from the risk that any "new" business venture has, there would seem to be every reasonable indication that the College will continue to meet its commitments.

There is a concept for a Stage 2 (including a football oval and outdoor courts, etc) but the parameters of its final design, and any contributions that Immaculate Heart College might agree to make, either capital or operational, would be subject to a separate future discussion at the point in time that both parties wished to progress them. The Shire's Long Term Financial Plan and 2017 – 21 Corporate Business plan indicates that a Stage 2 could occur in 2020/21, however this would need to be confirmed as part of the 2020/21 annual budget process.

Question 2: This question relates to the ability for clubs to make the facility “their home” and is multifaceted. Will clubs be able to operate a licensed bar during training sessions, fixture matches and social events? Will the school be able to veto against such events? Will the Department of Liquor and Gaming allow a licensed premises on school grounds? Will the Shire and or school charge a fee for operating such a facility, and will a portion of the revenue be required to be shared with the Shire and or school? Will clubs be allowed to hand club history on the walls and how will this be managed to prevent against vandalism?

Answer 2: *The Lower Chittering Sports & Recreation Facility will be a 100% Shire owned asset, positioned on land under the Shire of Chittering’s control. To that extent, it is not dissimilar to most other community/sporting facilities within the Shire, with the exception that this facility sits on land contiguous with a school and is designed to be a “partnership project” (inclusive of both capital and operational contributions by the Immaculate Heart College). The management principles of the Facility will be the subject of discussion and meetings of the Reference Group, followed by (if required) a Council resolution.*

The facility will be subject to the normal Police/Alcohol Permits and Licensing/Shire/Council considerations with regard to its capacity to operate a licensed bar during training sessions, fixture matches and social events. It is a matter though, that the reference Group should give some prior consideration to.

The school will not have any ownership of the land or the Facility (even in light of its capital contribution) or any right of veto against such events, but it will be able to make representations to those that do make decisions, similarly to any other person or body. The College will also be represented on the Reference Group, as will Shire and community/sporting representatives.

The Shire will charge a fee for utilisation of the Facility and these fees/charges will be set by Council annually. Those fees and charges will take into account existing fee levels and any other considerations agreed to be relevant (for example, like the size and age of the facility).

The question of operating costs/revenue sharing with the College is yet to be settled. This will be a function for the Reference Group to consider and recommend a position on. A mutually agreed position is required. The grant application proposed that the net loss of the centre will in some form be shared between the Shire and the Immaculate Heart College.

The question of how clubs can make the facility “home” will again form part of the Reference Group’s role. This will require consultation with individual clubs and investigation of how other similar facilities satisfy that requirement. It would be anticipated that the situation will be addressed with the eventual production of an agreed set of Facility Operational Standards.

4.2.5 Kylie Hughes, Muchea

In relation to Agenda item 9.4.3 Lower Chittering Sport and Recreation Facility – Stage 1;
"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."

Question 1: when considering a self-supporting loan the Shire must first ensure compliance with Sections 6.20 and 6.21 of the *Local Government Act 1995* and relevant Regulations to those sections. If Immaculate Heart College are unable to provide security for the loan amount over the term of the loan the Shire is unable to comply with their obligations under the Act. Can this condition be met? If so, can it also be met to the degree necessary in order to comply with the National Consumer Credit Protection Act to which all banks, financial advisor's and loan brokers are held accountable?

Answer 1: *Through the Chair, the Chief Executive Officer advised that it is common for local governments to have self-supporting loans in place to assist with the financing of substantial community projects. The Shire is not anticipating that Immaculate Heart College will have any difficulties in meeting its loan repayments. The Shire is anticipating that the College's letter of support and its Business Case will be sufficient. The Shire will need to meet all of the relevant legislative requirements to enable the facilitation of a self supporting loan, noting that there may be changes to historic practices as a result of the recent Royal Commission.*

Question 2: Will Stage 1 be paid in full before commencing Stage 2 of this project in order to avoid compounded costs per period for the same project within the Shire's budget?

Answer 2: *The Presiding Member advised that the Shire's Corporate Business Plan 2017-2021 includes both Stages 1 and 2. However, before the Shire progresses Stage 2 this will need to be revisited again.*

At the recent Annual Electors meeting, the following Motion was raised in relation to Shire charges:

"That the Shire abolish the administration fee of \$80 for the payment arrangement for rates".

This motion was subsequently defeated by Council upon their recommendation based on the following comments in relation to the motion:

"Financial Implications: The \$80 Rates – Alternative Payment Arrangements fee is designed to cover the additional costs this service incurs. Removal or lowering of the fee would therefore reduce the income levels of the Shire and move that cost burden (which won't reduce) onto remaining ratepayers. The number of fee paying alternative payment customers varies but is generally around 120, so the fee contributes about \$10,000pa towards administrative costs".

A quick check of the Shire website confirms that the Alternative Payment Arrangement fee to pay Rates by instalments is not actually a set \$80 fee. Instead the Shire actually charge a \$10 administration fee on the 2nd, 3rd and 4th instalments along with a penalty interest rate of 5.5% on each instalment after the first payment. The penalty interest rate for late instalment payments is 11% applied until all outstanding arrears are received.

Question 3: As Immaculate Heart College (IHC) are no longer able to pay the promised \$2m up-front to the Shire, will there be any Alternative Payment Arrangement fees charged to IHC to cover the additional costs this service incurs instead of moving that cost burden onto remaining ratepayers as is your current position on this?

Answer 3: *Through the Chair, the Chief Executive Officer advised that currently WA Treasury loan facility is based on an approximately 4% interest rate and loan repayments will be on-charged as a specific account to Immaculate Heart College. The loan interest rate is set by WA Treasury, whereas the alternative payment arrangement interest rate is set by Council every year as part of the budget process.*

4.2.6 Lindsey Bennett, Bindoon

Mr Bennett's question was in relation to the Lower Chittering Sport and Recreation Facility, Stage 1, and in particular with regard to Risk and Mitigation, notably that it has dropped \$100,000 – what are the Shire's thoughts on this?

Through the Chair, the Chief Executive Officer advised that the Business Case that was presented to Council from Immaculate Heart College indicated its capacity to repay the loan. The College is a part of the local community, is expanding, and its yearly accounts will change year to year to reflect student numbers. The organisation that the College used to undertake its business case has been used by many other education facilities, so it has the experience and knowledge in providing business case information for private schools.

4.2.7 John Curtis, Bindoon

Mr Curtis's question was in relation to recycling scams, and if the Shire was going to cancel the recycling service?

The Presiding Member advised that the Council has no plans to cancel the recycling service provided by Avon Waste at this time.

Mr Curtis then asked when their contract expires.

The Presiding Member advised that he would take this question on notice and provide the response in the minutes.

4.2.8 John Davis, Lower Chittering

Mr Davis's question was in relation to the Lower Chittering Sport and Recreation Facility, Stage 1, and in particular the level of risk with the school as there is no mention of how much the new school is going to cost. Does this not prove that there is no security on the loan, and isn't the Shire already in debt with WA Treasury?

The Presiding Member advised that the school has confirmed that they will be able to meet the loan arrangements, and if (for any unforeseen reason) the school goes into liquidation, the College Board has given assurance to Council that they will still be able to meet the debt obligation.

Mr Davis then asked how many facilities will use the new centre.

The Presiding Member advised that the sporting groups that use the Lower Chittering Hall have indicated their interest; and further consultation will be undertaken by the Shire to seek out other interested groups.

4.2.9 John Nagel, Bindoon

Mr Nagel's question was in relation to the Ordinary Council Meeting held on 20 March 2019, Item 9.4.3 'Lower Chittering Sport & Recreation Facility – Stage 1' and the amendments to the officer recommendation on Conditions 10 and 11. Mr Davis wanted to know who was responsible for doing this.

The question was taken on notice.

Mr Nagel's further question was from the Ordinary Council Meeting held on 14 November where it was stipulated that Canberra will be paying 50% and \$3m will be committed by the Shire; will the Shire be paying 8% or 10% increase in rates.

The Presiding Member advised that the Shire's Long Term Financial Plan has incorporated expected growth and rate increases, accordingly rates and natural growth on rates will support the funding of this new facility. The Muchea Industrial Park will also bring in substantial rates for the Shire once it is fully developed and operational.

Through the Chair, the Chief Executive Officer advised that he has been in touch with other local governments that have similar facilities and estimates that a yearly running costs of \$400,000pa as a guide for the first couple of years. The Shire will not know what the yearly running costs will be until the facility has been in operation for a couple of years, but the estimate of \$400,000pa (which is to be shared with the College) should be manageable for the Shire.

Mr Nagel then questioned if the new facility would 'blow-out' to \$12million.

Through the Chair, the Chief Executive Officer advised that whilst it is not uncommon for new construction projects to go over-budget, the Shire intends to engage architects, engineers and quantity surveyors for example, to minimise the possibility of costs exceeding the budgeted amount. One option Council has available to it if such an outcome was unavoidable however, would be to utilise Stage 2 funding from the Long Term Financial Plan to complete Stage 1.

4.2.10 Alan Barnes, Bindoon

Mr Barnes asked why Council could not instead save for the project (i.e. not to get a loan) as with all the ratable property in the Shire. Couldn't Council suspend the project for five years to accumulate savings and not obtain a loan.

Through the Chair, the Chief Executive Officer advised that this might have been practical if the savings process had commenced about five or six years ago. The Shire has however, recently applied for and received \$4.71 in Federal Government funding through the Building Betters Region Fund. If the loan is not supported then project cannot progress, which would also require the return of the grant from the Federal Government. The Shire is able to secure a loan from WA Treasury at a rate of 3.65% fixed for 20 years.

4.2.11 Lee Martin, Bindoon

Mr Martin asked that for those Councillors who vote in favour of the project tonight, will they sign a letter that they personally guarantee the project.

Through the Chair, the Chief Executive Officer advised that the role of Councillors is not to make personal guarantees – their role is outlined in the Local Government Act and includes providing leadership, representing the whole of the community, and deciding on matters at Council Meetings.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Item 9.1.1 "Bindoon Lifestyle Village and Caravan Park Expression of Interest: Lots 88 and 89 Great Northern Highway, Bindoon"

Mark Kay spoke partially FOR and partially AGAINST the Officer Recommendation

5.3.2 Item 9.4.3 "Lower Chittering Sport & Recreation Facility – Stage 1"

William Grimshaw spoke AGAINST the Officer Recommendation

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council: Wednesday 20 March 2019

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 010419

Moved Cr Ross / Seconded Cr Gibson

That the minutes of the Ordinary Meeting of Council held on Wednesday 20 March 2019 commencing at 7.00pm be confirmed as a true and correct record of proceedings.

CARRIED 7/0
8:25 PM

7.2 Special Meeting of Council: Wednesday 27 March 2019

7.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020419

Moved Cr Angus / Seconded Cr Ross

That the minutes of the Ordinary Meeting of Council held on Wednesday 27 March 2019 commencing at 4.31pm be confirmed as a true and correct record of proceedings.

CARRIED 7/0
8:26 PM

7.3 Special Meeting of Council: Wednesday 27 March 2019

7.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030419

Moved Cr Gibson / Seconded Cr Ross

That the minutes of the Ordinary Meeting of Council held on Wednesday 27 March 2019 commencing at 6.02pm be confirmed as a true and correct record of proceedings.

CARRIED 7/0
8:26 PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Bindoon Lifestyle Village and Caravan Park Expression of Interest: Lots 88 and 89 Great Northern Highway, Bindoon*

Report date	4 April 2019
Applicant	Shire of Chittering
File ref	A9502
Prepared by	Principal Environmental Health Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Wastewater Treatment and Disposal for a Proposed Caravan Park and Lifestyle Village at Bindoon/ River Engineering (March 2019) 2. Draft Expression of Interest for prospective developers of a Lifestyle Village and Caravan Park development at Lots 88 and 89 Great Northern Highway, Bindoon

Executive Summary

Council is requested to consider approval of a draft Expression of Interest inviting submissions by prospective developers for a Lifestyle Village/Caravan Park on the former Bindoon golf course site located at Lots 88 and 89 Great Northern Highway, Bindoon.

Background

The Shire's former Chief Executive Officer provided a report to the Ordinary Council Meeting held on 17 October 2018 requesting Council to consider a proposed Lifestyle Village and Caravan Park development on Lots 88 and 89 Great Northern Highway, Bindoon. Council resolved:

<p>9.4.5 SUBSTANTIVE MOTION/COUNCIL RESOLUTION 131018 Moved Cr Osborn/Seconded Cr King That Council:</p> <ol style="list-style-type: none"> 1. Note that an Integrated Lifestyle Village/Caravan Park Development Feasibility Report will be provided at the November Ordinary Council Meeting. 2. Authorise the Chief Executive Office to engage an Engineering Consultancy associated with on-site waste water disposal (as outlined in this report). 3. Authorise the Chief Executive Officer to prepare an Expression of Interest for development on the land comprising of an integrated Lifestyle Village/Caravan Park. 4. Note that the proposed Expression of Interest document will be returned to Council for further consideration. <p><u>Advice Note:</u> That the expression of interest document considers land for aged care or other development within the Bindoon Townsite.</p> <p style="text-align: right;">THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0 7:57PM</p>
--

The purpose of Motion 2 was to de-risk the wastewater treatment and disposal issue, which is of concern because of the unfavourable geological soil on site. The previous report (17 October 2018) stated:

"As a result, development of the site for the proposed use (Lifestyle Village and Caravan Park) would require alternate options for either on-site or off-site disposal of treated waste water. As the geology of the site includes heavy soil profiles, it is recommended that an engineering consultancy be engaged to consider infiltration rates at the site and make recommendations in relation to housing densities and appropriate waste water treatment options. It is likely that an alternate waste water treatment unit/s could be used with the waste water being treated and disposed of via irrigation or a combination of irrigation and leach drains.

As the provision of waste water services represents a risk to potential investors, it is considered prudent to de-risk that element of the project and to provide appropriate advice to potential investors regarding this issue. It is therefore recommended that an appropriate engineering report be commissioned, followed by an EOI for development at the site."

A 'request for fee proposal' was sent to several environmental consultancies and in November 2018, an order was issued to River Engineering to conduct a Site and Soil Evaluation (SSE), with a view to establishing options for on-site wastewater treatment and disposal. The SSE report by River Engineering is included as **Attachment 1**.

The report highlighted the constraints of the site due to its heavy clay soil profile. It concluded that the only viable option was to construct a centralised treatment facility that produces a high-quality effluent for land disposal by actively controlling irrigation, with an appropriate sized wet weather storage facility (pond). An area of 2.25 hectares would be required for land disposal of treated effluent and a fenced winter storage dam holding 630 cubic meters. The cost of the infrastructure was estimated at \$960,000 plus annual operational costs of \$115,000. There would be additional costs for maintenance of the irrigation field and inspections which would be borne by the Shire.

In accordance with Motion 3 of the previous Council report, the next step is to develop an Expression of Interest (EOI) for potential developers. A draft EOI is attached for Council's consideration (**Attachment 2**).

Consultation/Communication Implications

There have been several Council briefings regarding the propose Lifestyle Village and Caravan Park including independent feasibility reports for each development. The decision to combine the two proposals (caravan park and lifestyle village) on the one site provides a number of advantages for both investors and Council.

Legislative Implications

State

- The proposed Lifestyle Village and Caravan Park would be developed and operated under the *Caravan Parks and Camping Grounds Act 1995* and the *Caravan and Camping Grounds Regulations 1997*.
- The *Environmental Protection Regulations 1987* (prescribed premise Category 85) and *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* provide provisions for licensing of onsite wastewater.
- The *Local Government Act 1995* provisions apply to land disposal arrangements where applicable. Provisions under this act will be considered in more detail once an EOI has been received for development of the land.
- The *Planning and Development Act 2005* provides provisions for subdivision and amalgamation of land. In the event the development proceeds it is likely that the two lots will need to be amalgamated.

Local

- The land is located in the Townsite zone in the Shire's *Local Planning Scheme No.6* (LPS6), which provides land for a high range of services, residential types, community and recreational facilities. A caravan park is a discretionary land use in LPS6.

Policy Implications

State

- The *Draft Government Sewerage Policy 2016* controls the density of development on land, particularly where that land is not connected to a service reticulated service provider.

Local

- Various Local Planning Policies under Shire of Chittering *Local Planning Scheme No. 6* may apply at the time of development application.

Financial Implications

In 2014 the land parcel which was sold to WA Retirees was valued at \$680k (serviced) but was sold to WA Retirees for a discounted amount of \$530k due to the lack of waste water treatment services. Council has already budgeted to re-purchase the site in the 2018/2019 financial year.

The Wastewater Options Engineering Study cost \$15,070 and the funds were drawn from Council's Strategic Consultancy Budget.

The full financial implications will be further considered by Council once it has received EOI's for development at the site.

Strategic Implications

Council has previously recognized that the land is located in a desirable location for development.

Local

- Strategic Community Plan 2017-2027

Focus area: Our Community

Objective: S1.1 An active and supported community

Strategy: S1.1.2 Activate out local town centres

Focus area: Our Built Environment

Objective: S3.1 Development of local hubs

Strategies: S3.1.2 Activate local town centres to ensure a good mix of residential, commercial and social infrastructure
S3.1.3 Plan for an facilitate housing choice

Focus area: Economic Growth

Objective: S4.1 Economic Growth

Strategies: S4.1.1 Support private investment which stimulates significant and sustainable jobs growth.
S4.2.1 Encourage and support local business and new investments for the future

State

Nil

Site Inspection

There have been numerous site visits over an extensive period of time, including consultants associated with feasibility studies and economic analysis. The land consists of heavy soil profiles with a moderate slope and is considered to be suitable for the development purpose, subject to the installation of a suitable wastewater treatment and disposal system.

Triple Bottom Line Assessment

Economic implications

In terms of development, there are arrangements based around build/own/operate (BOO), joint ventures, contract management and lease options, which can be structured to suit. This would generally involve separate parties committing to the role of developer and operator.

It would be unrealistic to consider the Shire undertaking the entire development given the slow capital and resources required. The Shire could seek a commercial relationship with a reputable developer via BOO contract or joint venture; such an arrangement may provide the Shire with greater control over the development in terms of amenity, price pointing, staging etc. and ensure that any flow on economic benefits to the community can be better realised.

However, in this particular instance, it is proposed to first seek EOI's from the private sector on the basis that Council would provide the land on a long term lease arrangement. Council can then make an informed decision of how to best proceed based the outcome of that process.

Social implications

Development of the land would provide a strong social outcome for the community and would provide for an unmet demand within the community. The residential component would provide alternative, affordable accommodation for an aging population and the caravan park facility would provide short stay accommodation for itinerant workers and tourists.

Environmental implications

Proponents would be required to demonstrate how any development would retain significant trees particularly if Carnaby Cockatoo habitat is found at the site. In any event, the trees at the site provide good visual amenity and should be retained where possible.

The site is located close to the Brockman River and is in a sewage sensitive location under the Draft *Government Sewerage Policy 2016*. Disposal of wastewater is critical however achievable.

Officer Comment/Details

The land is centrally located in the Bindoon town site and offers a strategic development location. The development of a Lifestyle Village and a small Caravan Park would provide desirable social and economic benefits to the community.

There is an appropriate development solution at the site, which responds to the provision of smaller affordable housing sites and a caravan park in the town. Further, this model does not require the Shire to manage or fund the capital investment to provide the facility, in the event private sector development occurs.

The report by River Engineering reflects the site difficulties, which have always been of concern. The understanding of the type of wastewater treatment and disposal system and estimated costs is a positive step as it provides a path forward. The critical question will be whether the cost will be acceptable to potential developers. This could be resolved at the next step in the process which will be to invite EOI's from potential investors. It is proposed that the EOI be advertised for a minimum period of eight weeks. Once EOI's are received, Council may then decide to invite detailed proposals from selected investors, and to establish an Evaluation and Selection Committee to further consider those detailed proposals.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040419

Moved Cr Osborn / Seconded Cr Tilbury

That Council:

- 1. Approves the advertising of the attached Expression of Interest (EOI) to prospective developers for a Lifestyle Village/ Caravan Park on the former Bindoon golf course site located at Lots 88 and 89 Great Northern Highway, Bindoon for a minimum period of eight weeks; and**
- 2. A further report be submitted to Council to consider the outcome of the EOI's received.**

CARRIED 6/1
8:28 PM

9.1.2 Make Smoking History Targa West: Muchea stage*

Report date	3 April 2019
Applicant	Targa West P/L
File ref	26/01/0004
Prepared by	Principal Environmental Health Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Letter from Targa West Pty Ltd

Executive Summary

Council is requested to consider the approval of an additional stage of the Targa West event to be held in Muchea on Thursday 8 August 2019 between 3.00 pm and 5.00 pm.

Background

The Targa West events have been successfully held in the Shire of Chittering for many years. At the Ordinary Meeting of Council held on 16 March 2016, Council agreed to the signing of a Memorandum of Understanding (MOU) between the Shire of Chittering and Targa West Pty Ltd for the continued operation of the Quit Targa West Tarmac Rally in Lower Chittering for the ensuing five years, which expires at the conclusion of the event in 2020.

In the draft MOU under the heading "*Community Engagement and Consultation*" the following is stated:

The Shire will

- *Participate with Targa West in community engagement and consultation activities;*
- *Provide a reasonable opportunity for Targa West to respond to any complaints or issues that may arise during the period of the MOU;*
- *Provide at least one opportunity each year for Targa West to make a presentation to Council about the plans and outcomes of the event; and*
- *Participate in meetings and gatherings outside Chittering in support of the promotion of the event.*

Targa West will:

- *Directly consult with all landowners and businesses affected by road closures as a result of the event;*
- *Make any reasonable accommodations that are possible to address issues;*
- *Cooperate with the Shire in promoting any agreed companion events;*
- *Meet with the Shire at least once per year to liaise, debrief, handle complaints or identify improvements;*
- *Work with the Shire to review and improve delivery of the event each year.*

This year the event organisers wish to run a special stage in the Muchea townsite, which is a variation to the above MOU therefore requiring Council's consideration for approval. The event in Muchea is to celebrate 15 years of holding the event and to include the original Muchea rally stage. Details of the proposed events and proposed routes are included in the attached letter from Ross Tapper, Clerk of Course/Event Organiser.

The Muchea event is proposed to be held on Thursday 8 August 2019 between 3.45pm and 5.30pm. Road closures will occur between 3.00pm and 5.15pm. Allowances will be made for school buses and residents returning from school or work.

Consultation/Communication Implications

Local

The event organisers met with Shire of Chittering Councillors and the Executive Management Team on 17 October 2018 followed by a survey of the Muchea residents in December 2018 and then a community meeting on 6 February 2019 held at the Muchea Hall. The purpose of the community survey was to seek feedback from local residents. The results of the survey were to be presented to Council for consideration.

The survey of Muchea residents indicated the following responses:

- In favour – 42
- Opposed – 12
- Not concerned either way – 2

The survey did not invite comments on the form so there was very little feedback. However one resident who opposed the event was concerned about the disruption to the peaceful nature of the area and the negative impacts upon animals and wildlife. Another concern was that people would have no outlet from their property until the event concluded.

It was noted that several of the 'in-favour' responses included multiple members of the same family and included one 'resident' who did not appear to live in the Muchea area. Despite these anomalies, the vast majority of the responses were in favour of the event occurring.

Nineteen people attended the community meeting held at the Muchea Hall on 6 February 2019 with the following results:

- In favour – 14
- Opposed – 3
- Not from the area – 2

State

Nil

Legislative Implications

State

- *Road Traffic Act 1974*
- *Health (Miscellaneous Provisions) Act 2016*
- *Health (Public Buildings) Regulations 1992*

Local

Nil

Policy Implications

State

- *Department of Health Guidelines for Concerts, Events and Organised Gatherings 2009*

Local

Nil

Financial Implications

In the MOU, under the heading "Sponsorship and Fundraising", the following is stated:

"The Shire will:

- *Provide in kind support to the event through making suitable thoroughfares available for racing, staging and servicing the event;*
- *Promote the event through Shire and Visitor Centres newsletters, websites and event calendars, and through other events leading up to the rally; and*
- *Promote participation by volunteer groups in fundraising activities associated with marshalling or organising the event or servicing competitors, supporters or visitors.*

Targa West will:

- *Recognise the Shire of Chittering as a sponsor of the event in written and digital material leading up to and following the event;*
- *Invite the representatives of the Shire to significant promotions and celebrations surrounding the event;*
- *Provide to the Shire a Post Event Report detailing the level and extent of publicity and sponsorship value arising from the event; and*
- *Work with a local charity or service club to support a fund raising event cross promoted with the rally."*

The MOU does not confer on either party any financial obligations. Any fees or charges shall be set by the Shire in its annual budget. Sponsorship or fundraising commitments, whether cash or in-kind, shall be negotiated and agreed each year during the life of the agreement.

Strategic Implications

Local

- *Shire of Chittering Strategic Community Plan 2017-2027*

Focus area: Our community

Objective: S1.2 Strong sense of community

Strategy: S1.2.2 Strengthen and grow social events and festivals

Focus area: Economic growth

Objective: S4.1 Economic growth

Strategy: S4.1.1: Support private investment which stimulates significant and sustainable jobs growth

Focus area: Economic growth

Objective: S4.3 Increased visitors

Strategy: S4.3.2: Support and grow events to attract visitation

State

Nil

Site Inspection

Shire officers will undertake site inspections before and after the event to ensure the conditions of the roads are maintained and satisfactory to the Shire's Executive Manager Technical Services (EMTS). The EMTS has reported that there has been no damage to roads in previous years however an amount of \$3,000 is included in the budget each year as a contingency.

Triple Bottom Line Assessment

Economic implications

The profile of this event is quite high so it is expected that tourists from intrastate and interstate will attend. This will increase the Chittering profile to visitors who have never been to our region previously, and increase our profile in the other local governments who participate in this event, i.e. Perth, Kalamunda, Toodyay and Swan.

Targa West will recognise the Shire as a sponsor of the event in written and digital material, and they will also invite Shire representatives to attend significant promotions and celebrations surrounding the event.

Social implications

It is considered that the Targa West rally contributes and builds social capital for the Shire of Chittering.

Environmental implications

While some residents have raised concerns about the effects on animals and wildlife, it should be noted that the event is of short duration and therefore should have a negligible environmental impact.

Officer Comment/Details

From the survey and community meeting it is clear that the majority of the residents living in Muchea are in favour of the event occurring. Targa West has successfully managed similar events in Maryville Downs in previous years, so it is expected that this event will also be well managed and not adversely impact the majority of the local population. The economic and social implications are generally favourable to the Shire of Chittering and the event is in accordance with the Shire's Strategic Community Plan 2017 – 2027 to promote events. It is therefore recommended that Council considers approving the additional Muchea stage of the Targa West rally to be held on Thursday 8 August 2019 between 3.00pm and 5.30pm.

It should be noted that Shire officers will undertake the usual event application assessment procedures including traffic management, road closures, ablution facilities, temporary structures and electrical safety to ensure all statutory requirements are met with regard to the safety of the event.

OFFICER RECOMMENDATION

Moved Cr Osborn / Seconded Cr Tilbury

That Council approve the holding of the additional stage of the Make Smoking History Targa West event in the Muchea townsite on Thursday 8 August 2019 between 3.00pm and 5.30pm.

VARIATION

With the consent of the Mover and Seconder the Recommendation was amended as follows:

That "between 3.00pm and 5.30pm" be deleted and be replaced with "on the condition that the organisers reach satisfactory arrangements with relevant school bus organisers".

Reason: Targa West contacted the Shire to advise that they are aware of the school buses. If the stage is approved, Targa West will start competing as late as possible to allow the pupils to be dropped off and the buses to leave Muchea. If buses arrive after they have started competition, they will stop immediately and allow the bus to go to its normal route to drop off pupils. Targa West have committed to contacting the drivers and schools to arrange access for the buses. Targa West have also committed that they will be in touch with the PTA to notify them of the event and make amicable arrangements with them. The residents will be notified if they require access to drive to the Start at McKenzie Street and at a mutually acceptable time Targa West will escort them in. If requested, Targa West will also escort them in one of the events short breaks, the longest time between breaks will be 20 minutes, if residents need immediate access Targa will need to stop the event and escort them in straight away.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 050419

Moved Cr Osborn / Seconded Cr Tilbury

That Council approve the holding of the additional stage of the Make Smoking History Targa West event in the Muchea townsite on Thursday 8 August 2019 on the condition that the organisers reach satisfactory arrangements with relevant school bus organisers.

CARRIED 7/0
8:33PM

9.1.3 Restrictive Covenant: Freehold (Green Title) Subdivision of Lot 100 (RN2035) Chittering Road, Lower Chittering (WAPC 156432)*

Report date	3 April 2019
Applicant	Peter Gunn
File ref	18/03/144
Prepared by	Governance Support Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Restrictive Covenant – S129BA Transfer of Land Act document 2. Deposited Plan (415966)

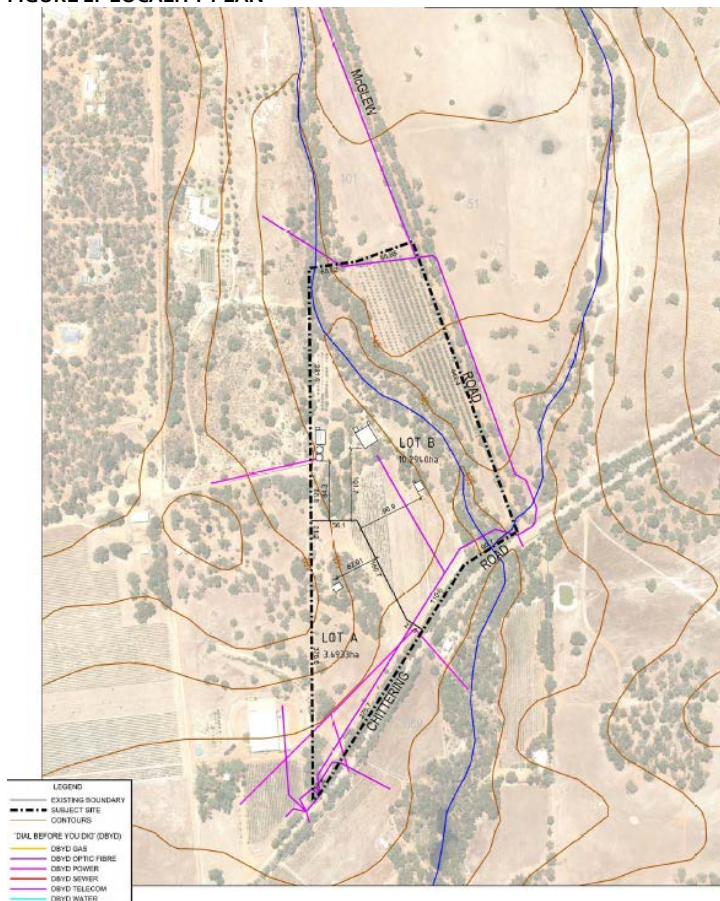
Executive Summary

Council is requested to authorise the Shire President and Chief Executive Officer to execute the Restrictive Covenant on Lot 100 (RN 2035) Chittering Road, Lower Chittering.

Background

On 18 June 2018, the Shire was notified that the subdivision of Lot 100 (RN 2035) Chittering Road, Lower Chittering had been conditionally approved by the Western Australian Planning Commission (WAPC 156432).

FIGURE 1: LOCALITY PLAN



Condition 9 of the subdivision states:

"A plan is to be provided to identify the areas of the proposed lot(s) that have been assessed as BAL -40 or BAL- Flame Zone. A restrictive covenant to benefit the local government, pursuant to section 129BA of the Transfer of Land Act 1893 is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the use of the land within areas that have been assessed as BAL-40 or BAL-Flame Zone. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows":

No habitable buildings are to be built within areas identified as BAL-40 or BAL- Flame Zone.

In accordance with the requirements of the Council *Administration Policy 1.5 - 'Execution of Documents'*, a specific resolution of Council is required to apply the Shire's Common Seal on documents of a legal or statutory nature.

Consultation/Communication Implications

Not applicable

Legislative Implications

State

- *Transfer of Land Act 1893* (as amended)

Local

Nil

Policy Implications

State

Nil

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

In order to satisfy Condition 9 of the subdivision approval, the applicant has provided the Restrictive Covenant documents, pursuant to the *Transfer of Land Act 1893* (as amended) (refer **Attachments 1**). The execution of these documents requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION o6o419

Moved Cr Gibson / Seconded Cr Angus

That Council authorise the Shire President and the Chief Executive Officer to sign, and affix the Common Seal upon the restrictive covenant document prepared in relation to Condition No.9 of WAPC 156432.

CARRIED 7/0
8:33PM

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 List of Accounts Paid for the period ending 31 March 2019*

Report Date	2 April 2019
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Finance Officer Accounts
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 31 March 2019

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 31 March 2019.

Background

Pursuant to *Local Government Act 1995*, Section 6.8 (2)(b), where expenditure has been incurred by a local government, it is to be reported to the next Ordinary Meeting of Council.

Consultation/Communication Implications

Local

Executive Manager Corporate Services

State

Nil

Legislative Implications

State

- *Local Government Act 1995*
- *Local Government (Financial Management) Regulations*

Local

Nil

Policy Implications

Nil

Financial Implications

All expenditure has been approved via adoption of the 2018/19 Annual Budget, or resulting from a Council resolution for a budget amendment.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

The attached "List of Accounts Paid as at 31 March 2019" is presented to Council for endorsement.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070419

Moved Cr King / Seconded Cr Osborn

That Council:

1. Endorse the Accounts Paid:

- a. PR4794, PR4861
- b. EFT17631 – EFT17762
- c. Direct Debits and Transfers as listed
- d. Trust Fund payments as listed

Totalling \$685,347.88 for the period ending 31 March 2019.

CARRIED 7/0
8:33PM

9.3.2 Monthly Financial Reports for the Period Ending 31 March 2019*

Report Date	2 April 2019
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Finance Officer Accounts
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for period ending 31 March 2019

Executive Summary

Council is requested to receive the Monthly Financial Report (containing the Statement of Financial Activity) for the period ending 31 March 2019.

Background

In accordance with *Local Government (Financial Management), Regulation 34(1)*, local governments are required to prepare, each month, a statement of financial activity reporting on revenue and expenditure for the month in question.

The statement of financial activity is to be presented at an Ordinary Meeting of Council within two months after the end of the month to which the statement relates.

Consultation/Communication Implications

Nil

Legislative Implications

State

- *Local Government Act 1995*
- *Local Government (Financial Management) Regulations*

Local

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

Council is requested to receive the Monthly Financial Reports for the period ending 31 March 2019 as presented (**Attachment 1**).

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION o8o419

Moved Cr Ross / Seconded Cr Angus

That Council receives the Monthly Financial Reports for period ending 31 March 2019.

CARRIED 7/o
8:34PM

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Authority to Delegate: Electronic Lodgement Network Operator (PEXA)*

Report date	3 April 2019
Applicant	Shire of Chittering
File ref	20/01/0002
Prepared by	Governance Support Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	<ol style="list-style-type: none">1. PEXA Authorisation Documents2. Delegated Authority Register Addition

Executive Summary

Correspondence from Council's solicitors (McLeod's) dating 16 January 2019 announced to a new electronic lodgment network operator (PEXA) that was introduced to Western Australia as of 1 December 2018. PEXA is affiliated with Landgate and is a secure e-Conveyancing platform which enables lawyers, conveyancers and financial institutions to transact online. PEXA is now mandatory for a number of Landgate documents including Caveats, Withdrawal of Caveats and Transferring of Land. In order for McLeod's to transact electronically on the Shire's behalf, the Shire is required to complete a client authorisation form and verify the identity of the Shire's signatories.

Background

PEXA (Property Exchange Australia) is an initiative to provide Australia with a national election platform for the Australian property industry. PEXA was formed in 2010 however only gained momentum once the State Government and land registries declared that PEXA would be compulsory for conveyancers and lawyers. Settlements conducted through PEXA remove the requirement for hard copy documents to be prepared and executed. Preparation for settlement is done by creating an online workspace, using a step by step process. All relevant documents and settlement schedules are created on the workspace with information being transparent between the parties so it is clear what task is pending and who is responsible for its completion. Once the preparation for settlement is complete, PEXA will automatically lodge the documents with Landgate at the specified settlement time, exchange any loan funds, pay stamp duty, GST, third party beneficiaries and any other necessary entities as well as deposit the purchase price directly to the vendor. Settlement occurs in real time as opposed to several days or weeks later. In the future it is expected that all property transactions will occur electronically via PEXA. However at the present time, the eligible transactions are the transfers of land, caveats and withdrawals of caveats.

For the past 150 years it has been necessary for lawyers and conveyancers to physically attend settlements. During this process there would be a checking and signing of documents, handing over of cheques and then the documents would be lodged with Landgate. Prior to the meeting between the lawyers and the conveyancers, McLeod's would correspond with the Shire in order to execute the documents on the Shires behalf. This process also involves McLeod's sending quadruplicate copies of documents via registered post to sign and affix the Common Seal.

Essentially, by signing a client authorisation form the Shire is allowing McLeod's to sign these documents on its behalf. The Shire will no longer be required to sign the transfer of land and withdrawal of caveat documents under the common seal. On receipt of the Shire's authorisation Fiona Grgich (Partner of McLeod's) will have the authority to electronically sign the Shire's documents.

The Council has the following options to grant authorisation to McLeod's:

- (1) *Option 1* **Standing Authority**
By selecting Standing authority with no revocation or expiry date the Shire is permitting McLeods to sign all marked documents on its behalf without the need for further authorisation from the Shire.
- (2) *Option 2* **Standing Authority with expiry date**
By selecting standing authority and entering a date in which the authority expires the Shire is permitting McLeod's to sign all marked documents on its behalf without the need for further authorisation from the Shire until the expiry date at which time we will need to request additional authorisation.
- (3) *Option 3* **Specific Authority**
By selecting specific authority the Shire is only providing its authorisation for a withdrawal of a caveat, lodging a caveat and/or transfer of land associated with that particular matter. The option should be chosen if the Shire wishes to complete a client authorisation for each individual matter as they arise.

If Council choose to provide Standing Authority (with or without expiration) confirmation will be sought after either by email or phone before electronically executing the documents on the Shire's behalf. It is important to note that the Shire has the right to revoke its authorisation at any time.

Consultation/Communication Implications

Not applicable

Legislative Implications

State

- Local Government Act 1995

5.42. Delegation of some powers and duties to CEO

- 1) A local government may delegate* to the CEO the exercise of any of its powers or the discharge of any of its duties under –
 - (a) this Act other than those referred to in section 5.43; or
 - (b) the Planning and Development Act 2005 section 214(2), (3) or (5).

**Absolute majority required*

- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty-*
 - (a) *the CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and*
 - (b) *the exercise of that power or the discharge of that duty by the CEO's delegate, are subject to any conditions imposed by the local government on its delegation to the CEO.*

9.49A. Execution of documents

- (4) *A local government may, by resolution, authorise the Chief Executive Officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.*
- Transfer of Land Amendment Regulations 2017
 - 8C. *Certain registry instruments must be lodged by means of an ELN*
 - (1) *If a registry instrument can be lodged by means of an ELN, it must not be lodged otherwise than by means of an ELN*
 - (2) *For the purposes of subregulation (1), a registry instrument can be lodged by means of an ELN if-*
 - (a) *The instrument can be lodged electronically under the Act, the Electronic Conveyancing Act 2014 and these regulations; and*
 - (b) *The ELN provides for the lodgement of that type of registry instrument.*

Local

Nil

Policy ImplicationsState

Nil

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

PEXA charge an additional fee to the standard Landgate fees. However this paid by the Landowner upfront into McLeod's trust account.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

In order to streamline the process of e-conveyancing, Council is requested to authorise McLeod's and an identifier at the Shire to transact electronically. The introduction of PEXA will dramatically reduce the time taken for both preparation and attendance at settlement as well as post settlement tasks such as attending various payments and notifying the relevant authorities. PEXA will reduce many of the administrative tasks associated with the traditional conveyancing system, such as postal delay and the risk of documents going missing, getting damaged, being incomplete or poorly executed. Therefore, it is recommended that the Council authorise McLeod's to have "Standing Authority" (*Option 1*) in progressing the documents on behalf of the Shire electronically.

As this additional requirement is now compulsory, through the *Transfer of Land Amendment Regulations 2017*, McLeod's would like to verify the identity of the Shire's signatories. The Shire's signatories need to be persons in which McLeod's know and trust. Given Mr Peter Stuart's role (as Executive Manager Development Services) it would be practicable for him to be appointed as the identifier. Mr Stuart will need to go through a rigorous process to verify his identity to ensure compliance with Landgate's and McLeod's practices. Therefore, it is recommended that the Council authorise Mr Stuart as the Shire's signatory for any matters relating to the PEXA e conveyancing (Caveats, Withdrawal of Caveats and Transfer of Land). As a result the Shire's Delegated Authority Register needs to be amended accordingly.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090419

Moved Cr Osborn / Seconded Cr Ross

That Council:

- 1. Authorises McLeod's with Standing Authority (Option 1 – permitting McLeods to sign all marked documents in future on the Shire's behalf); and**
- 2. Amends the Delegated Authority Register accordingly (Attachment 2 – DA65 Electronic Lodgement Network Operator).**

**CARRIED 7/0
BY AN ABSOLUTE MAJORITY**

8:34PM

9.4.2 Approval to Lease and Affixing of the Common Seal on the Lease Agreement relating to a portion of Lot 1023 (RN 11) Edmonds Place, Bindoon*

Report date	3 April 2019
Applicant	Shire of Chittering
File ref	04/18/106; 04/07/10; A9538
Prepared by	Governance Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Lease Agreement (Confidential – not for public disclosure) 2. Advertisement in the Northern Valley Newspaper

Executive Summary

Council is requested to approve the leasing of and affixing of the Common Seal to complete the lease agreement of Portion of Lot 1023 (RN 11) Edmonds Place, Bindoon to BM + RP Enterprises (Bindoon IGA) located at Lot 7 (RN 7) Binda Place, Bindoon. The lease relates to the portion of land historically and currently used by the Bindoon IGA.

Background

The background to this matter has been considered by Council at its Ordinary Meetings held on 16 February 2011, 19 December 2012, 20 February 2013 and 18 February 2015. Over these four meetings there were various aspects of the current proposal that were modified. Additionally, as there has been changing landowners and Shire staff the last Council Resolution, the excision and sale was never executed. The last instance this matter was considered by Council was 18 February 2015 whereby the Council resolved:

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 210215	
<i>Moved Cr Rossouw/ Seconded Cr Gibson</i>	
1.	<i>That Council:</i>
a.	<i>In accordance with section 3.58(4) of the Local Government Act 1995 declare the valuation of \$200m2 (\$60,000 excluding GST) is a true indication of the value of the property (portion of Lot 1023 Edmonds Place, Bindoon)</i>
b.	<i>Endorses the amended proposal as detailed below:</i>
i.	<i>Portion (130m2 approximately) of Lot 9 Binda Place, Bindoon to be transferred to the Shire of Chittering at no change, and amalgamated with Lot 1023 Edmonds Place, Bindoon.</i>
ii.	<i>Portion (300m2) of Lot 1023 Edmonds Place, Bindoon be transferred to Bindoon IGA at the cost of \$60,000 excluding GST, less lease payments made and less the value of portion of Lot 9 Binda Place, Bindoon transferred to the Shire of Chittering.</i>
c.	<i>Provide a local notice of the proposed disposal of land (portion of Lot 1023 Edmonds Place, Bindoon) in accordance with s3.58 of the Local Government Act 1995 for a period not less than 14 days.</i>
2.	<i>That subject to not receiving any submissions in accordance with 3.58(3) the Chief Executive Officer be authorised to complete the transaction involving Lots 7 and 9 Binda Place and 1023 Edmonds Place, Bindoon; and the Shire president and Chief Executive Officer be authorised to sign affix the Common Seal to all necessary documentation required to complete the transaction.</i>
<i>THE MOTION WAS PUT AND DECLARED CARRIED 7/0</i>	

As stated in the last report to Council dated 18 February 2015, Council resolved to execute a land swap between the Shire and the owners of Lot 7 (RN 7) Binda place, Bindoon and Lot 9 (RN 11) Binda Place. However, as there are now different owners of the land, the IGA land Lease and the purchasing of Lot 9 Binda Place are to be treated separately. Accordingly lease documentation has been drafted, whereby Council is now requested to endorse the agreed terms, and allow for the application of the Common Seal to formalise the lease agreement.

Consultation/Communication Implications

Consultation to lease the land was undertaken with the property owner of Lot 7 (RN 7) Binda Place, Bindoon. With respect to *Local Government Act 1995* s.58(3) the public consultation was undertaken where the public were invited to make submissions in relation to the lease proposal. No public submissions were received within the statutory timeframe of advertising from 8 March to 29 March 2019.

Legislative Implications

State

- *Local Government Act 1995* section 3.58 allows for the disposing of property.
Subsections (3) and (4) states:
 - (3) *A local government can dispose of property under subsection (2) if, before agreeing to dispose of the property-*
 - (a) *it gives local public notice of the proposed disposition-*
 - (i) *describing the property concerned; and*
 - (ii) *giving details of the proposed disposition and*
 - (iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given.*
 - And*
 - (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by council or a committee, the decision and the reason for it are recorded in the minutes of the meeting at which the decision was made.*
- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include-*
 - (a) *the names of all parties concerned; and*
 - (b) *the consideration to be received by the local government for the disposition; and*
 - (c) *the market value of the disposition –*
 - (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*

The execution of the lease has been undertaken within the requirements of this clause and with the assistance of Council's solicitors.

Local

Nil

Policy Implications

State

Nil

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

Council will receive payment of \$5,053.00 annually for the lease of the land to BM&RP Enterprises Pty Ltd (Bindoon IGA) at Lot 7 (RN 7) Binda Place, Bindoon.

Strategic Implications

State

Nil

Local

- *Strategic Community Plan 2017-2027*
Focus area: Our Build Environment
Objective: S3.1 Development of Local Hubs

Site Inspection

A site inspection was undertaken on 28 February 2019 by the Shire's Governance Support Officer. The portion of land in question is raised above its immediate surrounds, equal to the finished ground level of the IGA. The land is otherwise bare earth and appears most useful for the IGA's use.

Triple Bottom Line Assessment

Economic implications

The lease formalises the ability for IGA to operate with the necessary infrastructure. Therefore the land in question contributes to ability for the IGA to continue operating in its current form.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

The portion of Lot 1023 to be used is on a small scale and has no known impacts on Lake Needoonga or any other surrounding land uses.

Officer Comment/Details

The permitted purpose for the leasing of Lot 1023 Edmonds Place, Bindoon is for the effluent disposal and installation of a new septic system. Therefore, the lease of land is for 367.5m² of Lot 1023 Edmonds Place to accommodate for the necessary infrastructure as described above. For context, a map is provided in **Attachment 1** (Annexure 1).

In line with the requirements of s3.58(3)(4) of the *Local Government Act 1995*, the public were invited to make submissions on the proposed leasing of the land. The advertisement appeared within the Northern Valleys Newspaper released on the 8 March. Therefore there does not appear to be any other public interest in the land, other than from the IGA. It should be noted that advertising was undertaken in accordance with the Local Government Act and is therefore a statutorily binding process.

As the IGA are the historical beneficiaries of the land as a result of previous Council resolutions, leasing of the land to this entity is considered consistent with these decisions. Progressing with a lease for the portion of land is additionally considered the most appropriate outcome for the land given the excision and sale is complex, time consuming, and costly.

In order for the lease to be formalised, Council is accordingly requested to execute the lease agreement with Bindoon IGA Lot 7 (RN 7) Binda Place, Bindoon; along with allowing for the affixing of the common seal, for the reasons stated above.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100419

Moved Cr Osborn / Seconded Cr Gibson

That Council, in executing the lease agreement between the Shire of Chittering and BM & RP Enterprises Pty Ltd:

- 1. Notes that the formal *Local Government Act 1995* advertising process has been undertaken;**
- 2. Formally recognises and approves the lease documentation in Attachment 1; and**
- 3. Authorises the Shire President and the Chief Executive Officer to sign and affix the Common Seal to the lease agreement.**

CARRIED 7/0
8:35PM

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 (33¹/₃% grant which equals \$91,657¹). 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.

¹ The Immaculate Heart College representative at the Agenda Forum (9 April 2019) advised that the grant is for 1¹/₃, not 1¹/₂, 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.

9.4.4 Ferguson House: Lot 91 (RN 6138) Great Northern Highway, Bindoon

Report date	1 April 2019
Applicant	Shire of Chittering
File ref	02/02/0001
Prepared by	Community Development Coordinator
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council resolved at the 20 March 2019 Ordinary Meeting of Council that the Acting Chief Executive Officer meet with the Chittering Arts Society to assess and discuss its needs and to undertake the assessment of the suitability of Ferguson House for the temporary use of this group until such time as a permanent use of the facility is determined by Council.

At the same meeting Council also resolved that the Shire publically advertise the availability of Ferguson House for interested community users/providers of community services, to lodge proposals for Council's consideration.

Background

Lot 91 (RN 6138) Great Northern Highway, Bindoon (known as "Ferguson House") was acquired and renovated as a day respite centre between 2009 and 2011 (via a combination of funding from the Shire, Lotterywest, and the Country Local Government Fund). The official opening of Ferguson House occurred on Wednesday, 7 November 2012. The facility was established as an aged day centre and managed by the regional Silver Chain services.

Silver Chain maintained its tenancy in the facility operating as a day respite centre until 31 October 2017, at which point Silver Chain Senior Care Services, Wheatbelt, vacated the facility and moved the day respite services to Toodyay (from where it continues to offer a day respite service to clients from within the Shire of Chittering). The decision to close the Bindoon day centre occurred in an environment where Silver Chain Wheatbelt were reviewing satellite services due to client numbers and increasing staffing and other costs.

The Ferguson House facility has remained vacant since 31 October 2017, however has been utilised as a storage facility for the Shire.

Throughout the remainder of 2017 and 2018 the Chittering Health Advisory Group (CHAG) along with Shire Officers have been endeavouring to understand the community health priorities for the Shire of Chittering in an effort to determine the most appropriate service occupier for the Ferguson House facility. To date CHAG have identified several health priorities however, a day respite facility within Bindoon has not been identified amongst these priority needs and CHAG is still gathering information on priority needs for the Shire and is, to date, not in a position to advise Council as to the most appropriate community based service to operate out of the Ferguson House facility.

The Acting Chief Executive Officer and Community Development Coordinator met with representatives of the Chittering Arts Society, Mrs Jennifer Brooks and Mrs Robyn Edwards on Tuesday 26 March 2019, to discuss the possibility of the Chittering Arts Society taking a temporary lease for Ferguson House until such time as a permanent use of the facility is determined by Council. The Chittering Arts Society representatives indicated that they would be keen to utilise the facility in a temporary capacity as the open plan aspects of the living areas, storage rooms and accessibility to town suits their requirements. They indicated that they would like to take occupancy of the facility at the earliest convenience to Council, however stated that they would also maintain use of a storage area at the Brockman Centre Precinct where they utilise space within the Bindoon Arts and Crafts building.

Whilst the Chittering Arts Society were advised that its temporary occupancy would not provide any certainty of permanent occupancy, the representatives did indicate they would likely submit an application to take on a longer term lease of the facility once that opportunity is advertised.

Consultation/Communication Implications

Local

As accepted by Council at the February 2019 Ordinary Council Meeting, a Community Health and Wellbeing Needs Consultation Report prepared by the Public Health Advocacy Institute of WA (PHAIWA) was noted and would be utilised to guide organisational planning and to advocate for the development of workable solutions to local health service related issues. This report highlights school holiday/after school programs and early childhood programs as the combined highest priority for respondents to the survey. Secondary to this was support to the elderly however, this was not defined. Priority health and wellbeing needs highlighted youth services and ageing in place as the highest priorities. It is therefore important to any discussion surrounding the leasing arrangements for Ferguson House as a community facility, that this report is taken into consideration and that the Shire consider the Health and Wellbeing needs across the lifespan when assessing applicants who submit applications to lease Ferguson House.

State

Not applicable

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

Consideration needs to be given to the leasing costs of the Ferguson House Facility on a temporary basis to the Chittering Arts Society. It is suggested that the Shire's existing standard community lease document and the current "peppercorn" rental (\$1.00pa+GST) would suffice, at least until the Facility Management Review currently underway is completed.

Further consideration will also need to be given [in due course] to the leasing arrangements for future tenants of the Ferguson House facility. The lease amount and lease style will presumably be dependent on the successful applicant (vis. commercial or community user).

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

Strategy: S1.1.1 Strengthen aged, youth and children service access through partnerships and advocacy

State

- Department of Culture and the Arts Strategic Plan 2016

Support the delivery of arts and culture activities across WA through policy development, grants and funding.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

The considerable investment by the Shire into Ferguson House as a community based facility that has capacity to meet health based, early childhood or other community service based functions has long been considered a positive step. Many local residents were disappointed to see Silver Chain withdraw from the facility and as has been evidenced through Council discussions, continuing the facility with priority use for community based activities remains a priority. What remains to be seen however, is what interest there is from health providers/community based organisations to take on the occupancy of the building.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

Nil

9.4.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120419

Moved Cr Ross / Seconded Cr Angus

That Council authorise the Chief Executive Officer to offer a temporary lease of Lot 91 (RN 6138) Great Northern Highway, Bindoon (known as "Ferguson House") to the Chittering Arts Society. The terms of the lease (using the Shire's Standard Community Lease document) is to be:

1. "month by month" with continuous options to extend (conditional on mutually agreeable prevailing) until such time as Council has assessed applications and appointed a longer term tenancy of the facility; and
2. \$1.00p.a.+GST lease fee (pro-rata).

CARRIED 7/0
10:29PM

10. REPORTS OF COMMITTEES

10.1 Chittering Bushfire Advisory Committee Meeting: Tuesday 12 March 2019*

Report date	25 March 2019
Applicant	Shire of Chittering
File ref	09/02/4
Prepared by	Executive Support Officer
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. "Unconfirmed" Minutes from 12 March 2019

Executive Summary

Council is requested to receive the "unconfirmed" minutes from the Chittering Bushfire Advisory Committee meeting held on Tuesday 12 March 2019.

Background

Following the Chittering Bushfire Advisory Committee meeting held on 12 March 2019 there was one formal recommendation resolved:

8.4 COMMITTEE RECOMMENDATION
*Moved Gordon Carter / Seconded Peter Watterston
That Council expedite the process so that Dave Wilson receives full compensation, without delay,
for the loss of his motor vehicle.*

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED

An officer report was subsequently tabled at the Ordinary Meeting of Council on 20 March 2019 and Council Resolved the following:

14.1.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 360319
*Moved Cr Gibson / Seconded Cr Ross
That Council:*

- 1. Acknowledges and appreciates the commitment of volunteers to the firefighting effort within the Shire of Chittering;*
- 2. Ask the Chief Executive Officer to research the local government positions of neighbouring and other near local governments and to draft a Policy on the question of the Shire's contribution (if any) where damage occurs to volunteer bush fire brigade member (and non-member) vehicles and equipment;*
- 3. Forward a copy of the Shire's relevant insurance policy information to local Bush Fire Brigades for their information; and*
- 4. Update volunteers as to the Shire's insurance policy limitations, in particular regard to motor vehicles.*

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/o
11:04PM

The Chief Executive Officer is currently undertaking the require research and outcomes will be discussed with Council at an Information Session; a date of which is yet to be confirmed.

Consultation/Communication Implications

Local

Chittering Bushfire Advisory Committee

State

Nil

Legislative Implications

State

- Bush Fires Act 1954

67. Advisory committees

- (1) *A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.*
- (2) *A committee appointed under this section shall include a member of the council of the local government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be chairman thereof.*
- (3) *In respect to a committee so appointed, the local government shall fix the quorum for the transaction of business at meetings of the committee and may—*
 - (a) *make rules for the guidance of the committee; and*
 - (b) *accept the resignation in writing of, or remove, any member of the committee; and*
 - (c) *where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.*
- (4) *A committee appointed under this section—*
 - (a) *may from time to time meet and adjourn as the committee thinks fit;*
 - (b) *shall not transact business at a meeting unless the quorum fixed by the local government is present;*
 - (c) *is answerable to the local government and shall, as and when required by the local government, report fully on its activities.*

[Section 67 inserted: No.11 of 1963 s.28; amended: No.67 of 1970 s.5; No.65 of 1977 s.45; No.14 of 1996 s.4.]

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2017-2027
Focus area: Our natural environment
Objective: S2.3 Protection of life and property
Strategy: S2.3.1 Improve bushfire preparedness and recovery

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

During the meeting it was mentioned that Jeff Reeves from the Lower Chittering Volunteer Bushfire Brigade is no longer a member of the Brigade, and therefore his membership to the Committee has also ceased. The Committee was introduced to Johan Rossouw who is the Lower Chittering Volunteer Bushfire Brigade Captain, who addressed the meeting and presented the Brigade report to the members.

The Brigades are due to conduct their Annual General Meetings during the month of May, and following this, Brigades will nominate members to the Committee for the June Committee meeting.

Council is requested to receive the unconfirmed minutes from the chittering Bushfire Advisory Committee meeting, held on Tuesday 12 March 2019 as per **Attachment 1**.

10.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130419

Moved Cr Osborn / Seconded Cr Tilbury

That Council receives the "unconfirmed" minutes from the Chittering Bushfire Advisory Committee meeting held on Tuesday 12 March 2019, as per Attachment 1.

CARRIED 7/0
10:30PM

10.2 Chittering Audit Committee Meeting: Wednesday 20 March 2019*

Report date	26 March 2019
Applicant	Shire of Chittering
File ref	12/01/1
Prepared by	Executive Support Officer
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Audit Committee meeting minutes of Wednesday 20 March 2019

Executive Summary

Council is requested to receive the “unconfirmed” minutes from the Chittering Audit Committee meeting held on Wednesday 20 March 2019.

Background

Following the Chittering Audit Committee meeting held on 20 March 2019 there was one formal recommendation resolved:

6.1	OFFICER/COMMITTEE RECOMMENDATION
	<i>Moved Cr King / Seconded Cr Ross</i>
	<i>That the Audit Committee reviews the Local Government Compliance Audit Return for the period 1 January 2018 to 31 December 2018 and presents to Council for adoption at the Ordinary Meeting of Council on 20 March 2019.</i>
	THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/o
	5:33PM

An officer report was subsequently tabled at the Ordinary Meeting of Council on 20 March 2019 and Council Resolved the following:

13.1	OFFICER RECOMMENDATION / COUNCIL RESOLUTION 320319
	<i>Moved Cr King / Seconded Cr Gibson</i>
	<i>That Council adopts the Local Government Compliance Audit Return for the period 1 January 2018 to 31 December 2018 as per Attachment 1.</i>
	THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/o
	10:40PM

The completed Compliance Audit Report has been lodged through the Department’s “Smarthub” on 21 March 2019.

Consultation/Communication Implications

Local

Chittering Audit Committee

State

Nil

Legislative Implications

State

- Local Government Act 1995
 - 5.22. Minutes of council and committee meetings**
 - (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
 - (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
 - (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*
- *Local Government (Functions and General) Regulations*
- *Local Government (Administration) Regulations*
- *Local Government (Rules of Conduct) Regulations*
- *Local Government (Elections) Regulations*
- *Local Government (Audit) Regulations*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

Council is requested to receive the unconfirmed minutes from the Chittering Audit Committee meeting, held on Wednesday 20 March 2019 as per **Attachment 1**.

10.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140419

Moved Cr Angus / Seconded Cr Ross

That Council receives the "unconfirmed" minutes from the Chittering Audit Committee meeting held on Wednesday 20 March 2019, as per Attachment 1.

CARRIED 7/0
10:30PM

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil

14. MEETING CLOSED TO THE PUBLIC

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 10:32PM.



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