



COUNCIL MINUTES

CONFIRMED: 21 SEPTEMBER 2022

Ordinary Meeting of Council

7pm, Wednesday 17 August 2022

Council Chambers, 6177 Great Northern Highway, Bindoon

PUBLIC QUESTION TIME

1. Time Permitted

A minimum of 15 minutes is permitted for Public Question Time at Council Meetings. If there are not sufficient questions to fill the allocated time, the Presiding Member will move to the next item. If there are more questions to be considered within 15 minutes, the Presiding Member will determine whether to extend Public Question Time. Each person seeking to ask questions during Public Question Time may address the Council for a maximum of two minutes each.

2. Protocol

No member of the public may interrupt the Council Meeting proceedings or enter into conversation.

Members of the public wishing to participate in Public Question Time at the Council Meeting who wish to submit written questions, are requested to lodge them with the Chief Executive Officer the Tuesday by **5pm on the day before the meeting**

The Presiding Member will control Public Question time and ensure that each person wishing to ask a question is given a fair and equal opportunity to do so. Members of the public wishing to ask a question must state his or her name and address before asking a question. If the question relates to an item of the Agenda, the item number and title should be stated.

3. General Rules

The following general rules apply to Public Question Time:

- Public Questions should only relate to the business of the local government and should not be a personal statement or opinion.
- Only questions relating to matters affecting the local government will be considered at a Council Meeting, and only questions that relate to the purpose of the meeting will be considered at a Special Council Meeting.
- Questions may be take on notice and responded to after the meeting.
- Questions may not be directed to specific Elected Members or a Shire employee.
- Questions are not to be framed in such a way as to reflect adversely on a particular Elected Member or Shire employee.
- First priority will be given to persons who have submitted their questions in writing.
- Second priority will be given to persons who are asking questions relating to items on the current Council Meeting Agenda.

DEPUTATIONS

1. Time permitted

A minimum of 10 minutes is permitted for Deputations.

2. Protocol

No member of the public may interrupt the Council Meeting proceedings or enter into conversation.

Members of the public make a Deputation at the Council Meeting are requested to lodge them with the Chief Executive Officer the Tuesday by **5pm on the day before the meeting**

The Presiding Member will control Deputation time and ensure that each person wishing to ask a question is given a fair and equal opportunity to do so. Members of the public making a Deputation must state his or her name, company (if applicable) and address before commencing. Members must also state the item number and title on the Agenda.

3. General Rules

The following rules apply when making a Deputation:

- (a) Deputation is not to exceed five persons, only two of whom may address the Council, although others may respond to specific questions from Members.
- (b) Deputations must not exceed 10 minutes without the agreement of the Council.
- (c) Additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

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

RECORDING AND ACCESS TO RECORDINGS OF COUNCIL MEETINGS POLICY

Objective

To ensure that there is a process in place to outline access to the recorded proceedings of Council.

To emphasise that the reason for the recording of Council Meetings is to ensure the accuracy of Council Minutes and that any reproduction is for the sole purpose of Council business.

Recording of Proceedings

1. Proceedings for meetings of the Council, Electors, and Public Question Time during Council meetings shall be recorded by the Shire on sound recording equipment, except in the case of meetings of the Council where the Council closes the meeting to the public.
2. Notwithstanding clause 1, proceedings of a meeting of the Council which is closed to the public shall be recorded where the Council resolves to do so.
3. No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without approval as per ***Local Government (Council Meetings) Local Law 2014***, c6.15.

Access to Recordings

4. The record of proceedings is to be loaded on to the Shire's website once the minutes have been made available.

Retention of Recordings

5. Recordings pertaining to the proceedings of Council Meetings shall be retained in accordance with the ***State Records Act 2000***.

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

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

Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

PREFACE

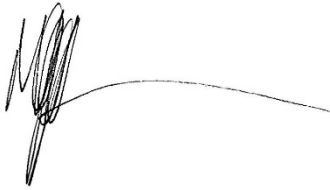
When the Chief Executive Officer approves these minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

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 26 August 2022.



Matthew Giffellon
Chief Executive Officer

CONFIRMED MINUTES

These minutes were confirmed at a meeting held on 21 September 2022.



Signed _____

NOTE: the Presiding Member at the meeting at which these minutes are 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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Good evening Councillors, staff, ladies and gentlemen, we wish to acknowledge the traditional custodians of the land we are meeting on, the Yued people. We would like to pay respect to the Elders of the Nyoongar nation, past and present, who have walked and cared for the land, we acknowledge and respect their continuing culture, and the contributions made to this region.

ITEM 1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.00pm.

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

Attendance

The following members will be in attendance:

Cr Aaron King	President
Cr Mary Angus	Deputy President
Cr Kylie Hughes	
Cr Carmel Ross	
Cr David Dewar	
Cr Mark Campbell	

The following staff will be in attendance:

Melinda Prinsloo	Acting Chief Executive Officer
Leo Pudhota	Executive Manager Technical Services
Peter Stuart	Executive Manager Development Services
Nathan Gough	Building Surveyor
Denaye Kerr	EA to the CEO

Members of the General Public: 25

Media: 0

Apologies

Matthew Gilfellon	Chief Executive Officer
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Approved leave of absence

Cr John Curtis

Announcements

Councillors 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 Meeting of Council for inclusion in the minutes.

Cr Aaron King

20 July 2022	Ordinary Council Meeting
21 July 2022	Community Forum – Bindoon
22 July 2022	Wheatbelt Development Commission Northern Growth Alliance
26 July 2022	President & CEO Meeting
29 July 2022	Verso Visit – Aged Care
2 August 2022	President & CEO Meeting Mining Advisory Group
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
9 August 2022	President & CEO Meeting
10 August 2022	Agenda Forum and Briefings

Cr Mary Angus

20 July 2022	Ordinary Council Meeting
21 July 2022	Community Forum - Bindoon
26 July 2022	President & CEO Meeting
29 July 2022	Verso Visit – Aged Care
2 August 2022	President & CEO Meeting
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
9 August 2022	President & CEO Meeting
10 August 2022	Agenda Forum and Briefings

Cr Kylie Hughes

20 July 2022	Ordinary Council Meeting
29 July 2022	Verso Visit – Aged Care
2 August 2022	Mining Advisory Group
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
10 August 2022	Agenda Forum and Briefings
17 August 2022	Rural Road Group Sub Group Meeting - Moora

Cr Carmel Ross

20 July 2022	Ordinary Council Meeting
21 July 2022	Community Forum – Bindoon
29 July 2022	Verso Visit – Aged Care
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
10 August 2022	Agenda Forum and Briefings

Cr John Curtis

20 July 2022	Ordinary Council Meeting
21 July 2022	Community Forum – Bindoon
29 July 2022	Verso Visit – Aged Care
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
10 August 2022	Agenda Forum and Briefings

Cr Mark Campbell

3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
10 August 2022	Agenda Forum and Briefings

Cr David Dewar

20 July 2022	Ordinary Council Meeting
21 July 2022	Community Forum – Bindoon
29 July 2022	Verso Visit – Aged Care
3 August 2022	Community Forum – Muchea
4 August 2022	Chief Executive Officer Performance Review
8 August 2022	Community Forum - Wannamal
10 August 2022	Agenda Forum and Briefings

ITEM 3. DISCLOSURE OF INTEREST

CEO04 – 08/22 Approval for Award of Tender SC22-002 Construction of Muchea Recreation Centre		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Kylie Hughes	Impartiality	<p>Nature: Life Member and volunteer Committee Member of the Muchea Netball Club</p> <p>Extent: Muchea Netball Club are a current user of the Muchea Sporting Facility</p>

CEO04 – 08/22 Approval for Award of Tender SC22-002 Construction of Muchea Recreation Centre		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Mark Campbell	Impartiality	<p>Nature: Immediate Family Members who are Members of the Muchea Netball Club</p> <p>Extent: Muchea Netball Club are a current user of the Muchea Sporting Facility</p>
	Impartiality	<p>Nature: Have an association with an employee of Geared Construction</p> <p>Extent: Spouses are friends</p>

ITEM 4. PUBLIC QUESTION TIME

Response to previous public questions taken on notice

Nil

Public question time

PQT01 – 08/22 Bill Nobes, Bindoon

Question 1: Are the Councillors aware of what happened between March and November 2019?

Response: The President advised that this would be taken on notice.

Question 2: Are the Councillors aware of the agreement that was made with the CEO with the knowledge of Executive Manager Development Services in October 2019?

Response: The President advised that this would be taken on notice.

Question 3: Are the Councillors aware that I did respond to a letter that the CEO is saying I did not respond to, I hand delivered it to the CEO at one of these meetings?

Response: The President advised that this would be taken on notice.

ITEM 5. PRESENTATIONS / PETITIONS / DEPUTATIONS

Petitions

Nil

Presentations

Nil

Deputations

DEP01 – 08/22 Garry Hutchinson, Muchea

Speaking for Agenda Item DS01 – 08/22 - Application for Exemption of Limitation of Number of Dogs – 65 Archibald Street, Muchea

DEP02 – 08/22 Phil Cuttone, Mount Pleasant

Speaking for Agenda Item DS03 – 08/22 - Endorsement of Scheme Amendment 72 to Local Planning Scheme No.6 – Lot M1942 Morley Road, Lower Chittering

DEP03 – 08/22 Lachlan Chilman, Muchea

Speaking for Agenda Item CEO04 – 08/22 - Approval for Award of Tender SC22-002 Construction of Muchea Recreation Centre

DEP04 – 08/22 Cody Brown, Gingin

Speaking for Agenda Item CEO05 – 08/22 - Approval for Award of Tender SC22-003 Bindoon Mountain Bike Park Stage 1 Trails and Access

ITEM 6. APPLICATIONS FOR LEAVE OF ABSENCE

MOTION / COUNCIL RESOLUTION 010822

Moved Cr Ross, seconded Cr Hughes

That Council approve the following leave of absence:

- Councillor Carmel Ross – Wednesday 31 August 2022 through to Thursday 15 September 2022 (inclusive).

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.25PM

ITEM 7. CONFIRMATION OF MINUTES

Ordinary Meeting of Council: 20 July 2022

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020822

Moved Cr Hughes, seconded Cr Ross

That the minutes of the Ordinary Meeting of Council held on Wednesday 20 July 2022, as published on the Shire website, be confirmed.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.26PM

ITEM 8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

ITEM 9. REPORTS

DEVELOPMENT SERVICES**DS01 – 08/22 Application for Exemption of Limitation of Number of Dogs – 65 Archibald Street, Muchea**

Applicant	Karen Murphy
File ref	19/01/3, A11192
Author	Ranger
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> Schedule of Submissions Consultation Map - Advertising Consultation Map - Barking

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to determine an *Application for Exemptions of Limitation of Number of Dogs* to allow the applicant to keep three dogs at 65 Archibald St, Muchea. As the application received an objection during the advertising process, it is referred to Council for a decision.

Background

The applicant owns and resides at the subject property, which is 4030 square metres in area, and zoned 'Townsite', within the Muchea townsite. The property is identifiable through existing boundary fencing, which consists of 1.2 metre posts, wire and chicken wire. All three dogs are kept at the property. The applicant has no known history of offences in regards to the dogs. Notwithstanding, Ranger Services received a complaint about nuisance barking in October 2021 which was prior to this application. In response to this complaint, Rangers have conducting their own investigation into the nuisance barking by monitoring the site on random days at times that coincide with the complaint, however no evidence of a breach of the Dog Local Law has been found. This subject application has been submitted independently of the complaint, and was submitted unsolicited.

It is understood that this application derives from one of the existing two dogs being late in age. The addition of the third dog is to account for the late aging dog.

Consultation Summary

Local

The Shire sent emails to four adjacent and adjoining landowners giving them the opportunity to comment on the application within 21 days of the date of the email. Advertising was conducted on 17 May 2022, concluding 7 June 2022. During this time, three submissions were received. Please refer to the Schedule of Submissions (see **Attachment 1**).

State

Nil

Legislative Implications

State

- Dog Act 1976

Part V — The keeping of dogs

26. Limitation as to numbers

- (1) *A local government may, by a local law under this Act—*
 - (a) *limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government’s district; or*
 - (b) *limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government’s district.*
- (2) *A local law mentioned in subsection (1)—*
 - (a) *may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and*
 - (b) *cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and*
 - (c) *cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and*
 - (d) *cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).*
- (3) *Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption—*
 - (a) *may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and*
 - (b) *cannot authorise the keeping in or at those premises of—*
 - (i) *more than 6 dogs that have reached 3 months of age; or*
 - (ii) *a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;*

and

 - (c) *may be revoked or varied at any time.*
- (4) *A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment—*

(a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under—

- (i) a local law mentioned in subsection (1); or
- (ii) an exemption granted under subsection (3); or

(b) more than—

- (i) 2 dangerous dogs (declared); or
- (ii) 2 dangerous dogs (restricted breed); or
- (iii) one of each of those kinds of dangerous dogs, that have reached 3 months of age; or

(c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.

Penalty:

(a) for an offence relating to a dangerous dog—

- (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
- (ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$500;

(b) for an offence relating to a dog other than a dangerous dog—

- (i) a fine of \$5 000;
- (ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$100.

(5) Any person who is aggrieved—

- (a) by the conditions imposed in relation to any exemption under subsection (3); or
- (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption, may apply to the State Administrative Tribunal for a review of the decision.

(6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

Local

- Shire of Chittering Dogs Local Law 2011

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

- (a) licensed under Part 4 as an approved kennel establishment; or
- (b) granted an exemption under section 26(3) of the Act.

(2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
- (b) 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

Policy Implications

Nil

Financial Implications

Nil

Strategic Assessment / ImplicationsState

Nil

Local• Strategic Community Plan 2022-2032

Focus area: Administration and Governance

Objective: S5.2 Accountable and Transparent Governance

Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

Site Inspection

A site inspection was conducted to assess the dog's welfare, the property's fencing and considerations for neighbouring properties. All dogs subject of this application appeared to be in good health and behaviour at the time of the inspection.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance: Reputation	Unlikely	Minor	Low	Applicant is educated by Ranger Services on effective measures to contain the dog and manage barking.
Opportunity: Ranger Services providing education to dog owners on effective dog ownership.				

Officer Comment/Details

The complaint of barking made regarding the subject dogs alleges that the dogs misbehave and bark consistently. This complaint has resulted in a detailed investigation on the matter.

Rangers subsequently conducted their own independent diaries on multiple occasions in order to ascertain the validity of the complaint and later objection to the subject application. Monitoring of the alleged nuisance barking was conducted in the early mornings on weekdays between the hours of 7:00am and 8:30am. A total of three hours and 18 minutes were recorded between 16 of March and 12 of July 2022. The recordings made demonstrated no evidence of nuisance barking.

The surrounding neighbours were also contacted by Rangers to request further feedback regarding the allegation of nuisance barking. The neighbours provided feedback that there was no nuisance barking occurring as alleged. While this is not to say that some barking may be occurring, without any evidence, the animals cannot be prejudiced against as a result of this application.

In summary, the dogs were found to be well behaved and well contained. As it relates to the Dog Act and the Dog Local Law, the application is consistent and compliant.

Accordingly, approval is recommended.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030822

Moved Cr Angus, seconded Cr Ross

That Council approve the application for a third dog at No.65 Archibald Street, Muchea in accordance with the Dog Act 1976 under the following conditions:

1. An Authorised Officer may inspect the property at any reasonable time.
2. This approval is for the life of the dogs listed below and no additional dog or replacement dog shall be registered to this property unless a new application has been approved

Name	Breed	Microchip
Billy	Maltese x	985141000967066
Cherry	Australian Kelpie x	991003000524030
Max	Australian Kelpie x	991003001902154

3. Should one of the current registered dogs under this application become deceased, the applicant cannot replace it with another dog without first reapplying and receiving approval from the Shire of Chittering.
4. The applicant must notify the Shire of Chittering if they move from the area or if there are any changes to the number of dogs listed above.
5. The dogs must be registered at all times, and be compliant to the *Dog Act 1976* and Shire of Chittering *Dogs Local Law 2011*.
6. If at any time these requirements have been breached, an Authorised Officer may terminate the application, and may direct that the registration of the additional dog(s) be cancelled, and the dog(s) be removed from the premises within seven days.
7. Fencing must be kept in excellent condition and be able to prevent the dogs from going under, over or through it.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.29PM

DS02 – 08/22 Initiation of Scheme Amendment No.70 to Local Planning Scheme No.6

Applicant	Statewest Planning
File ref	PLN.SA.70
Author	Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Applicant’s Scheme Amendment report 2. Associated accompanying information

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to ‘note’ only)</i>

Executive Summary

Council is requested to initiate Scheme Amendment No.70 to Local Planning Scheme No.6. The amendment seeks to rezone lots 3, 201 Muchea East Road and 30 and 202 Great Northern Highway, Muchea from Agricultural Resource to General Industry. These four lots are located adjacent to the traffic lights on the intersection of Great Northern Highway and Muchea East Road, at its north-eastern corner. The initiation of the scheme amendment will allow for the progression of the rezoning and future dry industrial development within the Muchea Industrial Park.

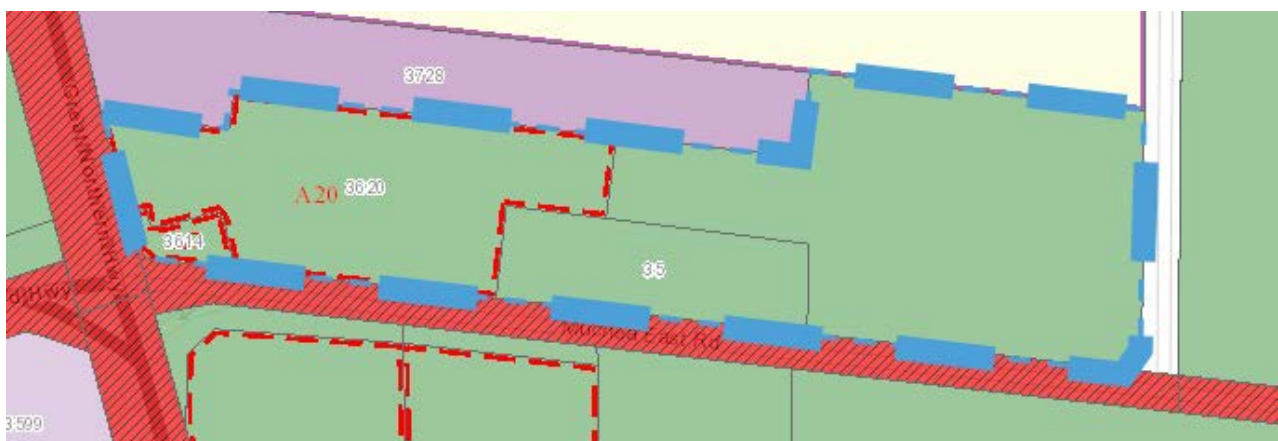


Figure: subject sites.

Background

The Muchea Industrial Park is an 1167ha land area strategically identified for industrial development. The Park is provided for within the Shire of Chittering Local Planning Strategy and the Muchea Industrial Park (Regional) Structure Plan 2022, along with its former Muchea Employment Node Structure Plan 2011. The subject lots are located adjoining one another on the north-eastern corner of the Great Northern Highway and Muchea East Road and bordered by Guillente Road at its eastern boundary. The lots have varied and historical existing uses ranging from residential to fuel stop and plumbing shop and transport depot for example. Those sites with approved uses that are now non-permitted in the Agricultural Resource zone have been granted additional use rights. These additional use rights will be extinguished should the lots be rezoned.

Local

No consultation with local landholders has occurred at this stage. Should Council resolve to initiate the amendment, and the Environmental Protection Agency (EPA) permit advertising, surrounding landholders will be consulted for their feedback pursuant to Regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).

State

No consultation with State and expert agencies has occurred at this stage. Should Council resolve to initiate the amendment, and the Environmental Protection Agency (EPA) permit advertising, relevant agencies will be consulted for their feedback pursuant to Regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations).

Legislative Implications

State

- Planning and Development Act 2005
The initiation of a Scheme Amendment is undertaken in accordance with Section 75 of the Act.
- Planning and Development (Local Planning Schemes) Regulations 2015
The Regulations require a Local Government to initiate a Scheme Amendment through a Council resolution. In doing so, the Local Government must identify the stream for which the amendment is being undertaken. In this instance, and pursuant to Division 3 of the Regulations, the matter is considered a 'Standard Amendment' as:
 - The Amendment is consistent with the Shire of Chittering local planning strategy for the scheme that has been endorsed by the Commission;
 - The Amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area;
 - The Amendment is not a complex or basic amendment.

Local

- Local Planning Scheme No.6

The Local Planning Scheme No.6 for the district of the Shire of Chittering will ultimately be amended, should Council resolve to initiate the amendment, and the Minister for Planning approves the amendment.

Policy Implications

State

- Government Sewerage Policy
All new lots associated with this proposal will be required to treat and dispose of wastewater in accordance with the Government Sewerage Policy. The documents submitted with the application confirms that the site is within the requirements of the policy, meaning wastewater will be required to be disposed of in an environmentally safe manner.

Local

Nil

Financial Implications

Nil

Strategic Assessment / Implications

The Shire's *Local Planning Strategy 2019* (the Strategy) and the Muchea Industrial Park Structure Plan provides the strategic basis for the subdivision and development of the subject lot and identifies the lots as accommodating general industry uses. Clauses 3.4.2 and 3.5.5 of the Strategy seek to consolidate industrial development within the MIP through consolidating all industrial zonings.

State

The Muchea Industrial Park Structure Plan (MIPSP) sets the planning framework to coordinate future development of the industrial park. The MIPSP identifies the subject lots as part of Precinct 1 North A, and provides for both general and light industries. It suggests that the location of general industry lots should be within the core of the industrial park.

Site Inspection

Site inspection undertaken: Yes

The sites subject of this application can be identified as being improved with two dwellings front Great Northern Highway, a transport depot that fronts both Great Northern Highway and Muchea East Road, a now vacant former service station on the corner of Great Northern Highway and Muchea East Road, a dwelling facing Muchea East Road, and a vacant lot to the rear and east of the dwelling fronting Muchea East Road and Guiliente Road.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Natural Environment: The risk that an exempt development has an adverse impact on the ground water.	Rare	Minor	Low	N/A
Opportunity: Implementation of better instruments to avoid incompatible development				

Officer Comment/DetailsLocal Planning Strategy 2019

As discussed previously, the Strategy identifies the site for industry development. Rezoning of the site to be more consistent with the strategic intent for the area will consolidate the existing pattern of development and align with the objectives of the *Local Planning Strategy* and the *Muchea Industrial Park Structure Plan*.

Structure Plan / Muchea Employment Node Special Control Area

As there is no further subdivision potential for the subject sites, no structure plan is required, pursuant to clause 5.7.2.4 of LPS6.

Existing and Historical Land Uses

Rezoning of the site will likely render the existing residential buildings as non-conforming uses. This means that if the residences are being used for that purpose at the time of rezoning, the rezoning shall not prevent its continuing use. However, should the buildings be, or become vacant, then the buildings are no longer able to be used for residential purposes.

Additionally, some concern remains as to the level of contamination remanent at the site of the former service station (perhaps better known now as the "Muceha Plumbing and Gas" premises). No information has been forthcoming as to whether the site is contaminated from underground fuel tanks. This may impact on the ability to develop the land in the future, however is not necessarily a reason to prevent rezoning of the land. Further information on requirements may be clarified by the State Department responsible for Environment should the application be initiated.

The applicant has addressed both these issues in the attached amendment report.

Conclusion

The supporting documentation provides the technical details in support of the subject land being able to cater for industrial developments. Accordingly, Council is recommended to allow initiation of Scheme Amendment No.70 to enable the advertising process to commence.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040822

Moved Cr Campbell, seconded Cr Angus

That Council:

- 1. Pursuant to Section 75 of the Planning and Development Act 2005, initiates an Amendment to the Shire of Chittering Local Planning Scheme No. 6 by:
 - a. Rezoning Lots 30 on Deposited Plan 92433 & 202 on Deposited Plan 60290 Great Northern Highway and Lots 3 on Deposited Plan 20433 & 201 on Deposited Plan 60290 Muceha East Road, Muceha from 'Agricultural Resource' to 'General Industry';**
 - b. Removing Additional Uses 7 & 20 from Schedule 3; and**
 - c. Amending the Scheme Map accordingly.****
- 2. Pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, determines that the amendment is a 'Standard Amendment' for the following reasons:
 - a. The amendment is consistent with the Shire of Chittering Local Planning Strategy (2019) which, in relation to the Muceha Industrial Park, within which this site is located, seeks to:**
 - b. Promote industrial development within the Muceha Industrial Park; and**
 - c. Encourage landowners to progress planning arrangements for the Muceha Industrial Park.**
 - d. The amendment is consistent with the Muceha Employment Node Structure Plan (2011).**
 - e. The amendment would have minimal impact on land in the scheme area that is not the subject of the amendment; and**
 - f. The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.****

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.33 PM

DS03 – 08/22 Endorsement of Scheme Amendment 72 to Local Planning Scheme No.6 – Lot M1942 Morley Road, Lower Chittering

Applicant Shire of Chittering
File ref PLN.SA.72
Author Executive Manager Development Services
Authorising Officer Chief Executive Officer
Disclosure of interest Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Voting requirements Simple Majority
Attachments 1. Scheme Amendment 72 Document
 2. EPA Advice
 3. Schedule of Submissions
 4. DFES second submission

	Authority / Discretion	Definition
<input checked="" type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to ‘note’ only)</i>

Executive Summary

Council is requested to endorse Scheme Amendment No.72. This amendment seeks to rezone the subject property from Agricultural Resource to Rural Residential. The lot is located immediately north of the Rosa Park estate, and ultimately seeks to allow for the creation of 18 new lots at a minimum of two hectares each. The Shire of Chittering Local Planning Strategy identifies this property as being a ‘Future Living Area’, and thus the rezoning is consistent with this strategic intent. Since initiation, the application was subject to community and agency consultation.



Figure: aerial photograph of subject property.

Background

The subject property is located in the south-south-western corner of the Shire, being immediately north of the Rosa Park estate, and south-west of the Chittering Retreat estate. The lot is otherwise surrounded by Agricultural properties to the north and west. The subject lot historically has been used for agriculture, horticulture and viticulture.

The lot itself can be identified through its historical farming activities, as well as an old home located on the north-western corner of the lot, adjoining Lot 13 Morley Road. The subject lot undulates throughout, though most notably through the central area, where the Marbling Brook runs through it. The lot is mostly cleared, save for remnant vegetation towards the rear of the property. Access to the property can be gained via Morley Road on the western frontage, or via two (currently) *cul-de-sac* linkages from within the Rosa Park estate in the south.

These linkages form a fundamental reason for the lot being identified within the Local Planning Strategy, as subdivision of the lot will ultimately improve emergency egress, should such an event occur.

Consultation Summary

Advertising of Scheme amendment 72 was conducted between 09 February 2022 and 22 March 2022 in the following ways:

- A notice of the Scheme amendment was published on the Shire's website;
- An advertising sign was erected at John Glenn Park, Muchea for the duration of the advertising period;
- Notices sent to the following agencies inviting comment:
 - Chittering Landcare;
 - Department of Fire and Emergency Services;
 - Department of Biodiversity, Conservation and Attractions;
 - Department of Water and Environmental Regulation;
 - Department of Health; and
- Notices sent to all adjoining landowners.

Responses to the advertising period for the Scheme amendment are contained in a schedule of submissions appended to this report (Attachment 3). The responses are accompanied with Shire officer comment against each.

In summary, two landowner objections and one general comment relating to the Scheme amendment were received. Additionally, the Department of Health (DoH) cited concerns for the ability for the lots to appropriately cater for sewage disposal. DoH instead submits that 2.5 persons per household is not realistic. Schedule 9 of the Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974 sets the sizing of residential premises hydraulic loading:

Table

Number of bedrooms	Volume of wastewater (litres)	
	Blackwater system	Combined system (blackwater and greywater)
2 or less	188	564
3	254	761
4 or more	276	829

[Schedule 9 inserted: Gazette 7 Jan 2005 p. 70.]

For residential premises with 6 or more bedrooms, the hydraulic loading will be sized based on the expected occupancy rate and the design flow rate of 150L/person/day.

While the applicant contends the measurements are correct, it is noted that the Site and Soil Evaluation was conducted in May, whereas the AS / NZS 1547:2012 requires it to be undertaken in wetter months such as July and August. For this reason the amendment documentation includes undertaking of a site and soil evaluation in accordance with the Australian Standards.

Other concerns held and are maintained by DFES. These concerns are addressed in detail in **attachment 4**.

Legislative Implications

State

- Planning and Development (Local Planning Schemes) Regulations 2015

As described above, the Scheme Amendment is to be processed in accordance with the Regulations. Part 5, Division 3, Regulation 50(3) directs local government to do one of the following three –

- (a) to support the amendment without modification; or
- (b) to support the amendment with proposed modifications to address issues raised in the submissions; or
- (c) not to support the amendment.

The above three options are available to Council when making a resolution on this Scheme amendment.

Local

- Local Planning Scheme No.6

The Local Planning Scheme No.6 for the district of the Shire of Chittering will ultimately be amended, should Council resolve to initiate the amendment, and the Minister for Planning approves the amendment.

Policy Implications

State

Government Sewerage Policy

All new lots associated with this proposal will be required to treat and dispose of wastewater in accordance with the Government Sewerage Policy. The documents submitted with the application confirms that the site is within the requirements of the policy, meaning wastewater will be required to be disposed of in an environmentally safe manner.

Local

Nil

Financial Implications

Nil

Strategic Assessment / Implications

The Shire’s *Local Planning Strategy 2019* (the Strategy) provides the strategic basis for the subdivision and development of the subject lot and identifies the lot as a key for accommodating future growth within the Shire. Clauses 3.1.3 and 3.5.3 of the Strategy seek to consolidate development within Lower Chittering through ‘rounding off’ consistent with the Strategy Map. Additionally, the Strategy allows for development where proposals can demonstrate improved environmental, bushfire and landscape outcomes. The subject application seeks to improve bushfire access by connecting existing to cul-de-sac roads, allowing for additional access onto Morley Road. Additionally, the proposal seeks to allow for development within existing cleared portions of the lot, and improve environmental values by managing stormwater flow into the Marbling Brook and other tributaries.

State

Nil

Site Inspection

Site inspection undertaken: Yes

An inspection was undertaken at the invite of the applicant / landowner as part of the scheme amendment process. The lot was traversed in detail, including identification of environmental and bushfire risks and how best to mitigate such risks. The vast majority of the lot has views across the Chittering valley to the west and south, as well as excellent examples of tree canopies and minor creek lines.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Natural Environment: The risk that an exempt development has an adverse impact on the ground water.	Rare	Minor	Low	N/A
Opportunity: Implementation of better instruments to avoid incompatible development				

Officer Comment/Details

Local Planning Strategy 2019

As discussed previously, the Strategy identifies the site for Rural Residential development and as a Future Rural Living Area. Rezoning of the site to be more consistent with surrounding areas will consolidate the existing pattern of development and align with the objectives of the *Local Planning Strategy*. The site is located within an established area of rural residential development and will lend to this character.



Figure: Local Planning Strategy 2019 Figure 4

Bushfire

As with all developments in the Shire, major consideration is given to bushfire management. In this instance, the application is not supported by DFES. However, the applicant maintains that the application satisfactory meets the requirements of SPP3.7 (planning in bushfire prone areas), along with the associated guidelines. Internal discussions with the Shire’s Community Emergency Services Manager and Bushfire Risk Management Officer – whom both have significant experience in fighting bushfires in the Shire - resulted in their inclination to agree with the applicant’s response. Their reasoning is based on knowledge of the site, application of emergency services during an event, and application of bushfire reduction methodologies. In summary, their feedback suggested the application as designed is more likely to result in an improved management area.

Local Development Plan

Instead of a structure plan, the application will require a Local Development Plan to be submitted and approved. The Local Development Plan’s form and manner is covered under the Regulations, and has similar effect to a structure plan however is capable of being approved by the local government, most often through a condition of subdivision. A Local Development Plan most often contains provisions ranging from subdivision requirements to detailed design elements. In this instance, the Local Development Plan will be informed by, and apply, the detailed aspects of this rezoning application

Access

Future development of the site will provide opportunity to connect Thornbill Place and Bronzewing Court, improving the local road network within this rural residential area. The site has primary frontage to Morley Road for these connections, creating opportunity for further connectivity and safe vehicle access during bushfires.

Conclusion

The supporting documentation provides the technical details in support of the subject land being able to cater for the increased level of development. Accordingly, Council is recommended to support Scheme Amendment No.72 without modification.

OFFICER RECOMMENDATION

Moved Cr Angus, seconded Cr Ross

That Council, pursuant to Section 75 of the Planning and Development Act 2005, supports Scheme Amendment No.72 to the Shire of Chittering Local Planning Scheme No. 6 with the following modifications:

- 4. (c) ii. A site and soil evaluation conducted in accordance with AS/NZS1547 On-site domestic wastewater management as conducted following winter rainfalls.
- 4. (a) iii. The Fire Service Access Route (FSAR) being identified on the plan of subdivision for the purposes of emergency vehicle access and ceded free of cost; and
- 4. (c) iv. All habitat trees as identified in section 4.3.1 Cottera Environmental Assessment Report dated November 2021 being retained and protected where possible.

AMENDMENT

Moved Cr Ross, seconded Cr Campbell

That the officer recommendation be amended to delete clause 4(c)ii.

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.36PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 050822

Moved Cr Angus, seconded Cr Ross

That Council, pursuant to Section 75 of the Planning and Development Act 2005, supports Scheme Amendment No.72 to the Shire of Chittering Local Planning Scheme No. 6 with the following modifications:

- 4. (a) iii. The Fire Service Access Route (FSAR) being identified on the plan of subdivision for the purposes of emergency vehicle access and ceded free of cost; and**
- 4. (c) iv. All habitat trees as identified in section 4.3.1 Cottera Environmental Assessment Report dated November 2021 being retained and protected where possible.**

CARRIED UNANIMOUSLY 6 / 0

TIME: 7.38 PM

DS04 – 08/22 Removal of ‘Yacht Monument’ Lot 89 Koomal Street, Bindoon

Applicant	Shire of Chittering
File ref	A11631
Author	Executive Manager Development Services
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority (per local government act)
Attachments	<ol style="list-style-type: none"> 1. First letter issued November 2021 2. Second Letter issued 14 February 2022 3. Direction Notice issued 13 April 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person’s rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to ‘note’ only)</i>

Executive Summary

Council is requested to confirm its position on the status on the non-compliant yacht monument and advise as to where proceeds from any sale would be directed.

Background

The subject of the ‘yacht monument’ has its origins from the November Ordinary Meeting of Council, where an Application for Development Approval considered and approved for the temporary placement of a yacht on Lot 89 Koomal Street, Bindoon. The application was submitted by a William (Bill) Nobes however, Lot 89 is owned by the Shire in freehold.

Approval was subject to a number of conditions, including condition number 2, which stated:

This approval is for a period of two years only. The approved yacht monument and all associated incidental development shall be removed from site and the land remediated within two years of it being placed on site to the satisfaction of the Shire.

As the monument was placed on or around 29 November 2019, the two years has expired, and the monument requires removal.

The yacht was proposed to act as a monument to create awareness towards the need for dementia and aged care in Bindoon and the broader region. The sail of the yacht was to be printed with the written

message 'Iron Will – The Village', or words with a similar meaning. 'Iron Will' refers to the name of the yacht, and 'the Village' refers to Mr Nobes' envisaged dementia village to be developed in the future, somewhere in the region. The yacht itself is approximately 15.5m long, and 16.5m high and is entrenched into the ground adjacent to the northern side of the Woolah Rise cul-de-sac. The location is general in nature, as topographical and ground conditions may require slight adjustments.

The Shire understands that Mr Nobes acquired the yacht with the intention of sailing around Australia, pulling into various harbours and ports creating general awareness around dementia care. This plan did not eventuate, and subsequently wished to create that same awareness in Bindoon using the yacht as a monument to this endeavour.

Lot 89 Koomal Street is approximately 3.6 hectares in area, contains some native vegetation, and is used seasonally for local events such as the Bindoon Agricultural Show and the Spring Festival. Under the Shire's Local Planning Scheme No. 6 (LPS6), it is zoned 'Townsite'. As noted previously, the land is owned in freehold by the Shire.

At the expiry of the approval, the Shire wrote to Mr Nobes advising that the approval had expired (Attachment 1). This letter went unanswered, thus the Shire again wrote to Mr Nobes (Attachment 2). After this letter went unanswered, the Shire issued a formal directions notice pursuant to S.214 of the Planning and Development Act 2005 ('the Act') (Attachment 3). This letter also went unanswered. It should be noted that Mr Nobes confirmed receipt of the letters at both the April 2022 and July 2022 Ordinary Meetings of Council. There is no doubt that Mr Nobes received the letters and contents within.

Accordingly, the Shire is now in a position to force the removal of the yacht by whatever means necessary. This may also mean the sale of the yacht. In that instance, Council may consider any yacht proceeds being returned to Mr Nobes. Another example may be to place it towards the creation of aged care in the Shire.

Consultation Summary

Local

Mr Nobes has been consulted on a number of occasions. Council's solicitors were also sought for counsel on the matter, which is detailed later in this report.

State

Legislative Implications

State

- Planning and Development Act 20015

Section 214 of the Act sets out the manner in which a responsible authority has the powers to issue and act upon a directions notice.

Local

Nil

Policy Implications

Nil

Financial Implications

Council is requested to give direction as to where proceeds from the removal and / or disposal of the yacht monument may be allocated. Should Council resolve to invest the proceeds, this will result in a modification to the approved 2022/23 budget, and subsequently the decision requires absolute majority decision.

Strategic Assessment / Implications

Local

- Strategic Community Plan 2022-2032
 Focus area: Administration and Governance
 Objective: S5.2 Accountable and Transparent Governance
 Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

Site Inspection

Site inspection undertaken: Yes.

The yacht is stationed at the site and is surrounded by a 1.8 metre fence and an A2 sized monolith sign, that features faded articles relating to aged and dementia care. There is no other evidence that the yacht is in any way a monument to aged or dementia care.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Risk Category: Reputation	Possible	Insignificant	Low	Council is consistent with its original decision.
Opportunity: Nil				

Officer Comment/Details

In pursuit of this matter and its unusual nature, the following legal counsel was received:

“(I)t is possibly arguable that the Shire should comply with the provisions of the Disposal of Uncollected Goods Act 1970, but I am inclined to recommend against it as it will further delay a resolution of the matter and will involve further contact with Mr Nobes.

In my view, as the Planning and Development Act 2005 (PDA) is silent as to the responsibilities of local governments who act in default of a direction under section 214 of the PDA, the Shire has a reasonable basis to take the position that it can remove and dispose of the yacht in default of the direction in any manner it sees fit.

The Shire indicates that its preference is for the yacht to be removed from the land by whatever means necessary. I would recommend that the Shire write to Mr Nobes to advise that he has failed to comply with the direction given under section 214 of the PDA and that the Shire is now proceeding to act in default of that direction and will be disposing of the yacht accordingly.

Once the Shire has given that notice to Mr Nobes, the Shire can attempt to sell or otherwise dispose of the yacht. If Mr Nobes would prefer to collect the yacht, the Shire could allow him to do so at no cost, but he can be advised that he will need to do so as a matter of urgency as the yacht may otherwise be disposed of.

As noted above, there is some potential uncertainty as to the Shire’s obligations when disposing of goods in default of a direction under section 214 of the PDA, but proceeding to dispose of the yacht in the manner proposed above is the most practical and efficient way of bringing this matter to a conclusion and Mr Nobes will still have a brief opportunity to resume possession of the yacht after receiving notice from the Shire.”

The advice is clear and direct. Additionally, the Shire has been amenable and empathetic to the intent of the monument at all times. This is reinforced by issuing requests on three occasions.

The Act is silent on the removal and disposal of goods. For this reason, Council's direction is requested to act upon its removal in case of dispute that Shire staff have no heads of power. It is considered that the direction applied is sufficient basis for staff to pursue its removal and disposal, though it is noted that Mr Nobes will be provided with every opportunity to resolve the matter prior to any action being taken by the Shire, as per the legal advice.

OFFICER RECOMMENDATION

Moved Cr Hughes, seconded Cr Angus

That Council exercises its authority in pursuance of Section 214 of the Planning and Development Act 2005:

1. Permits the Chief Executive officer to undertake all things necessary to remove and dispose of the yacht monument as located on Lot 89 Koomal Street, Bindoon; and
2. Directs any proceeds to be allocated to the aged care project in the Shire.

AMENDMENT

Moved Cr Angus, seconded Cr Campbell

That the officer recommendation be amended to read as follows:

1. Directs any proceeds, after expenses have been deducted, from the removal and disposal of the yacht monument to the legal owner.

CARRIED 5 / 1

TIME: 7.43PM

For: Cr King, Cr Angus, Cr Hughes, Cr Ross, Cr Campbell

Against: Cr Dewar

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 060822

Moved Cr Hughes, seconded Cr Angus

That Council exercises its authority in pursuance of Section 214 of the Planning and Development Act 2005:

1. **Permits the Chief Executive officer to undertake all things necessary to remove and dispose of the yacht monument as located on Lot 89 Koomal Street, Bindoon; and**
2. **Directs any proceeds, after expenses have been deducted, from the removal and disposal of the yacht monument to the legal owner.**

CARRIED BY ABSOLUTE MAJORITY 6 / 0

TIME: 7.48PM

TECHNICAL SERVICES

Nil

CORPORATE SERVICES**CS01 – 08/22 List of Accounts Paid for the Period Ending 31 July 2022**

Applicant	Shire of Chittering
File ref	12/03/4
Author	Finance Officer - Accounts
Authorising Officer	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 31 July 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 31 July 2022.

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 ImplicationsLocal

Executive Manager Corporate Services

State

Nil

Legislative ImplicationsState

Local Government Act 1995

Local Government (Financial Management) Regulations

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

All expenditure has been approved via adoption of the 2022/23 Annual Budget, or resulting from a Council resolution for a budget amendment.

Strategic Implications

State

Nil

Local

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance	Low	Minor	Low	Quality Assurance prior to publishing
Opportunity: None				

Officer Comment/Details

The attached "List of Accounts Paid as at 31 July 2022" is presented to Council for endorsement.

<p>OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070822 Moved Cr Angus, seconded Cr Ross That Council endorses the following List of Accounts Paid as per Attachment 1 totalling \$1,060,766.46 for the period ending 31 July 2022:</p> <ol style="list-style-type: none"> 1. PR6088, PR6089, PR6091, PR6095; 2. EFT23716 – EFT23870; and 3. Direct Debits, Cheques as listed. <p style="text-align: right;">CARRIED UNANIMOUSLY 6 / 0 TIME: 7.50PM</p>
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CS02 – 08/22 Monthly Financial Report for the Period Ending 31 July 2022

File ref	12/03/4
Author	Senior Finance Coordinator
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for the Period Ending 31 July 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to consider the financial statement for the period ending 31 July 2022.

Background

In accordance with *Local Government (Financial Management) Regulations 1996*, the Financial Activity Statement has been prepared in compliance with the following:

“Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, which requires a local government to prepare a statement of financial activity each month, presented according to nature and type, by program, or by business unit. For the 2019/20 financial year the statement of financial activity will be presented by nature and type.

Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, which requires a local government to adopt a percentage or value, calculated in accordance with Australian Accounting Standards, to be used in statements of financial activity for reporting material variances. For the 2019/20 financial year 10% and a value greater than \$100,000 will be used for the reporting of variances.”

Consultation/Communication Implications

This document has been prepared in consultation with Responsible Officers for review and analysis.

Legislative ImplicationsState

This monthly financial report complies with *Section 6.4 of the Act and Regulations 34(5) of the Local Government (Financial Management) Regulations 1996*.

Local

Nil

Policy ImplicationsLocal

Finance Policy 2.1 Budget Preparation

Finance Policy 2.2 Investment of Funds

Finance Policy 2.7 Significant Accounting Policies

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2022-2032

Focus area: Strong leadership

Objective: S5.2 Strong partnerships and relationships

Strategy: S5.2.1 Built effective partnerships with stakeholders

Objective: S5.3 Accountable governance

Strategy: S5.3.1 Good governance, which supports efficient and effective service delivery

Site Inspection

Not applicable

Risk Assessment/Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance	Rare	Minor	Low	Quality Assurance prior to publishing
Opportunity: None				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: Providing transparent, accurate financial records.	Unlikely	Minor	Low	Adequate training for all Finance Officers, to ensure balanced reports each month.
Opportunity: None				

Officer Comment/Details

Council adopted the Annual Budget for the 2022/23 financial year on 29 June 2022 (Resolution 170622). The figures in this report are compared to the Adopted Budget.

<p>OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080822 Moved Cr Campbell, seconded Cr Ross That Council receives the Monthly Financial Report for period ending 31 July 2022, as per Attachment 1.</p> <p style="text-align: right;">CARRIED UNANIMOUSLY 6 / 0 <small>TIME: 7.52PM</small></p>
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CHIEF EXECUTIVE OFFICER**CEO01 – 08/22 WALGA Annual General Meeting 2022 Voting Delegates**

Applicant	Western Australian Local Government Association (WALGA)
File ref	14/01/0004
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council's consideration is requested to determine the voting delegates for the 2022 Annual General Meeting for the Western Australian Local Government Association (WALGA). The Annual General Meeting will be held on Monday, 3 October 2022 during the Local Government Convention at the Perth Convention and Exhibition Centre in Perth.

Background

Pursuant to the WALGA Constitution, all member councils are entitled to be represented by two voting delegates. Voting delegates may be either Elected Members or serving officers. In the event that a voting delegate is unable to attend, provision is made for proxy delegates to be registered.

The Shire of Chittering must notify WALGA of its voting delegates by Friday, 23 September 2022.

Consultation SummaryLocal

Nil

State

Nil

Legislative Implications

State

- *Local Government Act 1995, s9.58*

Local

Nil

Policy Implications

State

Nil

Local

- *Elected Member Policy 4.3 – Elected Members’ – Entitlements and Training*
 - 4. Professional conferences**
 - 4.1 *To enable members to develop and maintain skills and knowledge relevant to their role as a representative of the Shire, the Chief Executive Officer is authorised to arrange, at the Shire’s cost, and at the request of an Elected Member:*
 - a) *registration at professional conferences and meetings referred to above are to be:*
 - i) *considered by the CEO to be directly relevant to the Shire’s affairs; or*
 - ii) *convened by the Western Australian Local Government Association (WALGA) including the Convention.*
 - 4.2 *The type of conference that Elected Members attend will be related to a particular function or activity in which Council is involved rather than individual or personal development type conference/seminars.*
 - 4.3 *An Elected Member who is funded by the council to attend a conference, seminar, forum, delegation or similar event, shall participate as a representative of the council, not as an individual.*
 - 4.4 *Registration at conferences will include the dinner for the Elected Member.*
 - 4.5 *Subject to the Section 4.1, a maximum amount (per Elected Member) is set annually for attendance at conferences in accordance with the Shire of Chittering Annual Budget.*
 - 4.6 *For the purpose of Regulation 32(1)(a), the express authority by resolution of the Council is given to Elected Members to perform the following function – the attendance by an Elected Member at a professional conference, the registration for which is arranged by the Chief Executive Officer.*

Financial Implications

Attendance at the WALGA Annual General Meeting is free of charge to all member of local governments; lunch is not provided. All Convention delegates must register their attendance in advance. Registration for the Opening Welcome Reception that evening must also be notified in advance and will incur a cost for those not registered as a Full Delegate.

Elected Members are allocated an individual amount in the Shire’s Annual Budget that is used for their professional development (i.e. training, conferences, seminars, etc).

Strategic Assessment / Implications

State

Nil

Local

- Strategic Community Plan 2022-2032

Focus area: Administration and Governance

Objective: S5.2 Accountable and Transparent Governance

Strategy: S5.2.1 Become a leader in the areas of transparency, disclosure and public accountability

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: Non-attendance could be perceived as not participating fully in local government lobbying and advocacy activities.	Rare	Insignificant	Low	By sending members along to represent Council.
Opportunity: Nil				

Officer Comment/Details

Council is requested to appoint two delegates and two proxy voting delegates for the 2022 Annual General Meeting for WALGA.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090822	
Moved Cr Angus, seconded Cr Hughes	
That Council advise the Western Australian Local Government Association that the voting delegates and proxy voting delegates for the 2022 Annual General Meeting are:	
VOTING DELEGATES	PROXY VOTING DELGATES
1. Cr Mary Angus	1. Cr Carmel Ross
2. Cr Kylie Hughes	2. Mrs Melinda Prinsloo
CARRIED UNANIMOUSLY 6 / 0	
TIME: 7.55PM	

CEO02 – 08/22 Chief Executive Officer Recruitment

Applicant	N/A
File ref	22/02/83
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority (per local government act)
Attachments	1. CEO Recruitment Committee Terms of Reference 2. Council Policy 3.26 Standards for Recruitment of CEO's 3. Department of Local Government Guidelines: CEO Recruitment

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to note the resignation of Mr Matthew Gilfellow, the current Chief Executive Officer, and commence the process of the recruitment of a new Chief Executive Officer.

Background

In 2019 the requirements for the recruitment of a Chief Executive Officer changed. The minimum requirements that now must be met are:

- The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- The Council has approved, by absolute majority, the Job Description Form (JDF) which clearly outlines the qualifications, selection criteria and responsibilities of the position. The JDF is made available to all applicants.#
- The Council has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member, human resources consultant, or staff member of the local government.#
- The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year). The local government must advertise a vacancy for the position of CEO in the manner prescribed.

- The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- The local government has verified the recommended applicant's work history, qualifications, referees and claims made in their job application.
- The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how their knowledge, skills and experience meet the selection criteria.
- The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- The council has endorsed by absolute majority the final appointment.#
- The council has approved the employment contract by absolute majority.#
- The local government re-advertises the CEO position and undertakes a recruitment and selection process after each instance where a person has occupied the position for ten (10) consecutive years.

An absolute majority decision is required. Decisions requiring an absolute majority of Council cannot be delegated.

Consultation Summary

Local

Nil

State

Nil

Legislative Implications

State

- The establishment of a committee, CEO Recruitment and Delegation of Power are in accordance with the requirements of the Local Government Act 1995.

Local

Nil

Policy Implications

State

Nil

Local

- *Council Policy 3.26 Standards for Recruitment of CEOs*

Financial Implications

An additional Budget allocation will be required to appoint an external recruitment consultant. This amount will depend on the quotes received.

Strategic Assessment / Implications

Nil

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance: If the process of CEO Recruitment is not handled properly, there may be some non-compliance with the act.	Unlikely	Minor	Low	The appointment of a HR Consultant will assist with expertise in the process.
Opportunity: Nil				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Interruption to Service: If the process of CEO Recruitment is not handled properly, there may be an effect on the operation of shires services	Unlikely	Major	Moderate	The appointment of a HR Consultant will assist with expertise in the process.
Opportunity: There is an opportunity to recruit a CEO that has the right skills and knowledge required for the strategic direction of the shire, boosting the services offered.				

Officer Comment/Details

There are several decisions that must be made during the recruitment of a CEO, however the decisions to be made prior to advertising are:

1. The establishment of a CEO Recruitment Committee;
The establishment of this Committee is required to be a decision of Council and the appointment of members to the committee must be an Absolute Majority decision of Council. It is proposed that Council will establish the Committee and appoint the Council Members to the Committee at the August Ordinary Meeting of Council. Council will then appoint the Independent Member at the September Ordinary Meeting of Council.
2. The selection of an Independent Member for the CEO Recruitment Committee;
Council can run either an open or closed process for the recruitment of the Independent Member. It is proposed to run an open Expression of Interest Process.
3. The Approval of the Job Description Form (JDF);
It is proposed that the CEO Recruitment Committee develop the JDF with assistance from the Human Resource Consultant. The CEO Recruitment Committee will then make a recommendation to Council.
4. The appointment of a Human Resource Consultant if one is to be used.
It is proposed to use a Human Resource Consultant to assist with the process and to delegate power to the CEO Recruitment Committee to appoint their preferred Human Resource Consultant.

Due to the confidentiality of the process, all members of the CEO Recruitment Committee and any observers that attend a committee meeting or interview will be required to sign a confidentiality agreement.

The decision that will still be required by Council is the approval of the Job Description Form, however this decision will establish the CEO Recruitment Committee that can develop the JDF and make a recommendation to Council. This process will also be able to take into account the outcomes of the current CEO Performance Review Process and Key Performance Indicator establishment.

If a Human Resource consultant is appointed, they will have the expertise to assist the CEO Recruitment Committee in the process of recruiting a new CEO.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100822

Moved Cr Hughes, seconded Cr Ross

That Council:

- 1. Notes and accepts the resignation of Mr Matthew Gilfellon as Chief Executive Officer dated 28 July 2022, with the last working day to be 21 October 2022 and a termination date of 30 October 2022;**
- 2. Approves the Terms of Reference of the CEO Recruitment Committee as per Attachment 1;**
- 3. Establishes the CEO Recruitment Committee, comprising the following members:**
 - a. Cr Aaron King**
 - b. Cr Mary Angus**
 - c. Cr Carmel Ross**
 - d. Cr Kylie Hughes**
 - e. Cr John Curtis**
 - f. One independent member;**
- 4. Delegates to the CEO Recruitment Committee all powers necessary to enable the Committee to undertake all the administrative aspects of the recruitment process including:**
 - a. Appointment of a professional recruitment consultant;**
- 5. Instructs the CEO to undertake a request for quote process for the appointment of an external recruitment consultant in relation to the recruitment of a new CEO;**
- 6. Instructs the CEO to conduct an Expression of Interest process, on advice from the CEO Recruitment Committee, for an Independent Committee member with the Expressions of Interest received to be presented to Council at the September 2022 Ordinary Meeting of Council or as soon as practicable after this meeting;**
- 7. Approves additional Budget allocation for the external recruitment consultant.**

CARRIED BY ASBOLUTE MAJORITY 6 / 0

TIME: 7.59PM

CEO03 – 08/22 Container Deposit Scheme Utilisation

Applicant	N/A
File ref	31/01/3
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
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<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to note the information provided following the investigation into increasing the utilisation of the Container Deposit Scheme.

Background

The Shire of Chittering currently runs a Containers for Change Depot and Bag Drop at the Muchea Waste Site. On 21 October 2020, Council requested an investigation into increasing utilisation of the Containers for Change Scheme. The outcomes of this investigation are shown in the officer comments.

Consultation SummaryLocal

Nil

State

Nil

Legislative Implications

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Assessment / Implications

Local

- Strategic Community Plan 2022-2032
 Focus area: Natural Environment
 Objective: S2.1 Sustainable Lifestyle
 Strategy: S2.1.2 Improved Waste Management & Recycling Practices

Site Inspection

Not applicable

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Reputation: Recycling initiatives are a 'good news' story.	Rare	Insignificant	Low	Nil
Opportunity: Nil				

Officer Comment/Details

Do to the lack of officer resource in the area of Recycling/Sustainability/Environment, this investigation has been undertaken in parts over a lengthy period as it had to be conducted around the duties of officers for other areas.

The Shire of Chittering is one of the few local governments in the Wheatbelt area to operate a Containers for Change Depot. Many local governments either did not put in an expression of interest, or were not considered large enough to have a depot.

Since the commencement of the depot, the shire has provided support for increased utilisation both through a policy to set up potential locations for community groups to operate donations points and providing funding to a community group to purchase a trailer to act as a mobile donation point. Anecdotally, the highest success in increasing utilisation has been through community groups utilising their purpose to encourage recycling as a fundraising effort.

The shire currently does not have the resources to make additional efforts or to encourage the community to better utilise the service. Current resources are utilised on running the waste sites and Containers for Change Depot. The first step in better utilisation would be increasing the expertise of the shire through the employment of a Recycling/Sustainability/Environmental Officer. The second would then be providing additional resources to provide additional or an increased service such as pop-up donation/collection points throughout the shire.

Methods utilised by other areas have been examined, however most methods require additional resources for implementation. On trial currently underway is the addition of wire baskets on the side of public bins that allow persons to place containers in the basket and other persons to take the container from the basket and then return the container to a depot. Results so far have been promising and the shire has expressed an interest in the baskets.

<p>OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110822 Moved Cr King, seconded Cr Angus That Council note the information contained in the agenda item.</p> <p style="text-align: right;">CARRIED UNANIMOUSLY 6 / 0 <small>TIME: 8.00PM</small></p>

CEO04 – 08/22 Approval for Award of Tender SC22-002 Construction of Muchea Recreation Centre

Applicant	Shire of Chittering
File ref	FIN.TEN.SC22/002
Author	Building Surveyor/Project Manager
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Lange Consultants Tender Evaluation Report (Confidential) 2. Lange Consultants Procurement Plan 3. Structural Report of Muchea Town Hall 4. Pest Report of Muchea Town Hall

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
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<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to consider and award the tender for the construction of the Muchea Recreation Centre. Four valid tenders were received from the following companies:

- BE Projects (WA) Pty Ltd
- Devlyn Construction
- Geared Construction Pty Ltd (WA)
- McCorkall Construction. (W.A.) Pty Ltd

The pricing was per the below table:

Respondent:	Regional Price Preference	Assessment Price
BE Projects		\$5,303,690.69
Devlyn Construction		\$5,859,237.00
GEARED CONSTRUCTION	Local PM.	\$4,964,388.00
MCCORKELL CONSTRUCTIONS		\$5,500,001.00

An assessment has been made on the compliance criteria, qualitative criteria and price of all four tenderers. All four tenderers scored highly in the qualitative assessment.

The preferred tenderer is Geared Construction Pty Ltd (WA) as they have been assessed as providing the best value for money for the project.

Additionally, Council is requested to receive the Structural Report and Pest Report of the Existing Mucnea Hall.

Background

In June 2019, the Mucnea Hall Users Group presented a multi-year plan to Council for the upgrade of the facilities in Mucnea. The Plan incorporated the following elements:

2020/21	Commence Construction of the Mucnea Sporting and Community Centre
2021/22	Carpark on the Northern End of the Facility
2021/22	Completion of handover of the Mucnea Sporting and Recreation Centre to sports clubs, existing members and community
2021/22	MHUG clubs hand back existing clubrooms, kitchen and storage to Council, so Council can rent this out to shire residents
2021/22	Upgrade existing lighting on the oval
2022/23	Old change rooms upgraded
2022/23	A 2nd oval built close to Mucnea
2022/23	Re-surface netball court, install lights and build a patio to cover court from rain.
2022/23	Convert existing clubrooms to a community gym
2023/24	Move existing playground to Northern End of the facility so it is next to the Mucnea Sporting and Community Centre
2023/24	Major upgrades to the existing Mucnea Hall and toilets
2024/25	Upgrade car parking around the entire facility that has not already been finished
2024/25	Beautification of the facility especially around the Mucnea Sporting and Community Facility
2025/26	Replace existing netball court patio
2025/26	Expansion of cricket nets

The plan was not adopted by Council; however, Council did support the construction of the Mucnea Sporting and Community Facility and provided funding toward the development of a Business Case and grant application. During this process, the plan was refined to three stages comprising:

Stage 1:	Construction of sporting club and change rooms.
Stage 2:	Construction of carpark (and overflow carpark if required) Relocation/construction of playground

Stage 3: Construction of Community Centre
 Demolition of existing Muchea Hall
 Landscaping
 Cricket net lighting
 Oval lighting

In September 2020, a grant application was submitted for the State Government's Community Sport and Recreation Facility Fund (CSRFF) for the construction of new Clubrooms and Change rooms in Muchea to replace the outdated facilities in Muchea.

Following the success of the grant application, an item was taken to the February 2021 Ordinary Meeting of Council and then the March 2021 Ordinary Meeting of Council. It was decided at the March 2021 Ordinary Meeting of Council to proceed with the project and as part of this, incorporating the demolition of the Muchea Hall in order to save on maintenance and operational costs in the long term.

As part of legislative requirements, the transparency of Council and as part of community engagement, the project Business Case was advertised to the public for comment in accordance with Section 3.59 of the Local Government Act of 1995.

At the April 2021 Ordinary Meeting of Council, a Reference Group for the project was established and a terms of reference adopted.

At the May 2021 Ordinary Meeting of Council, the members of the Reference Group were appointed and the Architect for the project, Site Architectural Studio, were also appointed. The development of the plans commenced following this meeting.

The Muchea Recreation Centre Reference Group resolved at the 25 October 2021 meeting that the Muchea Recreation Centre Project would be placed on hold to enable Shire staff to seek direction from Council with regard to the budget of the project, in light of potential funding shortfalls and sharply increasing costs of construction across Western Australia.

A Council Workshop for the project was held on Thursday, 2 December 2021. The intention of this session was to brief new Councillors on the background of the project, progression of the project to date and for Council to consider the financial implications of any decisions pertaining to this project as determined by Council Resolution at the December Ordinary Council Meeting. The workshop considered the following three options.

- Option 1 Retain the current design concept, demolish the existing hall and develop a new layout over the sight of the existing hall.
- Option 2 Retain the existing club rooms (hall), build the proposed change rooms only, and delay construction of the new club rooms to a later date:
- Option 3 Proceed to tender based on the designs developed in conjunction with the Muchea Recreation Centre Reference Group.

While no decisions were made at the workshop, there appeared to be a mixture of support for all three options, however, a majority appeared to indicate a desire to proceed with trying to complete the project in full.

At the December 2021 Ordinary Meeting of Council, an officer recommendation was presented to Council to release the tender for the construction of the clubrooms and changerooms and to develop a project plan for the redevelopment of the netball courts. Council made the following decision:

ALTERNATIVE MOTION / COUNCIL RESOLUTION 111221

Moved Cr King, seconded Cr Hughes

That Council:

- 1. Instruct the CEO to procure professional services to provide detailed cost estimates for each of the three options listed in item 2 below, including all of the assignment exclusions and services proposed to be supplied the Shire, associated infrastructure, services and utilities;*
- 2. Confirm the three options to be costed are:*
 - a) Option 1 – Retain the Muchea Hall, build the proposed new club room over the existing netball court, build the new change room, build a new fourth netball court (in a 2 x 2 configuration) with lighting, refurbish the existing three netball courts with upgraded lighting as required, replace the existing machinery storage shed, then demolish the Muchea hall and redevelop the area;*
 - b) Option 2 – Demolish the Muchea Hall upfront, retain the current change rooms design and develop a new layout over the site of the existing hall, refurbish the netball court surfaces and upgrade lighting, and replace the existing machinery storage shed*
 - c) Option 3 - Retain the Muchea Hall and allow for essential refurbishment only, build the new Change Rooms only, decommission the existing change rooms, and refurbish the existing four netball court surfaces and upgrade lighting.*
- 3. Instruct the CEO to provide a report on the sources of secured project funding, including the Shire's contribution, community contribution from grants, donations and in-kind sources;*
- 4. Authorise the Architects professional services fee to be funded from the undrawn budget allocation for professional services; or if not sufficient, authorises additional allocation from the current budget;*
- 5. Instruct the CEO to table a report at the February 2022 Ordinary Council Meeting or at a Special Council Meeting if the information is available earlier.*

CARRIED BY ABSOLUTE MAJORITY 4 / 3

TIME: 7.52pm

For: Cr King, Cr Hughes, Cr Dewar, Cr Curtis

Against: Cr Ross, Cr Angus, Cr Campbell

Following the December Ordinary Meeting of Council, a Council briefing session was held on 22 December 2021 with Site Architecture Studio to provide more specific direction on the Muchea Recreation Centre Project. At this meeting Council instructed Site Architecture Studio to draw up the costings for the following staging components, based on what they have already established through hydraulic and electrical consultant reports and the QS measured structural concept.

- | | |
|---------|---|
| Stage 1 | Build the new change room, replace the existing machinery storage shed and do all necessary ancillary works to enable future stages, such as ATU systems. |
| Stage 2 | Build the proposed new club room over the existing netball court, retaining the existing hall until the completion of build. |
| Stage 3 | Build a new fourth netball court (in a 2 x 2 configuration) with lighting, refurbish the remaining netball courts. |

Site Architecture Studio as the appointed Architect for the project, provided the above costings to Council on 27 January 2022.

A subsequent Council workshop was held on 3 February 2022 to review the costings and determine the way forward for the project.

Council at its February 2022 Ordinary Council Meeting resolved in item 140222 to instruct the Chief Executive Officer to proceed with the Tender Purchasing Process for the construction of the Muchea

Recreation Centre. At the meeting, a fourth stage was also added to the project.

The resolution further instructed the release of the tender as a separable portion tender, where portions may include Stage 1 only; Stage 2 only; Stage 3 only; Stage 4 only; Stages 1 and 2 combined; Stages 1, 2, and 3 combined; Stages 1, 2, 3 and 4 combined.

Once sufficient documentation had been developed, Council at its May 2022 Ordinary Council Meeting resolved in item 070522 added clarification that “the technical and commercial bid evaluation assessment criteria of the Construction tender for the Muchea Recreation Centre (be) as follows:

- Relevant Experience 50%
- Resources and Capacity 20%
- Methodology 30%”

Instruction was also given that Lange Consulting and software procurement plan be used to manage the Tender Evaluation Process. Pursuant to that instruction, Lange Consulting Procurement Plan was followed. Pursuant to the Council resolutions, a severable portions Tender was released. To limit the possibility of cost escalations, Tenderers were required to provide a fixed price Tender.

Separately, though interlinked, Council also at its May 2022 Ordinary Council Meeting instructed that a Building Report and Pest Inspection for the existing Muchea Town Hall building be prepared to detail previous maintenance costs and estimated future maintenance costs. To undertake this report, two companies were engaged. The subsequent reports from Core Business Aust. and Redmond Pest Control are attached.

Consultation Summary

Local

This project commenced with local sporting groups approaching the shire, so the initial project development was community led.

The shire continued to work with the sporting groups throughout the process including employing a consultant to develop the Business Case and Grant Application for the Community Sport and Recreation Facility Fund grant that was received and the AFL Grant that was also received. The sporting groups had a heavy involvement with the consultants development of these grants.

This consultation continued with the establishment by Council of a Muchea Recreation Centre Reference Group once the grant was awarded. The reference group included Council, community and sporting group representatives. This group met seven times to assist in the development of the design of the Muchea Recreation Centre.

The wider community was consulted too. In the August 2020 round of Community Advisory Forums, the community was given an update of the project including the estimated costs and the loan effects on the Long Term Financial Plan taking into consideration the costs and loan effects of the other projects that the shire was pursuing. This presentation was made at the Muchea, Lower Chittering, Bindoon and Wannamal Community Advisory Forums.

Again at the March 2021 Community Advisory Forums another update on the Project was given including the updated costs that had been developed. This presentation was made to the Muchea, Lower Chittering, Bindoon and Wannamal Community Forums.

The 2021-2022 Budget Presentation included this project and had a strong emphasis on the loan and Long Term Financial Plan effects of the project.

Newsletters giving updates on the project were circulated in August 2021 and April 2022. A Media Release was also released in July 2021. The shire has also kept an up to date project page on the website that includes the project process and relevant documentation.

A survey was conducted for the project in 2020 as part of the CSRFF Grant Application Process. A second wider survey was sent to all ratepayers of the Shire of Chittering to gain an understanding of the desired sporting facilities across the shire. The response for Muchea showed a desire for traditional team sports such as Football, Netball and Cricket.

The Business Plan was also released to the community for comment in accordance with Section 3.59 of the Local Government Act 1995.

The tender process was conducted in accordance with Council Policy 2.11 – Purchasing. The tender process opened 30 May and closed 25 July 2022.

The tender was advertised in the following ways:

- Shire Website & Facebook – 26 May 2022
- The West Australian – 28 May 2022

State

The state sporting associations from cricket, netball and Australian rules football have all been consulted as part of this process. The Department of Local Government, Sports and Culture has also been consulted.

Legislative Implications

State

- Local Government Act 1995
Section 3.57 of the Act describes the means in which a Local Government is to tender for the provision of goods or services.

Policy Implications

State

Nil

Local

- Council Policy 2.11 - Purchasing
Preparation, advertising and scoring of the tender was undertaken in accordance with this policy, in particular tenders over \$249,999 in value.

Financial Implications

As there is sufficient budget allocated for the preferred tenderer, there is no financial implications in making this decision.

Strategic Assessment / Implications

- Strategic Community Plan 2012-2032

Focus area:	Community
Objective:	S1.1 An Active and Supportive Community
Strategy:	S1.1.2 Social hubs to bring the community together
Focus area:	Built Environment
Objective:	S3.2 Improving Infrastructure
Strategy:	S3.2.3 Provision of community facilities to allow sport and recreation participation

State

Nil

Site Inspection

Five companies attended the Site Inspection.

The site inspection was not compulsory due to the effects of COVID 19 isolation and some chose to visit the site after the designated Site Inspection. They directed questions over the phone.

Two addendas to the Tender were issued to all those that registered with Lange Consulting for the Tender Documents. The addendas addressed all questions arising from the site inspection and received by phone or Email.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Interruption to Service: Bankruptcy of Builder	Unlikely	Extreme	High	The shire intends to take out Construction Insurance from LGIS.
Opportunity: Nil				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Financial Impact: Cost Escalations	Unlikely	Moderate	Moderate	A fixed price tender was received. There has been over \$70,000 spent on various consultants to ensure that the plans developed and assessment of the tender will result in a project finalised within budget.
Opportunity: There is currently an opportunity to get the full project completed now which reduces the future risk of further cost increases, interest rate increase, consultant costs and staff time to finish the full project that has been developed by Council.				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Interruption to Service: Materials shortage	Possible	Moderate	Moderate	The design of the building and selection of tenderer have taken into account potential material shortages.
Opportunity: Nil				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Interruption to Service: Labour shortage	Unlikely	Moderate	Moderate	Tender Selection Process. Resourcing, Qualitative Criterion.
Opportunity: Nil				

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Property: Poor Workmanship	Unlikely	Moderate	Moderate	Tender Selection Process. Good Supervision.
Opportunity: Nil				

Officer Comment/Details

Four tenders were submitted by the following tenderers:

- BE Projects (WA) Pty Ltd
- Devlyn Construction
- Geared Construction Pty Ltd (WA)
- McCorkall Construction. (W.A.) Pty Ltd

The evaluation panel was comprised of the following:

- One Shire of Chittering Officer with experience in procurement;
- One Shire of Chittering Officer with technical expertise in relation to building construction;
- One external member with expertise in architecture and building construction.

The following qualitative and quantitative criteria applied to the tender:

Criteria:	Evaluation Criteria Description:	Weighting
1.	Relevant Experience	50%
2.	Resources and Capacity	30%
3.	Methodology	20%
4.	Safety Management	Non-weighted
5.	Price	Non-weighted

The following is a summary of the qualitative assessment:

Relevant Experience – 50%

Relevant experience is critical to the work requirements, due to the unique nature of the work requirements. A summary of the assessment for this criterion is as follows:

Respondent:	Score (out of 5)	Summary:
BE Projects	4.33	Respondent experienced in relation to the contract requirements. Although a smaller builder seems to have a good track record. Limited experience demonstrated of working on similar size projects. Experience appeared to be more of renovation type works.

Devlyn Construction	4.67	Respondent experienced in relation to the contract requirements; 5 relevant examples. inc site works. Experience demonstrated in similar type projects but smaller in size. Working in a live environment demonstrated. No experience demonstrated in installation of a sporting surface.
GEARED CONSTRUCTION	4.00	Minor deficiencies, Respondent can demonstrate experience relevant to the contract, however lacks some key information and capacity demonstration. Previous projects are mostly below \$1,000,000 value, small team with considerable workload in 2023. Geared have completed similar size and use type facilities. They have operated in a live environment. There was no evidence of construction of sporting surfaces.
MCCORKELL CONSTRUCTIONS	5.00	No deficiencies, all requirements satisfied, Respondent very experienced in relation to the contract requirements McCorkell have completed similar sized and use type facilities including not just the building but also sporting service and using specialist subcontractors for the purpose. Limited experience demonstrated of working in a 'live' environment.

Resources & Capacity – 20%

Resources & Capacity is critical to assess the Respondents' ability to complete the work requirements. A summary of the assessment for this criterion is as follows:

Respondent:	Score (out of 5)	Summary:
BE Projects	3.33	Some deficiencies, can demonstrate some level of resourcing and capacity. Doubts over organisation size or staff experience. Seems a large percentage of staff have been with the company less than 1 year BE is smaller in resources than others and with their current commitments, it does not appear that they have as much capacity for this project.
Devlyn Construction	4.67	Minor deficiencies, can demonstrate that they are of a sufficient size and have adequately experienced and qualified staff. Respondent adequately resourced and has current capacity but late completion date. Devlyn has the most resources of the tenderers and has plant and equipment. The list of commitment appears to be manageable considering the size of the tenderer.

GEARED CONSTRUCTION	3.67	Minor deficiencies, can demonstrate that they are of a sufficient size and have adequately experienced and qualified staff. Previous projects are mostly below \$1,000,000 value, small team with considerable workload in 2023. Available resources limited due to other current projects two of which are completing in February 2023 Geared has a smaller resource base than others, but does not appear to have as many commitments to other projects.
MCCORKELL CONSTRUCTIONS	4.67	McCorkell appear to have the necessary resources for their current project commitments.

Methodology – 30%

Methodology is critical to assess the Respondents’ understanding of the work requirements. A summary of the assessment for this criterion is as follows:

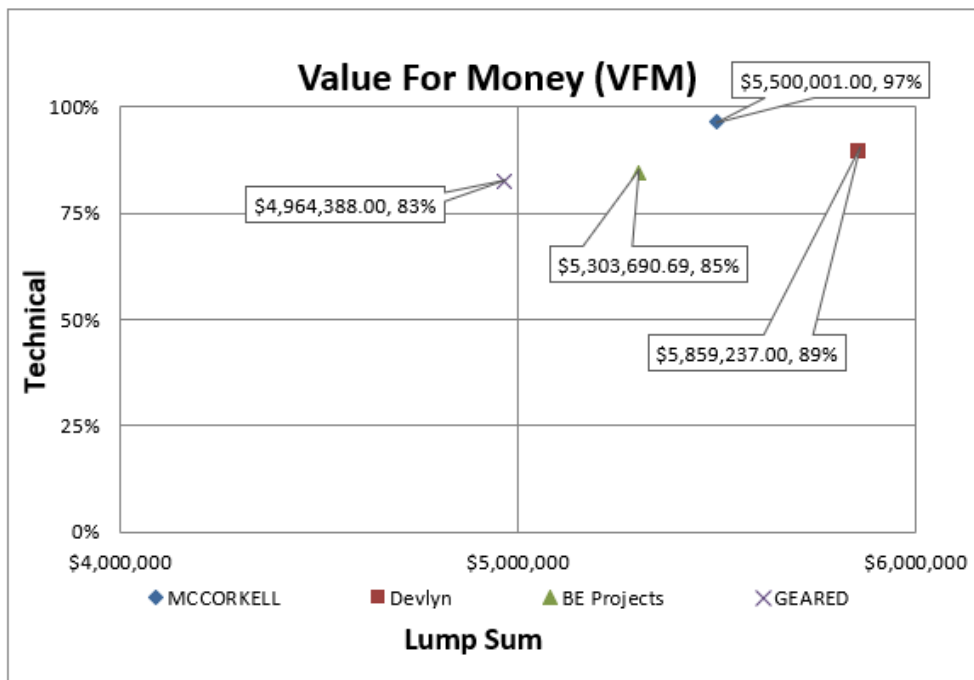
Respondent:	Score (out of 5)	Summary:
BE Projects	4.67	Minor deficiencies, Respondent provided methodology relevant to the contract. Methodology suitable to satisfy contract requirements Planned Completion 19-07-2023. A considerable amount of effort has been put into a staging plan for this complicated project. Methodology appears to be well thought through and mostly meets the requirements of the shire.
Devlyn Construction	4.00	Some deficiencies, gaps in proposed methodology and how it applies to the contract requirements. 52 week construction duration completion April 2024 Methodology appears to be well thought through and mostly meets the requirements of the shire.
GEARED CONSTRUCTION	4.67	Minor deficiencies, Respondent provided methodology relevant to the contract. Completion Date 28-10-2023 Methodology appears to be well thought through and mostly meets the requirements of the shire.
MCCORKELL CONSTRUCTIONS	4.67	Minor deficiencies, Respondent provided methodology relevant to the contract. Completion Date Sept 2023. GANTT seems very congested. Methodology appears to be well thought through and mostly meets the requirements of the shire.

The following prices were given by the tenderers:

Respondent:	Regional Price Preference	Assessment Price
BE Projects		\$5,303,690.69
Devlyn Construction		\$5,859,237.00
GEARED CONSTRUCTION	Local PM.	\$4,964,388.00
MCCORKELL CONSTRUCTIONS		\$5,500,001.00

All companies submitted a fixed price tender, though Devlyn Construction indicated a desire to allow for cost escalations. A Quantity surveyor has been contracted to provide further analysis on the tenders including the exclusions to the tender.

A value for money assessment was performed. All tenderers scored high in the qualitative assessment and passed the compliance criteria. This meant that price became a larger determining factor.



Following the Value for Money Assessment, the preferred supplier was Geared Constructions. Tender checks were performed on Geared and the replies received were very positive. The current building industry conditions have been extremely testing, yet according to one referee Geared Constructions have been able to navigate this and remain on budget and on schedule.

Shire Officers followed up on the pricing schedule submitted by Geared Construction and received a reasonable explanation so the price tendered is the correct price.

Throughout this project there has been consistent requests for further information and further checks before Council proceeded to the next stage. While some of this can be attributed the current building industry conditions, there is also recent local experience of what can happen when a project is cancelled to

a further point in the future, only to find that conditions get worse. There is less funding, building construction costs more and interest rates rise. This reluctance to make a decision during this project has already resulted in additional cost increases in the realm of hundreds of thousands of dollars, increased interests cost for the next 20 years and significant staff time and resources on continued project development.

There has been significant risk mitigation of this project including:

- Several discussion on the Long Term Financial Plan and the potential effects of various options. This project now fits well within the current Long Term Financial Plan that is based on low rate increases;
- Further architectural designs and quantity surveyor estimates prior to the release of the tender;
- The use of expert assistance to run the tender process;
- Several reference checks on the preferred tenderer;
- The use of a quantity surveyor to assess the tendered price including the cost of exclusions;
- The use of expert assistance for financial viability checks.

There has been recent discussion regarding the delay of Stage 3&4, or the lighting portions of these stages, to seek further funding. Investigations of the grant opportunities have discovered the following information:

- The Club Night Lights Funding could cover up to one third of the costs of new or additional lighting including the electrical work for the lighting. The electrical work however would need to be performed prior to the court resurfacing which could only be done if the shire was successful in the current round;
- To upgrade the lights to competition standard, not training standard, would require assessment against the following principles. It is presumed that competition standard is desired as the additional courts are being built to ensure the capacity for competitions:
 - project justification
 - planned approach
 - community consultation
 - management planning
 - access and opportunity
 - design
 - financial viability
 - coordination
 - potential to increase physical activity
 - sustainability;
- Lighting above training standards also requires support of the relevant State Sporting Association. This would need to be gained within the coming 1.5 weeks due to the grant application deadline. The support is not guaranteed as no competitions are currently played at the courts;
- Court resurfacing works are considered a low priority which means that it is unlikely to receive grant funding considering the fund is four times oversubscribed.

Had the officer recommendation been followed at the December 2021 Ordinary Meeting of Council, the shire may have now been in a good position to receive more funding for the netball courts and court lighting. Council however have consistently included the netball courts in the overall project which means the shire is now in the position that to receive funding it would require a rushed application, further work and negotiation of officers, a small chance of being successful, further tenders and the potential that the completion of the project is delayed. With the pricing received from the preferred tenderer, it would also still cost the shire more to delay a portion of the project rather than proceed in full.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120822

Moved Cr Angus, seconded Cr Ross

That Council

1. Accept the tender submitted by GEARED CONSTRUCTION PTY LTD (WA) of 29 Fortitude Bvd, Gnangara WA 6077, for Tender SC/22-002 CONSTRUCTION OF MUCHEA RECREATION CENTRE AT MUCHEA WA, in accordance with the tender documentation and for the fixed lump sum price of \$4,964,388 excluding GST;
2. Enter into a contract with GEARED CONSTRUCTION PTY LTD (WA) of 29 Fortitude Bvd, Gnangara WA 6077, for Tender SC/22-002 CONSTRUCTION OF MUCHEA RECREATION CENTRE AT MUCHEA WA in accordance with the tender documentation and for the fixed lump sum price of \$4,964,388 excluding GST.

CARRIED UNANIMOUSLY 6 / 0

TIME: 8.49PM

AMENDMENT 1

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Notes the Chief Executive Officers Delegated Authority (1.2.15 Tenders for Goods and Services Function (10)) to vary contracts up to 10% and within \$150,000 ex GST.

LOST 2 / 4

TIME: 8.16PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

AMENDMENT 2

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Notes Club fundraising and grants totalling \$648,630 as follows to be remitted to the Shire of Chittering:
 - a. Muchea Hall User Group fundraising of \$68,630;
 - b. WACA grant of \$30,000;
 - c. Election promise of \$150,000 from Hon. Darren West MLC;
 - d. State Government CSRFF grant of \$300,000; and
 - e. AFL – Australian Football Facilities Fun (FFF) grant of \$100,000.

LOST 2 / 4

TIME: 8.24PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

AMENDMENT 3

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Notes the Budget allocation supported by the Long Term Financial Plan for total borrowings of \$5,179,978 and estimated principal and interest payments of \$365,984 per annum from the Western Australian Treasury Corporation (WATC) to fund the project.

LOST 2 / 4

TIME: 8.33PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

AMENDMENT 4

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Notes the total project Budget of \$5,678,608 inclusive of all works required for the handover of a fully operational facility in accordance with the project scope.

LOST 2 / 4

TIME: 8.38PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

AMENDMENT 5

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Instructs the Chief Executive Officer to provide a report to Council at each Ordinary Council Meeting summarising the status of the Project (Project Update), including the following elements:
 - a. Occupational Health and Safety Report;
 - b. Activities completed this period;
 - c. Activities planned next period;
 - d. Commercial:
 - i. Number of variations to contract issued;
 - ii. Number of variations to contract approved/rejected;
 - iii. Variation price;
 - iv. Impact of variation on the completion date;
 - v. Total approved contract price; and
 - vi. Progress – works physical percent complete

LOST 2 / 4

TIME: 8.47PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

CEO05 – 08/22 Approval for Award of Tender SC22-003 Bindoon Mountain Bike Park Stage 1 Trails and Access

Applicant	Shire of Chittering
File ref	ECDEV-PROJECT-MOUNTAIN BIKE
Author	Manager Tourism & Economic Development
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Tender document 2. Scoring Chart 3. Tender Submission – Three Chillies Design

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to consider and award the tender for undertaking works for Stage 1 – Bindoon Mountain Bike Park Trail Network. Awarding this tender will allow the Shire to construct 13km of mountain bike trail and works on the beginning of an access road to ensure construction and emergency vehicles can access the summit.

Background

Shire Officers have prepared necessary documentation to ready Stage 1 of the trail network of the Bindoon Mountain Bike Park for construction to commence in September 2022.

To this date work has been undertaken to ensure adequate community engagement, with multiple surveys, workshops, community information sessions and steering group meetings. From this consultation a Concept Plan was developed, and subsequently Detailed Design drawings of the trail network for Stage 1 of the Bindoon Mountain Bike Park.

Stage 1 Trails include an access way and eight trails:

- A four-wheel-drive access way for trail construction and emergency vehicles to access the summit and other areas of Red Hill
- Almost 13 kilometers of trail network

ID	NAME	CLASSIFICATION/ GRADE	TRAIL TYPE/ USE	TRAIL STYLE	LENGTH (m)
MTB Trails					
T01	Green Loop	Easy-Green Circle	XC/ Walking	Open	5,223
T02	Green Link	Easy-Green Circle	XC/ Walking	Open	231
T03	Green Downhill	Easy-Green Circle	XC	Flow	1,470
T04	Blue Downhill	Moderate-Blue Square	XC/ AM	Flow	1,502
T05	Black Downhill	Difficult-Black Diamond	XC/ AM	Flow	941
T06	Blue XC	Moderate-Blue Square	XC	Open	1,443
T07	Blue Downhill	Moderate-Blue Square	AM	Flow	1,229
T08	Black Downhill	Difficult-Black Diamond	AM	Technical	959
Total Trails					12,998

This tender is for the above trails and the access road, with the tender for the works opened on 17 June 2022, closing on 5 August 2022 (Attachment 1). One prospective application was received from leading WA trail builders, Three Chillies Design (Attachment 3). Two other trail builders notified Shire Officers that they do not have the capacity to undertake the work.

Consultation Summary

Local

The tender process was conducted in accordance with Council Policy 2.11 – Purchasing. The tender process opened 17 June 2022 and closed 5 August 2022.

The tender was advertised in the following ways:

- Shire Website– 17 June 2022
- Facebook – 17 June 2022
- The West Australian – 18 June 2022
- Northern Valley News – July 2022 edition

In total, 1 submission was received, electronically.

The Shire has undertaken considerable community consultation and received overwhelming community support for this project, which is evidenced by funding contribution commitments from multiple project partners, a newly formed Chittering Mountain Bike Club with over 250 local members and strong support from the community in multiple surveys. One 2020 survey asked whether the community wanted mountain bike trails in Bindoon, to which 384 local residents responded with 93% residents in favour, two-thirds wanting them built immediately. The community has attended biking days, site visits and completed surveys on this project, with responses and attendance far exceeding the normal rates for Shire events. This is a community facility that has an extremely high level of community support.

State

Nil

Legislative Implications

State

- Local Government Act 1995
Section 3.57 of the Act describes the means in which a Local Government is to tender for the provision of goods or services.

Policy Implications

State

Nil

Local

- Council Policy 2.11 - Purchasing
Preparation, advertising and scoring of the tender was undertaken in accordance with this policy, in particular tenders over \$149,999 in value.

Financial Implications

Nil – Sufficient funds were included in the 2022-2023 Annual Financial Budget

Strategic Assessment / Implications

Local

- Strategic Community Plan 2022-2032
 - Focus area: Community
 - Objectives: S1.1 An Active and Supportive Community
S1.1.2 Social hubs to bring the community together

 - Focus area: Community
 - Objectives: S1.1 An Active and Supportive Community
S2.1.2 Increase volunteer participation across the shire

 - Focus area: Built Environment
 - Objectives: S3.1 Retaining Rural Amenity
S3.1.1 Balance development with natural environment and open spaces

 - Focus area: Built Environment
 - Objectives: S3.2 Improving Infrastructure
S3.2.3 Provision of community facilities to allow sport and recreation participation

 - Focus area: Economy
 - Objectives: S4.1 Economic Growth
S4.1.1 Support investment that stimulates sustainable industries, business and job growth

 - Focus area: Economy
 - Objectives: S4.2 Local Business Growth
S4.2.1 Encourage and support local businesses and new investments for the future

 - Focus area: Economic Growth
 - Objectives: S4.3 Increase Visitors
S4.3.2 Facilitate, promote and support visitation
- Mountain Bike Trails Master Plan (2016)
- Chittering Economic Development Strategy (2021-2031)
- Chittering Trails Network Plan (2013 -2023)

State

- Northern Growth Alliance Tourism Strategy 2019

State

Nil

Site Inspection

A mandatory tender site briefing was undertaken on 30 June 2022, with representatives from Three Chillies Trail Design and Common Ground Trails in attendance.

Risk Assessment / Implications

Risk	Likelihood	Consequences	Risk Analysis	Mitigation
Compliance: Tenders are a requirement under the Local Government Act for certain procurement.	Rare	Insignificant	Low	By following the legislated process, the risk will remain low.
Opportunity: The acceptance of the tender will also be seen as a 'good new item' for much of the community that supports this project.				

Officer Comment/Details

In order for the tender to be assessed, a scoreboard was used for both the Qualitative Criteria and the Non-Weighted Cost Criteria. The Qualitative Criteria for the tender was issued as follows:

Description	Percentage
A. Organisational Capacity The Contractor must demonstrate that it has the organisational capacity to perform the Contract	15%
B. Demonstrated Experience The provision of details of contracts for similar products and/or services provided for other clients and referees	20%
C. Methodology Demonstration of the Contractor's ability to complete the works in the required time frames and using a methodology that is to the satisfaction of the Shire of Chittering.	15%
D. Value for Money The Contractor must offer a detailed budget, itemising the expenditure to construct trails identified by the Tenderer as Stage 1 of the Bindoon Mountain Bike Park network. The value of money will be assessed on the following expenditure items: 1. Labour 2. Materials 3. Equipment 4. Other costs	40%
E. Local Resources Details of any businesses (or the Tenderer's business itself) or staff that are located within the Shire of Chittering that supply contracting services or products to the tenderer	10%

Additionally, the following Non-Weighted Cost Criteria was used:

Compliance Criteria:

The Contractor was to provide details to ensure that they could undertake the work with the correct insurances, that they could comply with the Tender Requests, attend mandatory briefings, comply with Quality Assurance requirements, deliver works by the due date, and supply a risk assessment.

Whilst the Shire only received one application, it has come from one of the most revered WA mountain bike trail builders and local-Chittering company, Three Chillies Design. Two of the other main trail builders in WA contacted the Shire to let us know that they did not have the capacity to undertake the project at this time. The tender submission from Three Chillies was comprehensive, covering all specifications requested and meeting all set requirements to undertake the project. Most notably, the submission was within the allocated budget amount set for the project.

The rationale and scores have been attached at Attachment 2, with Three Chillies being the sole-scored application. Accordingly, Council is recommended to award Tender SC22-003 to Three Chillies Design.

The tender price for this project has come within the project budget contained within the 2022/2023 Annual Financial Budget. This project has been entirely funded by Municipal Funds within the budget.

That is currently a grant submitted with the Building Better Regions Fund. At the time of submission it was expected that the outcome of the grant application would be known however the Building Better Regions Fund is currently undergoing a review by the new Federal Government, as has been confirmed for the relevant department.

It is the officer's opinion that it is unlikely that the grant application would end up being successful as the likely review results would result in the cancellation of the Building Better Regions Fund. Even if the fund is not cancelled, the fund is normally six times over-subscribed, meaning the chance of funding is always slim.

Over the past two years, officers have looked at funding from the Building Better Regions Fund where the shire was not successful, the Regional Economic Development Scheme where the shire was not successful, the Community Sport and Recreation Facilities Fund where the project does not meet requirements of their funding and Lotterywest where the project does not meet requirements of their funding.

Two years ago when the community were surveyed on the Mountain Bike Park, following presentations that contained the project cost and loan implications, there was 93% support for the project with two thirds of those wanting to 'build it now'. This was backed up by Council's Sport and Recreation Survey that was sent to all ratepayers and found a high level of support for walking, cycling and mountain biking. All of these activities are catered for in this project.

Should the scenario occur where Council proceed with this project and then find that the Building Better Regions fund is successful, there is still funding in the budget, via a loan, for a caravan park. This funding could be utilised for matching funding as the grant contains many of the elements required for the caravan park and stage two of the trails, which are already contained in the Long Term Financial Plan, could be brought forward. This would result in the project being completed sooner, as is the wishes of the community.

OFFICER RECOMMENDATION

Moved Cr , seconded Cr

That Council:

1. Accept the tender submitted by Three Chillies Design for the construction of the Bindoon Mountain Bike Trails for the agreed price of \$535,761.42 ex-GST;
2. Enter into a contract with Three Chillies Design for the construction of the Bindoon Mountain Bike Trails for the agreed price of \$535,761.42 ex-GST.

ALTERNATIVE MOTION

Moved Cr King, seconded Cr Dewar

That Council:

1. Receive the sole tender SC22-003 from Three Chillies Design for the agreed price of \$535,761.42 ex-GST for the Bindoon Mountain Bike Park Stage 1 Trails and Access
2. Terminate the tender process due to only one valid bid being received;
3. Instruct the CEO re-tender the construction of the Bindoon Mountain Bike Park Stage 1 Trails and Access in January 2023 subject to the following amendments to Request for Tender (RFT):
 - a. The Shire reserves the right to terminate the tender process if only one valid bid is received and to re-tender the project.
 - b. 5.3.1 Payment schedule as below:

Progress Payment Number	Milestone Description	Date Subject to commencement date and work proceeding as outlined in the Contractors schedule.	Percentage (%) of total awarded contract value
1	Week 1 – Mobilisation.	1 September 2022	10
2	30% constructed		20
3	70% constructed		40
4	90% constructed		20
5	Practical Completion	1 June 2023 (or earlier, if complete)	10

LOST 2 / 4

TIME: 9.02PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

FORESHADOWED MOTION / COUNCIL RESOLUTION 140822

Moved Cr Hughes, seconded Cr Campbell

That Council:

1. **Accept the tender submitted by Three Chillies Design for the construction of the Bindoon Mountain Bike Trails for the agreed price of \$535,761.42 ex-GST;**
2. **Enter into a contract with Three Chillies Design for the construction of the Bindoon Mountain Bike Trails for the agreed price of \$535,761.42 ex-GST.**

CARRIED 4 / 2

TIME: 9.21PM

For: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

Against: Cr King, Cr Dewar

AMENDMENT

Moved Cr King, seconded Cr Dewar

That the motion be amended to include the following:

3. Notes the Chief Executive Officers Delegated Authority (1.2.15 Tenders for Goods and Services Function (10)) to vary contracts up to 10% and within \$150,000 ex GST.
4. Notes the Club funding pledges of \$105,000 to be remitted to the Shire of Chittering.
5. Notes that the Project is funded from the Municipal Fund within the 2022/2023 Budget.
6. Notes the total Project Budget of \$616,884 inclusive of Club funding and all works required for the handover of a fully operational facility.
7. Instruct the Chief Executive Officer to provide a report to Council at each Ordinary Council Meeting summarising the status of the Project (Project Update), including the following elements:
 - a. Occupational Health and Safety Report;
 - b. Activities completed this period;
 - c. Activities planned next period;
 - d. Commercial:
 - i. Number of variations to contract issued;
 - ii. Number of variations to contract approved/rejected;
 - iii. Variation price;
 - iv. Impact of variation on 1 June 2023 (or earlier, if complete) completion date;
 - v. Total approved contract price; and
 - vi. Progress – works physical percent complete

LOST 2 / 4
TIME: 9.19PM

For: Cr King, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Angus, Cr Campbell

CEO06 – 08/22 Occupational Safety and Health Statistics Report – July 2022

Applicant	N/A
File ref	
Author	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. OSH Statistics Report for July 2022

	Authority / Discretion	Definition
<input type="checkbox"/>	Advocacy	<i>When Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>When Council initiates or adopts a policy position, or a local law</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When Council determines an application/matter that directly affects a person's rights and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include development applications, building licences, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal</i>
<input checked="" type="checkbox"/>	Information	<i>Includes items for information purposes only and do not require a decision of Council (to 'note' only)</i>

Executive Summary

Council is requested to receive the Shire of Chittering's Occupational Safety and Health Statistics Report for July 2022.

Background

At the Ordinary Meeting of Council held 17 November 2021, Council adopted the following motion:

<p>MOTION / COUNCIL RESOLUTION 231121 Moved Cr King, seconded Cr Angus That:</p> <ol style="list-style-type: none"> 1. "The Shire of Chittering" adopts the following position statement: "Council cares about the employees of the shire and want to ensure that all employees arrive safely home each day. This requires that everyone commits to their role in ensuring a safe workplace, starting with Council". 2. Council requires the Chief Executive Officer to provide a quarterly report (February (previous quarter), April, July and October of each calendar year) of the following key safety performance indicators (KPI's) for the Shire workforce and contractors; including but not limited to: <ol style="list-style-type: none"> a. Number of safety observations; b. Number of safety audits and inspections; c. Number of working hours (total, workforce and contractors) d. Number of training hours; e. Number of toolbox talks; f. Number of equipment breakdowns; g. Average overtime per person by department.

3. Council requires the Chief Executive Officer to provide a monthly report to be tabled at each Ordinary Council Meeting, the following key safety performance indicators (KPI's) for the Shire workforce and contractors ; including but not limited to:
- a. Number of Drug and Alcohol tests performed;
 - b. Number of positive Drug test and BAC Exceedances;
 - c. Number of worker compensation claims;
 - d. Number of "current" worker compensation claims;
 - e. Number of Near Misses;
 - f. Number of Medically Treated Injuries;
 - g. Number of Restricted Work Injuries;
 - h. Number of Lost Time Injuries.

CARRIED UNANIMOUSLY 7/0

TIME: 9.53pm

Consultation Summary

Local

Nil

State

Nil

Legislative Implications

State

- Work Health and Safety Act 2020

Local

Nil

Policy Implications

State

Nil

Local

- Shire of Chittering Policy 3.8 Occupational Safety and Health (OSH)

Financial Implications

Nil

Strategic Assessment / Implications

Local

Nil

State

Nil

Site Inspection

Site inspection undertaken: Not applicable

Risk Assessment / Implications

Nil

Officer Comment/Details

Nil

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 150822

Moved Cr Angus, seconded Cr Ross

That Council receive the Shire of Chittering Occupational Safety and Health Statistics Report for July 2022.

CARRIED UNANIMOUSLY 6 / 0

TIME: 9.23PM

ITEM 10. REPORTS OF COMMITTEES

Nil

ITEM 11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Cr Mark Campbell: Policy 4.10 – Transparency and Accountability Amendment

Purpose:

In the interests of transparency and understanding the true cost of Councillors request for information and report any additional workload placed on the CEO and the administration, this motion will identify:

- additional cost placed on ratepayers as a consequence of Council request for information;
- capturing additional labour hours in order plan for additional staff in the future;
- identifying unreasonable increase in workload; and
- understand "separation of power" between Councillors and administration (the difference between governing and managing).

MOTION

Moved Cr Campbell, seconded Cr Hughes

That, in line with Council's adopted position of becoming leaders in the areas of transparency, disclosure and public accountability, Council adopt the following Policy Position with the below wording to be included in Policy 4.10 – Transparency and Accountability:

1. Councillors seeking information from the administration must state the purpose of seeking information and how it is relevant to the performance of their function;
2. A register be kept containing the following information:
 - a. The name of the Councillor making the request;
 - b. The stated purpose;
 - c. The number of hours required to fulfil the request;
 - d. The approximate cost of fulfilling the request;
3. That once per quarter a report be presented to Council containing the information contained within the register with the report to be presented to the February, April, July and October Ordinary Meetings of Council and published in the Northern Valley News.

MOTION

Moved Cr King, seconded Cr Dewar

That Council suspend Standing Orders.

CARRIED 3/3

TIME: 9.24PM

For: Cr King, Cr Dewar, Cr Ross

Against: Cr Hughes, Cr Angus, Cr Campbell

The President cast his deciding vote in favour of this motion.

MOTION

Moved Cr Ross, seconded Cr Hughes

That Council resume Standing Orders.

CARRIED UNANIMOUSLY 6 / 0

TIME: 9.30PM

AMENDMENT 1

Moved Cr Hughes, seconded Cr Campbell

That the motion be amended as follows:

3. That once per quarter a report be presented to Council containing the information contained within the register with the report to be presented to the February, April, July and October Ordinary Meetings of Council.
4. To be reviewed by Council in 12 months.

CARRIED 5 / 1

TIME: 9.37PM

For: Cr King, Cr Angus, Cr Hughes, Cr Ross, Cr Campbell

Against: Cr Dewar

AMENDMENT 2

Moved Cr King, seconded Cr Dewar

That the motion be amended to delete 2d.

CARRIED 3 / 3

TIME: 9.49PM

For: Cr King, Cr Angus, Cr Dewar

Against: Cr Hughes, Cr Ross, Cr Campbell

The President cast his deciding vote in favour of this motion.

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 160822

Moved Cr Campbell, seconded Cr Hughes

That, in line with Council's adopted position of becoming leaders in the areas of transparency, disclosure and public accountability, Council adopt the following Policy Position with the below wording to be included in Policy 4.10 – Transparency and Accountability:

1. Councillors seeking information from the administration must state the purpose of seeking information and how it is relevant to the performance of their function;
2. A register be kept containing the following information:
 - a. The name of the Councillor making the request;
 - b. The stated purpose;
 - c. The number of hours required to fulfil the request;
3. That once per quarter a report be presented to Council containing the information contained within the register with the report to be presented to the February, April, July and October Ordinary Meetings of Council.
4. To be reviewed by Council in 12 months.

CARRIED 5 / 1

TIME: 9.50PM

For: Cr King, Cr Angus, Cr Hughes, Cr Ross, Cr Campbell

Against: Cr Dewar

ITEM 12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

ITEM 14. MEETING CLOSED TO THE PUBLIC

Matters for which the meeting may be closed

Nil

ITEM 15. CLOSURE

The Presiding Member declared the meeting closed at 9.51pm.