

**MINUTES FOR
ORDINARY MEETING OF COUNCIL
WEDNESDAY, 19 DECEMBER 2012**

**Council Chambers
6177 Great Northern Highway
Bindoon**

**Commencement: 7.00 pm
Closure: 8.55pm**

These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 20 February 2013.

SIGNED BY

Person presiding at meeting which minutes were confirmed

DATE

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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* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The presiding member declared the meeting open at 7.00pm

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

2.1 Attendance

The following members were in attendance:

Cr Alex Douglas	President
Cr Robert Hawes	Deputy President
Cr Don Gibson	
Cr Barni Norton	
Cr Sandra Clarke	
Cr Doreen Mackie	
Cr Michelle Rossouw	

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Mr Azhar Awang	Executive Manager Development Services
Mr Jim Garrett	Executive Manager Technical Services
Mrs Karen Parker	Manager Human Resources
Ms Danica Kay	Executive Support Officer / Minute Secretary

There were three members of the general public in attendance

2.2 Apologies

Jean Sutherland	Executive Manager Corporate Services
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2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Cr Gibson declared an Impartiality interest in Item 9.4.3 – Bindoon Men's Shed Community Bus Hire Concession' as he is a founding member of the Bindoon Men's shed.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 Lot 2929 Brand Highway, Muchea

Steve Vallance, Archibald Street, Muchea

This is nowhere near as bad a proposal as the chicken litter incinerator of a few years ago (which had over 800 submissions opposing it) and would probably be good in the right place but the proposed site is completely inappropriate.

Question 1 *What is the current situation with regard to obtaining industrial land within the Shire – specifically near the saleyards and to the east of the Ellen Brook where much industry has already begun?*

Response Industrial Land within the saleyards (WAMIA) area is currently not available. The *Muchea Employment Node Structure Plan (MENSP)* provides landowners within the *MENSP* area an opportunity to rezone the land to 'Future Industry' and further subdivide into smaller lots. There are other industrial uses which may be permitted on land zoned 'Agricultural Resource' as shown in *Town Planning Scheme No 6 (TPS6)*.

Question 2 *If the state is still dragging its feet, is this proposal not yet another example for them of the dire need to get this industrial estate happening? The proponents looked at buying other sites. Did they receive any encouragement from the Shire on this one?*

Response The *MENSP* is a response from the State to provide Industrial zoned land in the Shire and region. Shire officers at no point encouraged the proponent. The Shire provided advice to the proponent of the requirements and information to be submitted with a planning application. Each Planning Application is to be considered on its own merit based on the relevant Acts and Legislations.

Question 3 *The Preliminary Environmental Management Plan for this proposal is superficial, almost childish and gives cause for great concern. It acknowledges there will be a problem with visual amenity (3000m2+ shed!) and the only solution it offers is to plant a few trees. Do you think the operation can be hidden by a few trees and how long would it take to get them big enough to have any effect at all?*

Response As part of Council's process, during the advertising period, the relevant agencies will be referred to assess and provide comment on the satisfaction of the *Environmental Management Plan* to which Council will assess and consider. In the process of assessing and determining the application, Council will take into consideration the visual amenity and how this can be incorporated in the design to reduce the impact. It is noted that tree planting alone will not hide all the proposed development, however in the long term it would assist in minimising visual impact. Council acknowledged that the proposed vegetation screening would not be

effective in the short term, however the proponent has proposed this as a measure of assisting with minimising the visual and noise impact to surrounding landowners.

Question 4 *It also acknowledges there will be a noise problem (heavy haulage trucks dumping rock, others loading it, bagging operations) and again the only proposed solution is to plant a few trees. How big a forest would have to be planted to stop the noise of this sort of industry?*

Response It would be considered appropriate that a *Noise Management Plan* be provided to address any likely noise emissions. Further to this, it is considered the proposed vegetation planting on the perimeter of the property is not to stop noise but to reduce noise impacts to adjoining residences. It is considered a *Noise Management Plan* would address noise emissions and would require compliance with the *Environmental Protection (Noise) Regulations 1997*.

Question 5 *It dismisses dust by saying there won't be any because the rock is screened. Rubbish. Anyone who has had a load of screened blue metal or gravel rock delivered knows there is a huge amount of dust. The hard stand areas are limestone and with big trucks on it that will create dust problems too. Will the proponents be told to come up with a dust management plan?*

Response It will be a requirement for the developer to provide a *Dust Management Plan* for the site to ensure that dust or potential dust issue is adequately addressed as part of the development. It is considered appropriate that the Applicant would be required to provide a dust management plan, which would be assessed by the appropriate officer/agency.

Question 6 *It dismisses the property to the west as just another farm. It is in fact one of WA's largest organic vegetable farms and also has organic Dexter beef herd. It has been run on this site for many years by a local family. It is certified organic and supplies many of the top end restaurants in Perth in a sustainable and environmentally friendly manner. The cavalier fashion in which the proponents went ahead and sprayed an enormous area adjoining their neighbour gives cause for great concern and has in fact already threatened their accreditation. Is the council aware of the case of Kojonup organic farmer Steve Marsh. Currently before the courts as his neighbour caused the loss of his organic status. Will the shire take this potential problem and their potential involvement and liability into consideration when considering this proposal?*

Response Council is aware of the neighbouring certified organic farm. Council officers have contacted the Department of Agriculture and Food and have been advised that there is currently no legislation in place for applying the appropriate buffer for this type of activity. Council officers have also advised the Applicant of the organic farm operation adjoining the property and the adverse impact the spraying of chemicals on Agricultural land will have on their accreditation.

In relation to the case, Council is not aware of it. The outcome of this case will no doubt put pressure in having legislative requirement to protect these types of operations. In regard to this application, Council will consider the potential impact

the operation will have on the adjoining organic farm operation and imposed conditions accordingly.

Question 7 DEC has a system 6 classification on the property and some people bought adjacent land taking this fact into account. The environmental study says it will seek to remove this management policy. Of course it will. It was paid for by the proponent! Will the Shire protect our environment and oppose such an attempt?

Response DEC does not have System 6 classifications on the property. The land has been identified for possible future protection of System 6 classification. It is currently classified as 'Multiple Use Wetland Category', which is considered in the assessment and determination of the application. Protection of the environment is considered for any application, particularly in environmentally sensitive areas (i.e. Water Prone) and Council will follow 'due processes in determining the outcome.

Question 8 Why is there no requirement to rezone this land? The proposed use is clearly outside the uses of agricultural land as the rock will be quarried elsewhere in the state, carted in, bagged, resold, wholesaled and there is also a proposal to store and sell heavy equipment from the north from this site.

Response It is not considered a requirement to rezone the land as the proposed application can be determined as falling within the type, class or genus of activity as listed in the Zoning Table, which may be permitted in the current zone in TPS6, subject to Council approval.

Question 9 There are a great many reasons to object to this opportunistic attempt to bring industry to the Muchea townsite. It will cause extra vehicle movements on already overloaded roads. Are Councillors aware that there has been a large subdivision to the west of the Muchea townsite in recent years with a huge increase in traffic as there are still only two roads in and out of the town as there were before the subdivision and this proposal wants to access the site for some vehicles from one of these two roads? It is bad planning. It is ad hoc. It will greatly constrain future growth of the townsite. There is orderly planning that puts industrial development in a particular area. Will the shire stick to its plans and protect its ratepayers?

Response Council is aware of this subdivision, the proponent has indicated the use of Chittering Street would not occur due to the concerns raised during the advertising period.

TPS6 permits some industrial land uses on Agricultural Resource zoned land, subject to advertising and Council approval. Whilst the MESNP is in place to provide opportunity for rezoning to Future Industry and industrial development, the requirements of TPS6 still apply.

The Shire assesses all applications taking into consideration the relevant planning legislations, policies, guideline documents, strategies and the submissions received from affected landowners and referral agencies as to its impact to the community.

4.2 Public question time

4.2.1 9.1.3 Proposed Building Envelope Modification and Outbuilding (Shed) – Lot 160 (RN 23) Sandpiper Mews, Bindoon*

Hannah Etz

Question 1 *Why don't Councillors get our letters of objection in full?*

Response A copy of the letters will be tabled at the Council meeting. Normal practice is to provide a summary in the Schedule of Submissions.

Question 2 *Why does the item refer to 75m2, where the actual size is 112.5m2*

Response 75m2 is correct as this is what the building plans provided to us show.

Question 3 *In reference to the Local Planning Policy 18, section 5.9; the pad built is greater than 0.5m above the natural ground level, which requires even more setbacks.*

Response Section 5.9 of the Local Planning Policy 18 refers to dwellings and does not specify outbuildings.

Question 4 *If Council still approves the building going ahead even though the applicant has still continued building even this morning, will we get the reasons for the approval?*

Response As a neighbour, the Council decision will be provided for your information

4.2.2 9.3.2 Indoor/ Outdoor Gym Proposal

Clint O'Neil

It is my understanding that the Bindoon hall has been identified by Council as a short term, stop gap community asset that will be replaced by more appropriate community facilities in the medium term, once lot 979 development commences.

It is also my understanding that Councils adopted strategic plan 2010-2015 at social item S5, identifies a staged development of a 60 unit retirement village on lot 979 with a commencement date of 2011/12.

Question 1: *Given that supervised physical activity, with appropriate equipment, is a key component of retirement village living, why would Council contemplate the proposed capital cost of a stand alone facility in the Bindoon Hall, as against designing in a multi use public facility directly linked to the retirement village development?*

Response The proposed community gym is not linked to the development of Lot 62 (formally Lot 979). The proposal before Council is for an unmanned gym.

If the proposal is endorsed by Council the gym would not be a 'stand alone facility'. The proposal has identified the Bindoon Town Hall as a possible location.

Furthermore, if the proposal is endorsed by Council it will be subject to a full business plan for further consideration.

5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

6.1 Ordinary meeting of Council – Wednesday, 21 November 2012

OFFICER RECOMMENDATION /COUNCIL RESOLUTION – 011212

Moved Cr Mackie / Seconded Cr Rossouw

That the minutes of the Ordinary meeting of Council held on Wednesday, 21 November 2012 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

7. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

8. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

9. OFFICER'S REPORT

9.1 DEVELOPMENT SERVICES

9.1.1 Proposed Wildlife Rehabilitation – Lot 146 (RN 168) Ridgetop Ramble, Bindoon*

Applicant	F and C Hoogland
File ref	A2162; P246/12
Prepared by	Scott Penfold, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Application 3. Property Management Plan 4. Site Photographs 5. Schedule of Submissions

Background

An application has been received for proposed 'Wildlife Rehabilitation' to occur on Lot 146 (RN 168) Ridgetop Ramble, Bindoon.

'Wildlife Rehabilitation' is not defined within the *Shire of Chittering Town Planning Scheme No 6*. The nearest definitions are 'Animal Establishment' and 'Zoological Garden', both of which do not define the use in its entirety. As such, the proposed 'Wildlife Rehabilitation' land use has been assessed as a 'Use Not Listed', in accordance with clause 4.4.2 of the Scheme.

The details of the proposal are as follows:

- The wildlife cared for is primarily orphaned joey kangaroos;
- Number of animals cared for varies, but averages four to five at any one time;
- Manure is returned to wild (not collected);
- Feeding of joeys is as required (all supplementary feeding, the level of which is based on the age of the animal); and
- Household facilities are used for refrigeration of food products. Laundry will be used for washing of bedding which is used for young joeys (particularly just out of the pouch).

An enclosure of approximately 2,000m² is proposed for the caring of the animals.

A Property Management Plan has been provided by the operators, which is included in attachment 3.

The Department of Environment and Conservation requires that prior to issuing a license for wildlife rehabilitation, that the support of the Local Government is sought for the use on the property.

Consultation

Liaison has previously occurred with the Department of Environment and Conservation (DEC) regarding the proposal. It was advised by DEC that wildlife rehabilitation is subject to Council approval and meeting the relevant health regulations. The comments of DEC are included within the Schedule of Submissions. Comments were also received from Chittering Landcare Centre during the referral period.

The application was referred internally to the Shire of Chittering Principal Environmental Health Officer, Mr Glenn Sargeson. Mr Sargeson advised the keeping of animals on the property would need to be in accordance with the requirements of the *Shire of Chittering Health Local Laws 1998*.

The application was referred to the neighbouring landowner on Ridgetop Ramble, which advised that they approved of the animal enclosure.

Statutory Environment

Shire of Chittering Town Planning Scheme No 6

The subject property is zoned 'Rural Residential' which has the following objectives under the Scheme:

- *"To designate areas where rural residential developments can be accommodated without detriment to the environment or the rural character of the area.*
- *To meet the demand for a rural lifestyle on small lots, generally in excess of 1 hectare.*
- *To maintain and enhance the rural character and amenity of the locality."*

The proposed use of 'Wildlife Rehabilitation' is not defined within the Scheme, nor listed in the Zoning Table. The application shall be dealt with under clause 4.4.2 of the Scheme as a 'use not listed':

4.4.2 *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Local Government may-*

- (a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
- (b) *determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for Planning Approval; or*
- (c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

It was not considered appropriate that the proposed use of 'Wildlife Rehabilitation' be dealt with under other definitions in the Scheme, which are defined by Schedule 1 of the Scheme as follows:

"Animal Establishment means premises used for the breeding, boarding, training or caring of animals for commercial purposes but does not include animal husbandry – intensive or veterinary centre."

"Veterinary Centre means premises used to diagnose animal diseases or disorders, to surgically or medically treat animals, or for the prevention of animal diseases and disorders."

"Zoological Garden means premises used for the keeping, breeding or display of animals and the term includes a Zoo, but does not include a dog kennel or a cattery or animal husbandry."

All of the above uses are listed as 'X' uses within Schedule 2 – Zoning Table of the Scheme. Furthermore, the definitions of these uses included in Schedule 1 do not appropriately define the proposed use of 'Wildlife Rehabilitation' for the following reasons:

- Animal Establishment - The proposed use is not for commercial purposes, although it does involve caring for animals.
- Veterinary Centre – The proposed use does not seek to diagnose animal diseases and disorders, nor surgically or medically treat animals. This will be required to be undertaken off-site.
- Zoological Garden – Although the proposed use is for the keeping of animals this is a short term time-frame which does not fit appropriately within the 'Zoological Garden' definition. The proposal also does not include the term 'Zoo'.

It is determined that the proposed application should be assessed as a 'Use Not Listed' under the Scheme, in particular the criteria set out in Clause 4.4.2(a) of the Scheme, as the proposed use is considered consistent with the objectives of the 'Rural Residential' zone.

Policy Implications

Local Planning Policy No 24 – Stocking Rates and Keeping of Animals (LPP24)

Local Planning Policy No 24 requires a Property Management Plan to be provided where the stocking rates of animals is proposed to exceed five (5) Dry Sheep Equivalent (DSE) per hectare. As outlined in Schedule 2 of the Policy, a kangaroo is equivalent to 0.5 DSE, hence 10 kangaroos can be kept on a one (1) hectare site without approval of the Shire of Chittering, or 20 kangaroos on a one (1) hectare site in accordance with a Property Management Plan and subject to the approval of the Shire of Chittering.

The proposed stocking rate of four to five joeys on a 2000m² parcel is in accordance with LPP24.

Local Planning Policy No 22 – Fences (LPP22)

"5.1 General Requirements

In all zones:

- a) As a condition of planning consent the Council may require the fencing to exclude the keeping of animals and poultry and the cultivation of crops, vines and fruit from watercourses, areas liable to flooding and/or land where soil erosion or other land degradation may occur;*
- b) The erection of any fence or gate to prevent access to a strategic fire break is prohibited (see also Local Planning Policy No.21 – Fire Management Plans);*
- c) Applications for planning consent for fences may be dealt with by the Chief Executive Officer under delegation issued by Council in accordance with Section 5.42 of the Local Government Act; and*
- d) Planning consent is not required for the repair or replacement of an existing fence.*

5.4 Rural Residential, Small Rural Holdings and Rural Retreat Zones

In the Rural Residential, Small Rural Holdings and Rural Retreat Zones, subject to the requirements of any Development Plan:

- a) Barbed wire and electric boundary fences are prohibited;*
- b) Solid fences and walls may not be constructed on property boundaries or within development setback areas (refer Local Planning Policy No.18 – Setbacks) and where a building clearing area exists, are to be confined to that clearing area, provided that entry statements may be constructed with planning consent;*

- c) *Where natural vegetation adjoins a road reserve, no fence shall be constructed between the road reserve and the building clearing area;*
- d) *All fences require planning consent, other than sufficient fences*
 - i. *Enclosing a building clearing area or other previously cleared area, which may contain trees and regrowth;*
 - ii. *Adjoining a fire break required as part of a fire management plan;*
- e) *A sufficient fence comprises the following:*
 - i. *Height up to 1.25m;*
 - ii. *Ringlock or similar, post and rail or multiple strand single wire construction.*

Note: Construction of fences, including boundary fences, in areas of uncleared natural vegetation require Council approval. Star picket fences are not recommended and require Council approval."

Local Law Implications

Shire of Chittering Health Local Laws 1998 – Division 2 – Keeping of Animals

"Cleanliness

64. *An owner or occupier of premises in or on which a dog, cat or other animal or bird is kept shall-*
- (a) keep the premises free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health or to attract rats or other vectors of disease;*
 - (b) when so directed by an Environmental Health Officer, clean and disinfect the premises; and*
 - (c) keep the premises, so far as possible, free from flies or other vectors of disease by spraying with a residual insecticide or other effective means.*

Animal Enclosures

65. (1) *A person shall not keep or cause or permit to be kept any animals or birds on premises which are not effectively drained or of which drainage flows to the walls or foundations of any building.*
- (2) *The owner or occupier of premises where animals or birds are kept shall, when directed by the Principal Environmental Health Officer, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals or birds."*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

It has been highlighted by the Chittering Landcare Centre that significant erosion could occur from padding by kangaroos.

Comment

Shire of Chittering Town Planning Scheme No 6

The application for Wildlife Rehabilitation does not fall within the definitions listed under Schedule 1 of the Scheme. In accordance with the requirements of Clause 4.2.2 of the Scheme, the application is required to be dealt with as a use not listed.

The proposal is not for commercial purposes, only for the caring of injured wildlife, primarily being orphaned joeys.

The application was referred to Chittering Landcare and the Department of Environment and Conservation for comment. These comments are summarised in the Schedule of Submissions.

Local Planning Policy No 24 – Stocking Rates and Keeping of Animals (LPP24)

The fenced enclosure is approximately 2,000m² in area. A Property Management Plan has been provided with the application for the assessment of the Shire of Chittering. Subject to the approval of Council, LPP24 allows the keeping of up to twenty (20) kangaroos on a 1 hectare parcel of land. This is equivalent to five (5) kangaroos per 2,000m² area.

The Property Management Plan provides a small outline of the proposed operations. Chittering Landcare Centre outlined that kangaroo padding could lead to erosion and drainage issues on the property. It is recommended that Council require the applicant to modify the Property Management Plan prior to issuing approval, to include a provision outlining that the landowner will need to keep the site in a safe and sanitary manner and that should padding/erosion occur, the landowner will be required to undertake works to the satisfaction of the Shire of Chittering to rectify the matter.

The typical planning approval outlined in Schedule 3 of the policy is not applicable in this case, as the proposal is for the rehabilitation of native wildlife, not for the purposes of grazing.

Local Planning Policy No 22 – Fences (LPP22)

The fencing of the enclosure is chain mesh fencing to approximately 1.8m in height secured on star pickets. This is not approved to be used on the property currently. To ensure the visual impact of the enclosure is reduced, it is recommended that the chain mesh fencing is setback three (3) metres from the front property boundary to allow planting of visual screening to the satisfaction of the Chief Executive Officer. This fencing is considered suitable, given the need for sufficient height of the fence to ensure kangaroos cannot escape.

Shire of Chittering Health Local Laws 1998

It is recommended that should Council determine to approve the proposal that it is in accordance with the requirements of the *Shire of Chittering Health Local Laws 1998*. The predominant requirements will be the need to keep the enclosure free of food waste and excrement build up.

OFFICER RECOMMENDATION

Moved Cr Clarke/ Seconded Cr Gibson

1. That prior to issuing planning approval, the Property Management Plan is to be amended as follows:
 - (a) Insert the following paragraph in Environmental Risk

"Should padding occur and lead to erosion or drainage issues, the landowner may be directed by the Shire of Chittering to undertake works to resolve the issue, with such works being at the cost of the landowner. Furthermore the site is to be kept in a clean and sanitary state at all times. The keeping of kangaroos is to be in accordance with the Shire of Chittering Health Local Laws 1998."
2. That upon satisfaction of the condition 1 above, the Chief Executive Officer be authorised to grant planning approval for 'Wildlife Rehabilitation' for the keeping of five (5) kangaroos at Lot 146 (RN 168) Ridgetop Ramble, Bindoon subject to the following conditions:
 - (a) The keeping of kangaroos is to be in accordance with the approved Property Management Plan.
 - (b) The keeping of kangaroos is to be in accordance with the *Shire of Chittering Health Local Laws 1998*.
 - (c) Land shall be managed in a sustainable manner and where in the opinion of Council at its absolute discretion land or vegetation is considered degraded or animals are causing a nuisance, the landowner or occupier may be ordered to reduce the number of animals on the lot and/or undertake other remedial action as is considered appropriate.
 - (d) Enclosure fencing shall be setback 3 metres from the front property boundary.
 - (e) Vegetation for screening purposes is to be planted in front of the enclosure on Ridgetop Ramble to the satisfaction of the Chief Executive Officer within twelve (12) months of the date of issue of the planning approval.
 - (f) Any fill or soil brought on to the property shall be free of dieback.
 - (g) Should relevant Department of Environment and Conservation approvals/registrations cease/expire/be removed, the use of 'Wildlife Rehabilitation' is to cease immediately.
 - (h) Any further developments on the site shall be the subject of subsequent planning applications/approvals.
 - (i) If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
 - (j) Where an approval has so lapsed, no development shall be carried out without the approval of the local government having first been sought and obtained.
 - (k) Breach of conditions may result in the cancellation of this approval.
3. That upon the issuing of Planning Approval, the Chief Executive Officer be authorised to forward a copy of the Planning Approval to the Department of Environment and Conservation.

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

That recommendation 2. (d) be deleted.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

SUBSTANTIVE MOTION / COUNCIL RESOLUTION – 021212

Moved Cr Clarke/ Seconded Cr Gibson

1. That prior to issuing planning approval, the Property Management Plan is to be amended as follows:
 - (a) Insert the following paragraph in Environmental Risk
“Should padding occur and lead to erosion or drainage issues, the landowner may be directed by the Shire of Chittering to undertake works to resolve the issue, with such works being at the cost of the landowner. Furthermore the site is to be kept in a clean and sanitary state at all times. The keeping of kangaroos is to be in accordance with the Shire of Chittering Health Local Laws 1998.”
2. That upon satisfaction of the condition 1 above, the Chief Executive Officer be authorised to grant planning approval for ‘Wildlife Rehabilitation’ for the keeping of five (5) kangaroos at Lot 146 (RN 168) Ridgetop Ramble, Bindoon subject to the following conditions:
 - (a) The keeping of kangaroos is to be in accordance with the approved Property Management Plan.
 - (b) The keeping of kangaroos is to be in accordance with the *Shire of Chittering Health Local Laws 1998*.
 - (c) Land shall be managed in a sustainable manner and where in the opinion of Council at its absolute discretion land or vegetation is considered degraded or animals are causing a nuisance, the landowner or occupier may be ordered to reduce the number of animals on the lot and/or undertake other remedial action as is considered appropriate.
 - (d) Vegetation for screening purposes is to be planted in front of the enclosure on Ridgetop Ramble to the satisfaction of the Chief Executive Officer within twelve (12) months of the date of issue of the planning approval.
 - (e) Any fill or soil brought on to the property shall be free of dieback.
 - (f) Should relevant Department of Environment and Conservation approvals/registrations cease/expire/be removed, the use of ‘Wildlife Rehabilitation’ is to cease immediately.
 - (g) Any further developments on the site shall be the subject of subsequent planning applications/approvals.
 - (h) If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
 - (i) Where an approval has so lapsed, no development shall be carried out without the approval of the local government having first been sought and obtained.
 - (j) Breach of conditions may result in the cancellation of this approval.
3. That upon the issuing of Planning Approval, the Chief Executive Officer be authorised to forward a copy of the Planning Approval to the Department of Environment and Conservation.

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council’s decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council’s decision.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.2 Proposed Building Envelope Modification – Lot 36 Patersonia Road, Chittering*

Applicant	J Ward
File ref	A10431; P262/12
Prepared by	Scott Penfold, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Locality Plan2. Applicant Submission3. Site Photographs4. Development Plan5. Dwelling Application Plan (subject to approval)6. Consultation Plan

Background

An application was received for a dwelling, water tank and pavilion to be constructed on Lot 36 Patersonia Road, Chittering (P234/12). The Applicant was advised that the proposal extended beyond the building envelope, hence the development would require a separate Application for Planning Approval for the building envelope to be modified prior to the previous application being considered under Officer Recommendation. The proposed building envelope is approximately 2,822m² in area, being approximately 47 metres X 60 metres in dimension.

Consultation

The application was referred to the surrounding landowners for comment in accordance with Clause 9.4 of the Scheme, as shown on the Consultation Plan included in attachment 6. No submissions were received during the submission period.

The application was referred internally to the Community Emergency Services Manager, commented that the property is required to comply with the Shire of Chittering's Fire Break Notice (issued annually) and that clearing of trees may be required on the property to comply with *Planning for Bushfire Protection 2010 (Edition 2)*.

Statutory Environment

Shire of Chittering Town Planning Scheme No 6

Clause 5.8 Development Provisions – Rural Residential Zone, Rural Retreat Zone, Rural Smallholdings Zone and Rural Conservation Zone.

"Clause 5.8.2 Building Envelopes/Setbacks

Development will only be permitted in the areas identified as building envelopes provided that Council may vary the boundaries of such envelopes if it is satisfied that such variation is desirable and will not detrimentally affect the objective for the Zone or the amenity of the area generally.

With respect to the Rural Conservation zone, building envelopes must be shown on the development plan where it is within an area subject to an Environmental Management Plan. The building envelopes are to be located to minimise:

- a) Fragmentation and disturbance of remnant vegetation taking into account vehicle access;*
- b) Bush fire risk.*

Clearing of remnant vegetation for the construction of buildings within the defined envelope shall not exceed 2000m² without the prior approval of Council."

Schedule 1 Dictionary of Defined Words and Expressions

"Building Envelope means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained."

Development Plan

A Development Plan applies to the property as part of the Blue Plains Estate/Toodyay Glen rural residential development. All development shall be in accordance with Clause 5.8.1 of the Scheme and is included in attachment 3. The following relevant Special Provisions of the Development Plan apply to the proposed building envelope modification:

"3. Tree Preservation Areas

Tree preservation areas shall be defined on the Development Plan.

In the identified for the preservation of trees, no clearing shall be permitted outside of the designated building envelope on the Development Plan.

Council may require a landowner, as a condition of building approval, to commence tree planting to its specification, and to maintain those trees for a period of not less than two summer seasons.

4. Building Envelopes

Building Envelopes shall be defined on the Development Plan and shall not exceed 2000m² without prior approval of the Council and on the advice of the Bush Fires Board."

Policy Implications

Local Planning Policy No 18 – Setbacks

In regards to Local Planning Policy No 18, the following is applicable:

"The following minimum setbacks generally apply to buildings (including retaining walls), dams and water tanks:

- a) **Rural Residential, Small Rural Holdings and Rural Retreat** Zones, in the absence of building envelopes*
 - Highway – 100m*
 - Major Road – 50m*
 - Other Road – 20m*
 - Rear – 20m*
 - Side – 15m*
- The minimum separation between dwellings on adjoining lots is 50m."*

It is noted that the proposed building envelope complies with all setbacks, with the proposed envelope being 15.7m from the northern (side) boundary and 31m from the eastern (rear) boundary. The nearest dwelling is located approximately 100m to the northwest of the proposed building envelope.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

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

Comment

The application was referred to surrounding landowners for comment for a period of 14 days. During this time, there were no objections received.

The purpose of the extension to the building envelope is to contain a proposed dwelling, water tank and pavilion, as shown in attachment 5. As shown on the plan submitted by the Applicant, the cleared area on the property currently exceeds the area contained within the current building envelope. Only a small portion of the proposed building envelope modification extends into an area previously not cleared (approximately 300m²), which is identified as not containing mature trees, only saplings, due to previous clearing.

The applicant may be required to obtain the necessary permits from the Department of Environment and Conservation for additional clearing. It is considered that the extent of clearing is not likely to have a detrimental impact on neighbours or the view of the property from Patersonia Road, given that the cleared area is located to the rear of the property.

The application was referred internally to the Shire's Community Emergency Services Manager, who commented that the current property and future development should comply with the requirements of the Shire of Chittering's Fire Break Notice (issued annually) and *Planning for Bushfire Protection 2010 (Edition 2)*.

The proposed building envelope does not impinge on the natural drainage flow line, the development setback from the drainage flow line nor the area at risk on inundation identified on the Development Plan.

Although a portion of the building envelope is contained within the tree preservation area, it should be considered by Council that building envelopes larger than 2,000m² are allocated on other properties in Blue Plain Estate/Toodyay Glen. Therefore, the precedent for a larger building envelope within this rural residential development has been set, specifically relating to the allocation of building envelopes larger than 2000m² within the identified 'Tree Preservation Areas' on the Development Plan.

The building envelope modification does not vary the requirement of the Scheme for a maximum 2,000m² clearing for development. The Applicant will still be required to demonstrate as part of any application for a proposed dwelling that the cleared area for the purposes of construction within the building envelope does not exceed 2,000m².

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 031212

Moved Cr Mackie / Seconded Cr Clarke

That Council grants planning approval for the modified building envelope at Lot 36 Patersonia Road, Chittering subject to the following conditions:

- a) All current and future development shall be contained within the approved envelope;**
- b) The applicant seeking suitable approval from the Department of Environment and Conservation for any additional clearing within the building envelope;**
- c) Any further developments on the site shall be the subject of subsequent planning applications/approvals.**

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.3 Proposed Building Envelope Modification and Outbuilding (Shed) – Lot 160 (RN 23) Sandpiper Mews, Bindoon*

Applicant	W and M Carney
File ref	A1759; P248/12
Prepared by	Scott Penfold, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Site Photographs 4. Applicant Submission 5. Development Plan 6. Schedule of Submissions

Background

An application was received for a proposed outbuilding to be constructed on Lot 160 (RN 23) Sandpiper Mews, Bindoon. The process has been as follows:

- An Application for Planning Approval was lodged on the 25 October 2012;
- Based on the information received with the planning approval, it was proposed for the outbuilding to be located 15 metres from the northern property boundary. This was deemed to be consistent with the building envelope on the property;
- As the proposed outbuilding was to be located in front of the main residential building line, this was a variation of Local Planning Policy No.7 – Outbuildings and Swimming Pools. The application was referred to the neighbours for comment on 8 November 2012 for a comment period of 14 days, prior to a decision being made by Council;
- During the comment period, it was brought to the attention of the Development Services Department that the construction of the outbuilding had already commenced with the site works and the laying of the concrete pad being completed on the 21 November 2012;
- The landowner was advised at a site inspection carried out on 21 November 2012 that all works on the proposed outbuilding would have to cease immediately and any further work would be subject to the approval of Council. This was formally sent in a letter dated 22 November 2012;
- During the site inspection, it was found that the proposed outbuilding was located closer to the boundary than proposed in the Application for Planning Approval. The concrete slab of the proposed outbuilding was located 11 metres from the northern lot boundary, where a 15 metre setback had previously been proposed;
- To rectify this matter, the applicant was given two options including:
 - Applying for a Building Envelope Modification/Relocation for a reduced boundary setback; or
 - Moving the proposed outbuilding such that it was located 15 metres from the boundary;
- The applicant chose the first option, lodging an Application for Planning Approval for a proposed Building Envelope Modification;
- Based on the requirements of the Shire of Chittering Town Planning Scheme No.6, the Application for Planning Approval for the proposed Building Envelope Modification was referred to surrounding landowners for comment on the 29 November 2012, with the comment period finishing on the 13 December 2012; and

- One submission has been received objecting to the proposed outbuilding. Also, one submission has been received objecting to the proposed Building Envelope Modification.

The details of the proposal are:

- To construct 12.5m X 6m (75m²) outbuilding as shown on the Site Plan;
- To modify the Building Envelope such that it is located 11 metres from the northern boundary, as shown on the Building Envelopment Modification Plan;
- The property does contain a building envelope, which the proposed outbuilding is located outside of. This is proposed to be rectified in the Building Envelope Modification.
- It is anticipated that minimal clearing will be required to facilitate the construction of the outbuilding.

The applicant has commenced development without the approval of the Local Authority in contravention of the Shire of Chittering Town Planning Scheme No.6. A penalty of \$500 is applicable and an infringement will be issued by the Chief Executive Officer.

This report is written without bias and based upon the relevant planning considerations that need to be taken into account when assessing an Application for Planning Approval for a proposed outbuilding and building envelope modification.

Consultation

The application was referred to the surrounding landowners for comment, as shown on the Consultation Plan included in Attachment 6. Two (2) objections have been received from a neighbouring landowner relating to the proposed outbuilding, which raised the following points:

- The size, bulk and setback of the proposed outbuilding;
- The proposed outbuilding being located in front of the main residential building line, in contradiction with Local Planning Policy No.7 – Outbuildings and Swimming Pools;
- The possibility that the proposed outbuilding could be used for a purpose other than household storage;
- The variation of the policy that will have adverse impacts on the inhabitants of the locality.

Six (6) submissions were received stating approval, two (2) being for the proposed outbuilding and two (2) being for the proposed building envelope modification and one objection has been received for each of the applications. Should any further objections be received, these will be tabled for Council's consideration.

Please refer to the Schedule of Submissions summarising comments received.

Statutory Environment

Shire of Chittering Town Planning Scheme No.6

The subject property is zoned 'Rural Residential' which has the following objectives under the Scheme:

"To designate areas where rural residential developments can be accommodated without detriment to the environment or the rural character of the area.

To meet the demand for a rural lifestyle on small lots, generally in excess of 1 hectare.

To maintain and enhance the rural character and amenity of the locality."

Clause 10.2 Matters to be Considered by Local Government

"The Local Government in considering an application for Planning Approval, is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application-

- a) The aims and provisions of the Scheme;*
- b) The requirements of orderly and proper planning including any relevant proposed new district planning scheme or amendment, which has been granted consent for public submission to be sought;*
- c) Any approved Statement of Planning Policy of the Commission;*
- d) Any approval environmental protection policy under the Environmental Protection Act 1986;*
- e) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;*
- f) Any local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*
- g) The aims and objectives of Catchment Management Plans and Principles for the Scheme Area;*
- h) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- i) The conservation of any place that has been registered in the Register of Places within the meaning of the Heritage Act of Western Australia 1990, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character and appearance of a heritage area;*
- j) The compatibility of a use or development within its setting taking into consideration any Special Control Area.*
- k) Any social issues that have an effect on the amenity of the locality;*
- l) The cultural significance of any place or area affected by the development;*
- m) The likely effect of the proposal on the natural environment and any means that area proposed to protect or to mitigate impacts on the natural environment;*
- n) Whether the land to which the application relates is unsuitable for the proposed by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk*
- o) The preservation of the amenity of the locality;*
- p) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- q) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- r) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- s) Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*
- t) Whether the public utility services are available and adequate for the proposal. This includes existing facilities and those planned for construction to meet the needs of the proposal and future servicing requirements of the Scheme Area;*

- u) *Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- v) *Whether adequate provisions have been made for access by disabled persons;*
- w) *Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- x) *Whether the proposal is likely to cause soil erosion or land degradation;*
- y) *The potential loss of community service or benefit resulting from the Planning Approval;*
- z) *The conservation of water resources;*
- aa) *Any relevant submissions received on the application;*
- bb) *The comments or submission received from any authority consulted under clause 10.1.1; and*
- cc) *Any other planning consideration the Local Government considers relevant."*

Clause 2.3 Relationship of Local Planning Policies to Scheme

- "2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.*
- 2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for Planning Approval but the Local Government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination."*

Local Government is directed by Clause 10.2 of the Scheme to consider Local Planning Policies when assessing Applications for Planning Approval.

Clause 5.8 Development Provisions – Rural Residential Zone, Rural Retreat Zone, Rural Smallholdings Zone and Rural Conservation Zone.

"Clause 5.8.2 Building Envelopes/Setbacks

Development will only be permitted in the areas identified as building envelopes provided that Council may vary the boundaries of such envelopes if it is satisfied that such variation is desirable and will not detrimentally affect the objective for the Zone or the amenity of the area generally.

With respect to the Rural Conservation zone, building envelopes must be shown on the development plan where it is within an area subject to an Environmental Management Plan. The building envelopes are to be located to minimise:

- c) Fragmentation and disturbance of remnant vegetation taking into account vehicle access;*
- d) Bush fire risk.*

Clearing of remnant vegetation for the construction of buildings within the defined envelope shall not exceed 2000m² without the prior approval of Council."

Schedule 1 Dictionary of Defined Words and Expressions

"Building Envelope means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained."

Development Plan

A Development Plan has been adopted for the property as part of the Country Club Rural Residential development, in accordance with Clause 5.8.1 of the Scheme and is included in Attachment 5. The following relevant Special Provisions of the Development Plan apply to the proposed building envelope modification:

"Building Envelopes

- 1.) The location of building in building envelopes shall be as specified in the Shire of Chittering Town Planning Scheme No.2 (Special Rural Zones) and;*
- 2.) As in the Chittering Country Club Annexure; and noted on the original transfers and deeds.*
- 3.) Building envelopes on this plan have been determined following the analysis of lot characteristics. Generally a side setback of 15m min. and a front setback of 20m is applicable. Where building envelopes are at variance to this standard, dimensions are as indicated."*

Policy Implications

Local Planning Policy No 7 – Outbuildings and Swimming Pools (LPP7)

The purpose of this report being prepared for Council is the need to vary LPP7 section 5.2 d) in order to consider the Application for Planning Approval. LPP7 section 5.2 d) outlines that

"All outbuildings are to be placed behind the main residential building line"

It should also be noted that the outbuilding requires the approval of the Local Government as it is within the 'Rural Residential' zone of the Scheme.

Clauses 2.3.2 and 10.2 f) outlined previously give the ability of the Local Government to grant planning approval to applications which propose variations to Local Planning Policies made under the Scheme.

Local Planning Policy No 18 – Setbacks

In regards to Local Planning Policy No.18, the following is applicable:

- "5.1 Where specified, setbacks are to be in accordance with the requirements of Local Planning Policies, Development Plans (including any building envelopes) and the Residential Design Codes. The procedure for variation is as specified in TPS No.6 and the Residential Codes respectively.*
- 5.2 In strategic firebreaks there are to be no building, swimming pools, dams, water tanks, fences or gates to be constructed.*
- 5.5 The minimum building setback from a drainage easement is 10m;*
- 5.7 Otherwise, the following minimum setbacks generally apply to buildings (including retaining walls), dams and water tanks:*
- b) **Rural Residential, Small Rural Holdings and Rural Retreat Zones, in the absence of building envelopes***
- Highway – 100m*
- Major Road – 50m*

Other Road – 20m

Rear – 20m

Side – 15m

The minimum separation between dwellings on adjoining lots is 50m.

- 5.9 *If a site is to have a sand pad for a proposed dwelling greater than 0.5m above natural ground level, then for every 0.5 metre of height above natural ground level, setback distances specified in 5.1 to 5.7 above are to be increased by 2 metres.*
- 5.10 *Application for planning approval may be dealt with by the Chief Executive Officer under delegation issued by Council in accordance with Section 5.42 of the Local Government Act 1995 in the following circumstances:*
- (a) where setbacks conform to the requirements of 5.1 to 5.7 above*
 - (b) where effluent disposal facilities are located outside a building clearing area or within a setback area, provided the location has been previously cleared of natural vegetation and satisfies health requirements.*
- 5.11 *Council may permit variations to the minimum setbacks specified in 5.5 and 5.7 above, as permitted by TPS No.6, in the following circumstances:*
- (a) additions to an existing building*
 - (b) reduced size or irregularly shaped lot*
 - (c) commercial or industrial use*
 - (d) temporary or minor structures*
 - (e) heritage buildings*
 - (f) other cases where it is reasonable to do so, as determined by Council."*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social implications

An objection has been received to the location of the proposed outbuilding. The location of the proposed outbuilding may impact the amenity of the neighbouring landowners.

Environmental implications

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

Comment

The proposed outbuilding is to be located forward of the existing house on the site, with the primary access being Sandpiper Mews. It is also located outside of the building envelope, within 11 metres of the northern lot boundary.

The main issues that require consideration are:

- Setbacks: the building envelope and proposed outbuilding are to be located 11 metres from the northern lot boundary;
- Amenity: The location of the proposed outbuilding in relation to the northern property boundary and in front of the main residential building line. The impact on the amenity of the locality is required to be assessed.

As Council is aware, the applicant has proceeded with the site works and construction of the concrete pad prior to the outbuilding being approved. In any case, should Council choose to approve the building envelope modification and proposed outbuilding, the applicant should be required to pay the fee for retrospective planning approval (being three times the normal fee), given works have been undertaken prior to the Shire of Chittering issuing planning approval.

Consultation

In accordance with requirements of the Shire of Chittering Town Planning Scheme No.6, the proposed outbuilding and building envelope modification were advertised for fourteen (14) days to the surrounding landowners for the following dates:

- | | |
|---|--|
| • Proposed Outbuilding | 8 November 2012 to 22 November 2012; and |
| • Proposed Building Envelope Modification | 29 November 2012 to 13 December 2012. |

During both consecutive advertising periods, two objections were received to the proposed outbuilding and building envelope modification. Four (4) submissions voiced approval, two (2) for the proposed outbuilding and two (2) for the proposed building envelope modification.

The objections to the proposed outbuilding were on the following grounds:

- The size, bulk and setback of the proposed outbuilding;
- The proposed outbuilding being located in front of the main residential building line, in contradiction with Local Planning Policy No.7 – Outbuildings and Swimming Pools;
- The possibility that the proposed outbuilding could be used for a purpose other than household storage;
- The outbuilding being shown in the incorrect location and orientation;
- The construction of the outbuilding occurring prior to Council giving approval; and
- The variation of the policy that will have adverse impacts on the inhabitants of the locality, as the proposed outbuilding will impact the visual amenity of the neighbours;
- The outbuilding being located close to their house.

To respond to these comments, it is believed that:

- The size and bulk of the proposed outbuilding is not unreasonable, being less than 3 metres in height, as well as being 75m² in area, being approximately 0.4% of the property area. This is considered a reasonable size for an outbuilding being constructed on a rural residential property. The Shire of Chittering does not have size limitations for outbuildings. Council has the ability to vary the size of sheds in residential areas up to a maximum size of 150m² in area;
- The location of a proposed outbuilding in front of a dwelling is at the discretion of Council. However, it should be noted that this has been approved for previous applications, subject to a number of conditions including screening. It should also be noted that on Sandpiper Mews there is already an existing shed which has been approved in front of the main residential building line at 14 Sandpiper Mews, Bindoon;

- Council can require as a condition of planning approval that the proposed outbuilding is used for storage purposes only, as has been included in the Officer Recommendation;
- Upon being informed that the proposed outbuilding was shown in the incorrect location, it was investigated and a new Site Plan was obtained from the applicant and referred to neighbours for comment. Given the outbuilding was also located outside of the building envelope, it was required that the applicant lodge an Application for Planning Approval for a proposed building envelope modification, which was also referred to neighbours for comment;
- The issue of the outbuilding being constructed prior to Council determination (site works and concrete pad) will result in an infringement being issued. This will be undertaken as an administrative matter. The Officer Recommendation also has a condition of approval requiring that the applicant pay the retrospective planning application fee, given works commenced prior to approval being issued;
- The impact on the amenity of the locality and adverse impacts on inhabitants is subjective. It is recommended that to ensure that proposed outbuilding and building envelope modification be sufficient screened to ensure the outlook of neighbours and the amenity of the locality is sufficient protected; and
- The proposed outbuilding is located approximately 50m from the nearest dwelling on a neighbouring property. This is considered a sufficient separation given the minimum separation between an outbuilding and dwelling on 'rural residential' zoned land is 30m (based on a 15m minimum setback).

Shire of Chittering Town Planning Scheme No 6

Objectives of 'Rural Residential' zone:

One of the objectives of the rural residential zone is to maintain and enhance the rural amenity and character of the locality. It is believed that the proposed outbuilding is relatively small, being only 6m X 12.5m and 3 metres in height. Also, the outbuilding is relatively well screened from Sandpiper Mews, given the location of trees.

Given the reduced setback to the neighbouring property of 11 metres, there may be an issue regarding the amenity of the neighbouring property. It is recommended that Council require the applicant to plant screening vegetation adjoining the neighbouring property to reduce the visual impact of the proposed outbuilding to the neighbouring property. It is also recommended that the applicant plant screening vegetation on the southern side of the outbuilding to reduce visual impact when looking up slope and more effectively screening the proposed outbuilding from Sandpiper Mews.

Clause 10.2 Matters to be considered by Local Government:

- a) The aims and provisions of the Scheme have been outlined in this agenda item for the consideration of Council;
- b) The proposal has not undertaken orderly or proper planning, due to the development commencing before approval of the Local Government is granted.
- k) As outlined previously, an objection to the outbuilding has been received on the basis of the amenity of the locality and the proposed building envelope being located significantly close the neighbouring property boundary.
- m) The footprint of the outbuilding and the roof area is likely to have minimum impact on the environment of the locality.
- n) The location of the proposed outbuilding is not likely to be subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;
- o) An objection received during the submission period outlined that the proposal was likely to impact the amenity of the locality on the following grounds;

- a. The size and bulk of the outbuilding being significant;
 - b. The outbuilding being located in front of the main residential building line; and
 - c. The outbuilding being setback closer than 15 metres to the northern boundary.
- p) The proposed outbuilding is located outside the currently approved building envelope and within 11 metres of the neighbouring property. Council has previously considered reducing building envelopes and setbacks to 10 metres within Rural Residential zoned properties. However, in order to ensure the visual impact of the proposed development is lessened, it is recommended that the applicant install visual screening to the satisfaction of the Chief Executive Officer on the northern boundary of the proposed outbuilding.
- q) Access to the proposed outbuilding is deemed to be adequate. The purpose of the construction of the concrete pad prior to approval being issued by the Shire of Chittering was explained by the applicant as being needed to line up the newly constructed driveway with the proposed outbuilding.
- r) The proposal is not likely to add additional traffic to the locality or detriment the local road network.
- w) Landscaping was not proposed for the proposed outbuilding. However, to lessen the visual impact of the proposed shed, it is recommended that Council require the applicant to plant screening vegetation along the northern boundary of the proposed building envelope to screen the bulk and height of the proposed outbuilding from the neighbouring property.
- x) The proposal is unlikely to cause excessive soil erosion or land degradation.
- aa) As outlined, the application was referred to surrounding landowners for comment. Two objections were received pertaining to the bulk of the development, the setback from the neighbouring property, the variation to Local Planning Policy No.7 – Outbuildings and Swimming Pools and the development commencing prior to the approval of Council.

Local Planning Policy No 7 – Outbuildings and Swimming Pools

The proposed outbuilding is located in front of the main residential building line on the property. Whilst it is a general policy statement that outbuildings shall be located behind the main residential building line, Council has approved variations to this clause in the past, provided Council is satisfied that the amenity of the locality is not compromised by placing the shed in front of the main residential building line. As shown on the site photographs in Attachment 3, the existing dwelling still remains the predominant feature of the property, due to the shed being screened by trees and the view of the house being down the hill, the angle from which the property is approached on Sandpiper Mews.

Local Planning Policy No 18 – Setbacks

The proposed outbuilding is located 11 metres from the northern boundary of Lot 160 (RN 23) Sandpiper mews, Bindoon. Council has permitted a reduced setback in Rural Residential zones, usually to a minimum of 10 metres.

Section 5.11 of Local Planning Policy No.18 outlines the reasons for which a reduced setback may be considered by Council. These include:

- “(a) additions to an existing building*
- (b) reduced size or irregularly shaped lot*
- (c) commercial or industrial use*
- (d) temporary or minor structures*
- (e) heritage buildings*
- (f) other cases where it is reasonable to do so, as determined by Council.”*

In the case of the proposed outbuilding, the reason for the reduced setback as outlined by the applicant is as follows:

- It is required that the shed is located close to the existing house as the applicants intend to stay at the property until old age and wish for it to be within easy walking distance and on the same level as the existing house;
- The economics of constructing the shed on any other portion of the property would be exorbitant. This is due to the need to extend services and a driveway to the proposed shed so that it can be accessed by vehicles; and
- The applicant wished to group the proposed building in a single area on the property, whilst maintaining amenity and the current outlook of the existing house.

The amenity of the neighbouring property has been raised in an objection to the proposed shed and building envelope modification to the Shire of Chittering. It is believed that the amenity issues caused by the reduced setback and location of the proposed outbuilding can be addressed through the implementation of screening on the northern side of the proposed outbuilding.

Upon site inspection, the location of the proposed outbuildings are logical based on the following justification:

- The proposed outbuilding is easily accessible from the existing driveway;
- Existing trees will screen the proposed outbuilding and further screening can be implemented between the proposed outbuilding and the northern boundary to reduce the visual impact on the neighbouring property;
- The proposed outbuilding will not likely have a significant impact on the surrounding residential buildings or the visual amenity of the locality;

Furthermore, it should be noted by Council that the applicant has sought to rectify the situation of unapproved development by:

- Ceasing the development of the proposed outbuilding at the direction of the Shire of Chittering; and
- Lodging an Application for Planning Approval for the proposed building envelope modification for the consideration of the Shire of Chittering prior to any further works being undertaken, so the matter can be properly considered by Council.

The precedent of outbuildings being developed in front of the main residential building line has been established in the locality, as well as numerous other examples throughout the Shire of Chittering. The size of the proposed outbuilding is such that the bulk and height are not expected to have a significant visual impact on the locality.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr Clarke

1. That prior to planning approval being issued for the proposed building envelope relocation at Lot 160 (RN 23) Sandpiper Mews, Bindoon, the applicant pay the applicable retrospective planning fee.
2. That Council authorise the Chief Executive Officer to issue planning approval for the proposed building envelope modification and outbuilding, subject to the following conditions:
 - a. Implementation of screening in the form of planting local native trees or shrubs between the proposed outbuilding and the northern lot boundary to the satisfaction of the Chief Executive Officer within 12 (twelve) months of Planning Approval;
 - b. All development shall be in accordance with the submitted plans;
 - c. The outbuilding is not to be used for Commercial purposes;
 - d. The outbuilding is for storage purposes only and not for residential habitation;
 - e. Roofing to be tiled or pre-painted material such as Colorbond;
 - f. Clearing shall only be permitted for outbuilding construction and fire safety purposes.
 - g. Any further developments on the site shall be the subject of subsequent planning applications/approvals;
 - h. If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect;
 - i. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr Clarke

1. That prior to planning approval being issued for the proposed building envelope relocation at Lot 160 (RN 23) Sandpiper Mews, Bindoon, the applicant pay the applicable retrospective planning fee.
2. That Council authorise the Chief Executive Officer to issue planning approval for the proposed building envelope modification and outbuilding, subject to the following conditions:
 - a. Implementation of screening in the form of planting local native trees or shrubs between the proposed outbuilding and the northern lot boundary to the satisfaction of the Chief Executive Officer within 12 (twelve) months of Planning Approval;
 - b. All development shall be in accordance with the submitted plans;
 - c. The outbuilding is not to be used for Commercial purposes;
 - d. The outbuilding is for storage purposes only and not for residential habitation;
 - e. Roofing to be tiled or pre-painted material such as Colorbond;
 - f. Clearing shall only be permitted for outbuilding construction and fire safety purposes.
 - g. Any further developments on the site shall be the subject of subsequent planning applications/approvals;
 - h. If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect;
 - i. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

AMENDMENT

Moved Cr Mackie / Seconded Cr Gibson

That an additional recommendation 3. Be included as follows:

- 3. That Council endorse the actions of the Chief Executive Officer in issuing an infringement notice under the Planning and Development Act 2005.**

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1
AND FORMED PART OF THE SUBSTANTIVE MOTION**

SUBSTANTIVE MOTION / COUNCIL RESOLUTION – 041212

Moved Cr Gibson / Seconded Cr Clarke

- 1. That prior to planning approval being issued for the proposed building envelope relocation at Lot 160 (RN 23) Sandpiper Mews, Bindoon, the applicant pay the applicable retrospective planning fee.**
- 2. That Council authorise the Chief Executive Officer to issue planning approval for the proposed building envelope modification and outbuilding, subject to the following conditions:**
 - a. Implementation of screening in the form of planting local native trees or shrubs between the proposed outbuilding and the northern lot boundary to the satisfaction of the Chief Executive Officer within 12 (twelve) months of Planning Approval;**
 - b. All development shall be in accordance with the submitted plans;**
 - c. The outbuilding is not to be used for Commercial purposes;**
 - d. The outbuilding is for storage purposes only and not for residential habitation;**
 - e. Roofing to be tiled or pre-painted material such as Colorbond;**
 - f. Clearing shall only be permitted for outbuilding construction and fire safety purposes.**
 - g. Any further developments on the site shall be the subject of subsequent planning applications/approvals;**
 - h. If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect;**
 - i. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.**
- 3. That Council endorse the actions of the Chief Executive Officer in issuing an infringement notice under the Planning and Development Act 2005.**

Advice Note:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 5/2

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 30 November 2012*

Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Statement of Financial Activity for period ending 30 November 2012 (27 pages) Financial Statements for period ending 30 November 2012 (59 pages) Bank reconciliation for period ending 30 November 2012 (1 page) List of accounts paid for November 2012 (6 pages)

Background

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

The statement of financial activity is to be presented at an ordinary meeting of council within two (2) months after the end of the month to which the statement relates.

The statement of financial activity for the period ending 30 November 2012, financial statements, bank reconciliation and list of accounts paid for the period ending 30 November 2012 are hereby presented for council's information.

Consultation

- Chief Executive Officer
- Executive Manager Development Services
- Executive Manager Technical Services
- Manager Human Resources
- Community Emergency Services Manager
- Building Co-ordinator

Statutory Environment

State: *Local Government Act 1995*

Local Government (Financial Management) Regulations 1996

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

Council is requested to accept the monthly statement of financial activity, financial statements, bank reconciliation and list of payments as presented.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 051212

Moved Cr Hawes/ Seconded Cr Gibson

That Council:

1. endorse the list of payments:

- PR2939
- PR2942
- EFT 7416 - EFT 7479
- Municipal Fund Vouchers 13214 - 13236
- Direct Debits as listed
- BPV22 to BPV22
- Trust Fund Vouchers 313-313

Totalling \$1,138,480.73 for the period ending 30 November 2012.

2. receive the bank reconciliation for the period ending 30 November 2012 as presented.

3. receive the financial statements for the period ending 30 November 2012.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.3.2 Indoor/Outdoor Gym Proposal*

Applicant	Shire of Chittering
File ref	05/03/0001
Prepared by	Arlene Carter, Club and Community Development Officer
Supervised by	Jean Sutherland, Executive Manager Corporate Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> 1. Financial Options 2. Outdoor Aerial Site Plan 3. Outdoor Concept Plan 4. Indoor Concept Plan

Background

At the Ordinary Meeting of Council held on Wednesday, 18 April 2012, Council resolved the following:

"Moved Cr Norton / Seconded Cr Douglas

That Council:

1. *Gives in-principle support to the Bindoon Outdoor Gym proposal, at the site adjacent to Bindoon Oval, subject to further investigations.*
2. *Makes a final decision once the project has the required information, which includes costings, options etc."*

Following this resolution a community survey was undertaken. The results showed that consideration should also be given to the possibility of establishing an indoor gym. Therefore, the option of one, or the other, or a combination of both has been explored in this report.

Consultation

A survey was first conducted in relation to an outside gym only in December 2010.

A further community survey was conducted in September 2012, which revealed the following levels of support for either proposal:

Description	Number responses	% of responses
Outdoor gym	23	10%
Indoor gym	99	44%
Both	68	30%
Neither	21	9%
Didn't answer	12	5%
Total responses	223	100%

It can be seen from the above table that there is strong support for an indoor gym at 44%, based on these survey results. However, there is also healthy support for both, at 30%, which suggests there may be a case for a combined approach to this project.

The following is some of the comments made in the survey:

- *"just hurry up and do it"*
- *"Been debated too long, just do it for the community"*
- *"hope we can afford fees/subsidies for seniors"*
- *"growth of Chittering needs gym"*
- *"fantastic idea have been waiting for gym for long time"*
- *need in Muchea or Lower Chittering*

Statutory Environment

Nil

Policy Implications

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

Financial Implications

Outdoor Gym Costs

Following is a breakdown of the costs of the proposed outdoor gym, which would consist of the following items:

- Stepper
- Rowing Machine
- Butterfly Press
- Cycle Seat
- Pull Down Trainer
- Cross Trainer

Purchase and installation of 6 pieces of apparatus:	\$17,780.00
Rubber matting and shade sails	28,000.00

Sub-total	\$45,780.00
GST	4,578.00

Total	\$50,358.00

There is an existing concrete vehicle access which needs to be removed and replaced to accommodate the caravan dump station. Estimated additional costs of works amount to \$13,000, with the retaining wall estimated at \$6,000.

The only ongoing cost would be quarterly inspections of the equipment. This is at a cost of \$600 per annum by the suppliers however they have indicated that our parks staff can be trained to do this inspection.

Life expectancy before replacement

Outdoor Equipment	The Structural Warranty is 10 years however the apparatus would be expected to have a life of 20 years or longer providing it is maintained.
Rubber matting (Soft fall)	30 years.

Shade sails The warranty is for 3 years. Life expectancy is 7-10 years. After 4 years a re-stitch is required at a cost of \$180 per sail. Replacement of a sail after 7 years is approximately \$1500 - \$2000.

Insurance

Insurance of the equipment and matting would come under Council's property insurance for vandalism/theft. Based on \$17,780 worth of equipment this would be approximately \$100pa.

It is understood that Shade sails are not covered by Council insurers.

Indoor Gym Cost

Following is a breakdown of the costs of the proposed indoor gym. They are labelled A to M for the purposes of identifying them on the layout drawing attached (Attachment 4) and the prices schedule supplied by the Gym Care Company.

(A) Treadmill* x 2	15,500.00
(B) Cross Trainer* x 2	10,700.00
(C) Recumbent Cycle*	3,130.00
(D) Commercial Rower*	1,940.00
(E) Keiser Bike*	1,855.00
(F) 3x Exercise Mats	138.00
(G) 2xStability Balls 55cm & 75cm	140.40
(H) Medicine Ball & Rack (MBT-10)	1,163.75
(I) Fit 3 Leg Ext/Curl/Lat Pulldown/Seated Row/Multi Press	9,030.00
(J) Bar Optima Series (OSSM)	3,700.00
4 x 20kg Olympic weights	352.00
4 x 10kg Olympic weights	176.00
4 x 5kg Olympic weights	93.00
4 x 2.5kg Olympic weights	56.00
(K) 2x Adjustable Bench (OSADJ)	2,400.00
(L) 10kg-35kg Barbells & rack (BR6R)	1,971.00
(M) Exercise Stretching Poster x 2	138.00
Freight, delivery and installation	850.00

Sub-total	53,333.15
GST	5,333.30

Total	58,666.45

**Note: These items are identified for the purposes of leasing Option 5*

Options for Indoor Gym

There are three options, either purchasing the equipment outright, leasing the equipment or a combination of both. The costs are outlined in attachment 1. At the completion of the lease agreement (4 years), Council has the option of either buying, upgrading or replacing with new equipment and entering into another lease agreement or a combination of both.

Life expectancy before replacement

Indoor Equipment	There is a 2 year warranty on most gym equipment on parts. They could not advise of a "life expectancy" as they stated that most people upgraded every few years to keep up with the trends of new equipment. The lease agreement would be for four years, we would need to negotiate an extended warranty for 4 years (which wouldn't be hard to achieve) or pay more.
Rubber matting (Soft fall)	The tiles can be uplifted and used in another building, approximate life is 20 years.

Funding – Outdoor/Indoor Gym

It is unlikely that a funding source would be available for a project of this nature. Therefore it is envisaged that the entire proposal would be funded from Council funds.

There are various grant sources that have been investigated:

- Department of Sport & Recreation – having met with them a few weeks ago it was clear that they do not consider these projects (whether it be indoor or outdoor) would meet their criteria for funding.
- Lotterywest would only look at funding equipment not building alterations/matting, sails etc, to accommodate for any gym.
- Have researched some Health grants and contacted them but at this stage have not been successful in finding one where their criteria is appropriate for either project.

Insurance

Having spoken to LGIS their perspective is that the ideal situation is for a manned gym with a fully qualified instructor but as they acknowledge this is not often practical or possible. There is a list of necessary requirements we would need to fulfil from an insurance perspective, but these are all reasonable and easily obtainable (include things like a phone, first aid kit, proper induction into machinery etc). According to LGIS our public liability and building insurance would not increase at all so the only increase in terms of insurance would be for contents. Based on \$52,500 worth of equipment this would be approximately \$100pa.

Strategic Implications

This item is consistent with "Outcome: Social" of the Shire of Chittering's Strategic Plan 2010/11 – 2014/15 and Objective S12(ii) "Conduct a feasibility study and investigate funding options for a community/recreation centre in Bindoon with the possibility of including a community gym."

Location and Site Inspections

Outdoor Gym

The survey results revealed the following information in relation to the most suitable location for an outdoor gym:

Location	Responses received	% of response
Clune Park	14	6%
Bindoon Oval	49	22%
Didn't answer	141	63%
Mucnea Oval	10	5%
Others	9	4%
Total	223	100%

Therefore, if there is support for an outdoor component to the gym it should be located in the vicinity of the Bindoon Oval.

A site inspection was carried out by the Executive Manager Technical Services, Cr Norton, Judy Dennis and the Club and Community Development Officer, in late August and the following was discussed:

- While there had been a survey carried out in 2010 it was decided that a more recent survey should be carried out. This was achieved in September 2012.
- That it is possible to fit an outdoor gym beside the public toilets, however the current vehicle access that goes towards the oval would need to be demolished and a new one installed by the caravan dump area to service the caravans. Regardless of the gym this is considered necessary anyway to be more serviceable for the caravans. A small safety barrier would also need to be installed to protect the gym equipment.

An aerial photo and concept plan are attached (attachments 2 and 3).

Indoor Gym

It is proposed that the Gym would be housed within the Bindoon Town Hall on the opposite side to the Country Women's Association. The Bindoon Theatre Incorporated has a current lease for the Bindoon Town Hall except for the CWA Annex area. There has been no objection received from the committee on having a gym in the hall, however further consultation would need to be conducted if the gym proposal was to go ahead and their lease agreement revised.

There are no regular users that hire this part of the hall, occasionally it is used e.g. overflow for the Chittering Wildflower Festival. This location may also potentially allow for group exercise activities in the main central hall area.

The proposal is working on a "community gym" model that is not manned by a fully qualified instructor, so access is one of the more complicated issues for this project. Other communities such as Cunderdin, York, Trayning, Pingelly and Kambalda are all running un-manned community gyms. Access to these gyms is usually through a community key system where members are either given a key as part of their membership (in Cunderdin the key itself costs \$50 and then a membership on top of that – if you lose the key you pay for a another one) or they pick up a key from a designated location prior to use (i.e. the Shire or Post Office). A swipe card system would be ideal so that each member had a coded card that didn't work once their membership had expired and also to audit who and when they used the facility in case there was an issue with vandalism or security, cost for a system to be installed is approximately \$5,167 plus GST.

A site inspection has been carried out on the Bindoon Town Hall and the following was noted:

- The drop-down partition wall between the main hall and the proposed gym area would need to be removed and a permanent wall installed complete with an interior door to the main hall area. This door would need to have a deadbolt locking system to ensure no entry into the main hall.
- There would need to be a security access system put on one of the exterior doors. The external doors are not in a very good condition and not that secure. These exterior doors would need to be replaced to ensure security.
- Air conditioning (\$3,800) and drink water fountain (rented \$600 per annum) would also be necessary but has not been thoroughly investigated at this stage.

A concept plan is included at attachment 4.

No other Council facilities/halls have been investigated at this stage.

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

The need for increased access to sport and recreational opportunities in country areas, particularly within the Wheatbelt, continues to be a priority target area for both government and non-government organisations, with preventable diseases such as overweight/obesity, type two diabetes, heart disease, depression, osteoporosis, and falls amongst the senior population continuing to increase.

The objectives of the proposal are:

- Increased participation in regular physical activity within the community
- Increased access to and participation in resistance training exercise
- Improved capacity for delivery of local group exercise and fitness programs
- Improved health and wellbeing of community members
- Prevention and management of degenerative and lifestyle diseases/illnesses
- Reduced burden on local health care services
- Improved social community cohesion
- Improved social capacity
- Decreased levels of overweight/obesity
- Decreased health risk factors
- Improved lifestyle and retention of community members.

Environmental Implications

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

Advantages/Disadvantages

Outdoor option

Advantages	Disadvantages
No membership - Free	Usage subject to weather conditions
Low Operational costs	No high resistant weight equipment
Long Warranty	No privacy in public area
Maintenance on equipment minimal	
Equipment not likely to be stolen	
Equipment limited to what can be offered for everyone's needs e.g. no weight training or strong resistance ability.	

Indoor option

Advantages	Disadvantages
Use any time of day in all weather conditions	Some equipment can be uplifted and stolen
More versatile equipment that gives the user more resistance training e.g. body building.	Upgrading of building to accommodate equipment
If leasing can upgrade equipment after 4 years	
Can charge membership fees to cover outgoing	

Advantages	Disadvantages
expenses	
Privacy for the individual (behind closed doors)	
Maintenance on equipment minimal	

Comment

The proposal of an outdoor gym has been discussed and consulted with the public over the last two and half years. If there is support for a gym proposal it is recommended the following approach be taken.

OFFICER RECOMMENDATION

Moved Cr Rossouw/ Seconded Cr Clarke

That Council:

1. subject to securing the required space in the Bindoon Town Hall, and endorsement by Council of a full business Plan, an appropriate allocation be made in its 2013/14 Annual Budget for the establishment of an Indoor Community Gym.
2. Upon satisfactory completion of condition (1) above, an allocation be made in the 2014/15 Annual Budget for the installation of an outdoor gym.

THE MOTION WAS PUT AND DECLARED LOST 1/6

COUNCILLOR MOTION / COUNCIL RESOLUTION- 061212

Moved Cr Douglas / Seconded Cr Norton

That Council consider allocating in its 2013/14 Annual Budget funds for the establishment of an indoor and outdoor community gym.

THE MOTION WAS PUT AND DECLARED CARRIED 6/1

Reason for Change:

To consider other location options for the indoor gym.

9.3.3 **LATE ITEM - Support for Flavours of Chittering 2013***

Applicant	Shire of Chittering
File ref	26/01/2
Prepared by	Karen Dore, Economic Development Officer
Supervised by	Jean Sutherland, Executive Manager Corporate Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Summary of Proposed Budget

Background

Flavours of Chittering ran successfully in 2009 and 2010 as a major event coordinated by the Chittering Wine Trail Association with the support of the Shire of Chittering, attracting more than 4,000 visitors each year. Smaller events took place in 2011 and 2012.

It is proposed that in 2013 Flavours of Chittering be 'brought to its former glory' with event coordination, including the seeking of funding, to be the responsibility of the Shire of Chittering. This proposal has the support of the Chittering Wine Trail Association.

Consultation

Several meetings have been held with the Chittering Wine Trail Association:

- 27 August 2012: Shire President – Alex Douglas and Economic Development Officer – Karen Dore met with the Association at Jylland Estate to ascertain their forward plans for the event. The 2012 event was to take place in conjunction with the Bindoon and Districts Agricultural Show and it was decided to wait until after this event to discuss the future of the event further.
- 12 November 2012: Shire President – Alex Douglas, Chief Executive Officer – Gary Tuffin and Economic Development Officer – Karen Dore met with the Association in Council Chambers following the 2012 Flavours of Chittering event to discuss 'where to from here'. The outcome of the discussions was for the event to revert to the "Central Hub Markets" style as per 2009 and 2010.
- 16 November 2012: Economic Development Officer – Karen Dore met with Bruce Cussen (acting on behalf of the Association) to discuss previous plans and budgets for use in preparing a project plan for the proposed 2013 event.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

The estimated budget for the project is approximately \$63,000 (Attachment 1).

A cash amount of \$9,902 will need to be considered by Council within the 2013/14 Budget process, along with an in-kind contribution of \$7,130.

Event funding of \$32,672 will be sought from Eventscorp WA (Department of Regional Development and Lands / Royalties for Regions) and Lotterywest.

Further support will be requested, both cash and in-kind, from local organisations and commercial food vans, plus a gold coin donation request from visitors attending the event.

Strategic Implications

Key duties / responsibilities of the position of Economic Development Officer include, to; *"coordinate and manage community events and festivals", "prepare proposals for funding to support community economic growth" and "organise and coordinate promotional activities"*.

With reference to the *Shire of Chittering Strategic Plan 2010/11-2014/15*:

Economic Outcomes – Encouraging a range of business, employment and tourism opportunities

E6 "Provide financial, advertising and logistical support to assist with events in the Shire of Chittering".

- (i) *Continue to support the Flavours of Chittering event through budget allocations.*
- (ii) *Provide administrative support to the organising committees' and tourist association for community events and promotions.*

With reference to the *Shire of Chittering Strategic Community Plan 2012-2022*:

Social – Building a Sense of Community: strengthened social connections

Facilitate and nurture community interaction: *Create and support festivals.*

Economic – Prosperity for the Future

Support local businesses: *Facilitate promotional opportunities*

Chittering "A Place to Visit": *Facilitate local stalls and produce.*

Governance – Strong Leadership

Stakeholder engagement: *Seek grant funding.*

Measurable Results

Increase in festivals and events held each year – 0 to 5, 5 to 10 and 10 to 20 years.

Site Inspection

Not physically undertaken prior to this report. As part of the full project planning process a site inspection (Lower Chittering Hall) will be undertaken in order to ensure that the best possible layout is utilised.

Triple Bottom Line Assessment

Economic Implications

The recently completed *"Shire of Chittering Strategic Community Plan"* states that economically the community aspires to see *"Chittering develop as a local government that promotes and fosters current and new economic development, continuing to brand Chittering as a day / weekend tourist destination"*.

An increase in events and festivals has been identified as an economic strategy in both the *Shire of Chittering Strategic Plan 2010/11-2014/15* and the *Shire of Chittering Community Strategic Plan 2012-2022*.

It is estimated, based on the 2009 event, that visitor revenue to stallholders and commercial food vans could be in the vicinity of \$410,000. This is based on 4,000 visitors attending and spending an average of \$100 per person on food, wine and goods (\$400,000) plus 50 couples staying overnight spending an average of \$100 per person (\$10,000).

Social Implications

Local events add value to the community through inclusion and involvement.

Environmental Implications

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

Comment

In reading the consultant's report following Flavours of Chittering 2009 and looking through anecdotal evidence from 2010 it appears that this could be the key annual event with which to showcase the diverse range of wares that are available from growers, producers and businesses throughout the Chittering Valley.

It is envisaged that the event will be a "tasting plate of all that Chittering has to offer", with marketing and promotions, including the production of a "Chittering show bag" filled with local producer and business information that can be taken away from the event enabling attendees to plan their next visit.

The three-year plan for the event will be to put the event back onto the local event calendar in 2013 with the majority of businesses being stallholders (encouraged by the event being fee-free for residents), moving to making the event more regionally marketed in 2014 with the addition of value adding merchandise culminating in it becoming an event which is recognised statewide.

The closing date for submissions to Eventscorp WA for 2013-14 Regional Events Scheme funding is 5pm on 4 February 2013, hence the requirement for Council's support to be formalised as a matter of urgency.

AMENDMENT

Moved Cr Gibson/ Seconded Cr Clarke

That the words 'cash and' be deleted from recommendation 2.

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 071212

Moved Cr Rossouw/ Seconded Cr Gibson

That Council:

1. **support the proposed event Flavours of Chittering 2013, on the basis that the event is managed by the Shire of Chittering.**
2. **consider cash and in-kind contributions to Flavours of Chittering 2013 during the 2013/14 Annual Budget considerations.**
3. **support the seeking of external funding for Flavours of Chittering 2013.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Proposed Chittering Trails Network Master Plan*

Applicant	Shire of Chittering
File ref	05/03/0013
Prepared by	Karen Dore, Economic Development Officer
Supervised by	Gary Tuffin, Chief Executive Officer Jean Sutherland, Executive Manager Corporate Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Chittering Trails Master Plan 2013-23 (draft, 34 pages) Trail Inventory (8 pages) Maps (7 pages) Cost Estimates (10 pages) Photographs (3 pages) Signage Examples (3 pages) Visitor Risk Management (2 pages)

Background

In the *Shire of Chittering Strategic Community Plan* (page 9) under the heading "Natural Environment: Preserving and Enhancing Our Natural Environment" there is reference to "*promoting our local environment as a place to visit*" through "*trail, lake, wetland and wildflower access*" and the "*Needoonga Lake Boardwalk Project*". The Shire of Chittering Trails Master Plan is listed as a link.

The draft of the Shire of Chittering Trails Master Plan was presented to Council at their Ordinary Meeting held on 16 April 2008, with the resulting Resolution of Council:

"That

- (a) The draft Trails Master Plan be put out for Public Comment;*
- (b) A public meeting be held on the matter before the end of June 2008;*
- (c) Detailed investigations be carried out on various sources of funding, with the construction proposals to be varied in accordance with the most advantageous positions over the next 2 years;*
- (d) Provision be included in Council's "Financial Plan for the Future" over the next 6 years for a Council contribution towards Trail upgrading and constructions."*

The draft Plan was advertised for public comment in the Gingin-Bindoon-Bullsbrook Advocate on 14 May 2008. There is then no further reference to the Chittering Trails Master Plan in Shire records. It was not formally endorsed by Council which means that the recommendations contained within it were neither formally acknowledged nor actioned.

Consultation

- Anna Jamieson, Shire of Chittering BeActive Officer;
- Azhar Awang, Shire of Chittering Executive Manager Development Services;
- Brendan Jeans, Shire of Chittering Senior Planning Officer;
- Chittering Community;
- Chittering Community Planning Advisory Committee;

- Colleen Osborn, Chittering Tourist Association (Inc) Tourism Promotion Officer;
- Gil Field, Department of Environment and Conservation Interpretation Section (State);
- Jamie Ridley, Department of Environment and Conservation Parks and Visitor Services Coordinator (Perth Hills);
- Janet Cameron – WA Horse Council;
- Jenifer Collins – Department of Sport and Recreation;
- Jim Garrett, Shire of Chittering Executive Manager Technical Services;
- Jo Buegge, Shire of Toodyay Avon Be Active Coordinator;
- Maryke Beveridge, Member – Australian Trailhorse Association and WA Horse Trackers;
- Michael Phillips, Department of Environment and Conservation Visitor Risk Management Coordinator (State);
- Paul Neve, Owner – Neve [Professional Trail] Construction;
- Rosanna Hindmarsh, Chittering Landcare Centre;
- Sue Metcalf, Chittering Landcare Centre;
- Sue Pedrick, Chittering Landcare Centre;
- Terry Goodlich, Department of Environment and Conservation Acting Trails Coordinator (State); and
- Wendy Gellard – Peace Be Still

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Should the Chittering Trails Network Master Plan be endorsed by Council the following recommendation contained within it would have financial implications:

Consider the inclusion of an annual budget allocation for the implementation of the projects contained within the Chittering Trails Network Master Plan.

The estimated total cost of the proposed projects is \$99,195, with additional in-kind costs of \$17,595. This equates, including a provision for trail maintenance, to an average annual allocation of \$18,684 per annum over ten years.

Strategic Implications

With reference to the *Shire of Chittering Strategic Plan 2010/11-2014/15*, Social Outcomes – S14 “*Plan and construct new walk trails for use by locals for recreation as well as for use by visitors to the area, linking appropriate sites*”. The first action is to “*produce a plan of the Shire showing walk trails in the area and provide budget allocation for one new / upgrade per year*”.

Site Inspection

Each site referred to in the attached report was inspected by the original report writer, Mike Maher, along with an update by the Economic Development Officer.

Triple Bottom Line Assessment

Economic Implications

The completion of the projects within the Chittering Trails Network Master Plan would be expected to bring economic gain to the Shire. As stated in the Plan, *"experience elsewhere indicates that recreational trails can indeed be a focal point for quality tourism with the right infrastructure and the right packaging, recreational trails can be a significant component of a sustainable tourism industry capitalising on significant natural assets"*.

Social Implications

As stated in the Plan:

"it is recognised by a range of agencies including tourism operators, local government authorities and health organisations that recreation trails perform a number of highly beneficial roles in the broader community:

Provision of low-cost unstructured passive recreation for residents and visitors;

Enablement of users to gain fitness, in turn fostering general well-being;

Attraction of visitors when marketed well;

Instillation of a positive conservation ethic; and

A means of education, especially when good interpretation is a feature of the trail."

Environmental Implications

As stated in the Plan, trail *"have an important role to play in managing appropriate access to natural places to reduce environmental impacts"*. Formal trails help to protect the environment by localising impacts and managing visitation effects as well as providing for educational and interpretive opportunities which increase environmental and cultural awareness / appreciation.

Comment

The Chittering Trails Network Master Plan 2013-2023 will enable the Shire, and its trail partners, to move forward with the development and enhancement of the trails within the Shire of Chittering. The Plan will allow for the marketing and promotion of the trails in order to build upon the health and tourism benefits of the trails network.

The endorsement of this Plan will also assist with seeking alternative funding sources.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 081212

Moved Cr Hawes/ Seconded Cr Mackie

That Council:

1. **Endorse** the Chittering Trails Network Master Plan.
2. **Refer** the endorsed Chittering Trails Network Master Plan to the Department of Environment and Conservation (DEC) in order to seek the continued support of DEC with respect to the development of trails within the Avon Valley National Park; as well as the potential for a trail in the Udamung Nature Reserve.
3. **Consider** the inclusion of an annual budget allocation for the implementation of the projects contained within the Chittering Trails Network Master Plan.
4. **Research** and seek funds from other sources and funding programs for the projects contained within the Chittering Trails Network Master Plan.
5. **Ensure** that this Chittering Trails Network Master Plan becomes an integral part of the proposed Chittering Tourism Action Plan.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4.2 Proposed Shire of Chittering Communication Plan*

Applicant	Shire of Chittering
File ref	04/01/4
Prepared by	Karen Dore, Economic Development Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Shire of Chittering Communication Plan (draft, 8 pages)2. Shire of Chittering Style Guide (11 pages)3. Communication Examples (6 pages)

Background

In the (draft) Shire of Chittering Strategic Community Plan (page 13) under the heading "Governance: Strong Leadership" the development of a Communication Strategy is identified as a short term key priority.

The introduction and use of an endorsed Communication Plan, with guidelines and templates for use by Shire Staff, will ensure that the style and manner of Shire communication will be consistent. Consistent communication is more effective and presents a more professional organisation.

Consultation

Chittering Residents and Ratepayers (through Strategic Community Plan consultation)
Shire of Chittering Executive Managers
Shire of Chittering Councillors

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

There are no direct budget implications related to endorsing this Plan.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

Professional communication adds value to the community through inclusion and a resulting sense of pride; community is a key resource for economic development. A healthy active community creates a more liveable and attractive area for prospective investors, employers, employees and visitors.

Social Implications

Professional communication adds value to the community through inclusion and a resulting sense of pride; community is a key underlying resource for community development. A healthy active community creates a more liveable and attractive area for residents, both prospective and in-situ.

Environmental Implications

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

Comment

The Shire of Chittering Communication Plan will ensure that the Shire Administration provide professional consistent communication with the community.

The plan will establish standard processes and templates for communications which will assist the community in being confident that it is kept informed.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION –091212

Moved Cr Gibson / Seconded Cr Rossouw

That Council endorse the Shire of Chittering Communication Plan.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

Cr Gibson declared an Impartiality interest in Item 9.4.3 – Bindoon Men's Shed Community Bus Concession' as he is a founding member of the Bindoon Men's shed.

9.4.3 Bindoon Men's Shed – Community Bus Hire Concession*

Applicant	Shire of Chittering
File ref	26/05/0001
Prepared by	Danica Kay, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Letter from Bindoon Men's Shed

Background

Council has received correspondence from the Bindoon Men's Shed requesting that they do not have to pay a fee when they hire the Shire of Chittering Community Bus up to the value of \$300.

During the annual budget process Council receives requests from several community groups for concessions in relation to the bus hire fees. These are included in budget deliberations each year and an allowance is made. No correspondence was received from the Bindoon Men's Shed prior to the adoption of the 2012-2013 budget therefore no allowance has been made.

Council currently grants concessions to the following community groups:

Community Group	Concession
Bindoon Seniors	\$2,000
Wannamal Seniors	\$1,500
Sing Australia	\$500
Bindoon Historical Society	\$500

Consultation

Chief Executive Officer

Statutory Environment

Nil

Policy Implications

Shire of Chittering Policy - Use of Chittering Community Bus

Financial Implications

The allowance of \$300 for the 2012-2013 financial year can be made from GL 49062.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

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

Comment

The Shire of Chittering appreciates the amount of work that volunteers give to the community and are also aware that many of the volunteers cross groups, which then raises the question, why do some groups receive a concession and others don't when the members are generally the same.

It is on this basis that it is recommended that Council grant a \$300 concession to the Bindoon Men's Shed for the hire of the community bus in the 2012-2013 financial year. Correspondence is to be forwarded to the Bindoon Men's Shed advising them that they will need to put a request in writing each year prior to the adoption of the budget so that their request can be included in the budget deliberations.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 101212

Moved Cr Mackie / Seconded Cr Gibson

That Council:

1. **grants a \$300.00 concession to the Bindoon Men's Shed for the hire of the Community Bus in the 2012-2013 financial year; and**
2. **advise the Bindoon Men's Shed to put a request in writing each year to ensure that they are included in the budget deliberations.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4.4 Bush Fire Brigades Local Law 2012*

Applicant	Shire of Chittering
File ref	19/04/0007
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	1. Draft "Bush Fire Brigades Local Law 2012"

Background

At the Ordinary Council meeting held on 27 June 2012 (Resolution 170612) Council resolved to:

1. *Endorse the proposed Shire of Chittering Bush Fire Brigades Local Law 2012, as contained in the attachment;*
2. *Pursuant to Section 3.12 of the Local Government Act 1995 give local and state-wide public notice that it intends to make the Shire of Chittering's Bush Fire Brigades Local Law 2012 as contained in attachment 3 with the purpose and effect of this local law being as follows:*

Purpose To make provisions about the organisation, establishment, maintenance and equipment of bush fire brigades.

Effect To align existing local laws with changes in the law and operational practice."

The Shire gave statewide public notice by advertising in the Weekend West Australian (21-22 July 2012); and local public notice by advertising in The Advocate (25 July 2012).

Copies of the draft Bush Fire Brigades Local Law 2012 were sent to:

- Hon Troy Buswell BEc MLA, Minister for Emergency Services
- Mr Wayne Gregson APM, Chief Executive Officer, FESA
- Hon John Castrilli MLA, Minister for Local Government

The local volunteer bush fire brigades were also advised of the draft and given the closing date for submissions.

Copies of the draft local law were made available on the Shire's website, administration centre and Bindoon Library.

At the Ordinary Council meeting held on 21 November 2012 (Resolution 101112) Council resolved to:

COUNCIL RESOLUTION 101112

Moved Cr Gibson / seconded Cr Rossouw

1. *That the submissions received from Mr P Groves (Captain - Bindoon Volunteer BFB), Department of Local Government, Upper Chittering Bush Fire Bridge, Chittering Bush Fire Advisory Committee and FESA be noted.*

2. That Council adopts the proposed Shire of Chittering Bush Fire Brigades Local Law 2012 incorporating the minor changes as recommended by the Department of Local Government and Regional Development and others as detailed in the table.
3. That the Shire of Chittering Bush Fire Brigades Local Law 2012 be published in the Government Gazette.
4. That the Shire President and Chief Executive Officer be authorised to sign and affix the Common Seal to the Shire of Chittering Bush Fire Brigades Local Law 2012.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE

During the meeting it was discussed that a submission provided by Upper Chittering Fire Brigade regarding the position of “Training Officer” in clause 1.3(2) and 2.2(1)(c).

Following the meeting the Executive Support Officer met with the Community Emergency Services Manager and discussed this matter. It was resolved to include the reference to “Training Officer” in the abovementioned clauses.

The Executive Support Officer contacted Steven Elliott from the Department of Local Government and discussed this amendment; and was advised that Council would need to revoke their decision of adoption at the November Ordinary meeting of Council.

The draft Bush Fire Brigades Local Law is therefore presented to Council for final adoption.

No advertising or contact with State Law Publisher (for Gazettal) has begun until Council make their decision of the updated local law.

Consultation

Steven Elliott, Senior Legislation Officer, Department of Local Government
Mike Terraci, FESA
Executive Management Team
Councillors
Community Emergency Services Manager
Volunteer Bush Fire Brigades

Statutory Environment

Section 3.12 of *Local Government Act 1995* states;

In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to—*
 - (a) *give Statewide public notice stating that—*
 - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*

- (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;
 - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
- * Absolute majority required.
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the Gazette the local government is to give local public notice—
- (a) stating the title of the local law;
 - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this section—
making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

Section 62 of the Bush Fires Act 1954 states;

62. Local government may make local laws

- (1) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for and in relation to—
 - (a) the appointment, employment, payment, dismissal and duties of bush fire control officers;
 - (b) the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
 - (c) any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.

- (2) *Where a regulation made by the Governor under this Act is inconsistent with or repugnant to a local law previously made by a local government under subsection n(1) and still in force, the regulation prevails and the local law to the extent by which it is inconsistent with or repugnant to the regulation is deemed to be repealed.*

Policy Implications

Nil

Financial Implications

There will be costs incurred for the advertising of the local law in the local papers (Northern Valleys News and Advocate) plus in the state-wide paper (The West Australian); and also in the Government Gazette.

Government Gazette cost per page \$93.50 x 25 pages = \$2,337.50.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

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

Comment

The table below summarises the submissions that the Shire received during the 42 day advertising period:

Name and address	Submission	Shire's response
P Groves, Captain Bindoon Volunteer Bush Fire Brigade	Reference to "Associate" member should be amended to "Auxiliary" member	As there is no "Associate" member the reference to "Associate" has been replaced with "Auxiliary".
S Elliott, Senior Legislation Officer, Department of Local Government (attachment 2)	General formatting and minor changes	Changes made accordingly
Upper Chittering Bush Fire Brigade	Include reference to Community Emergency Services Manager (CESM)	Not applicable as the CESM position is not recognised under the Bush Fires Act.
	Include definition of role of Chief Bush Fire Control Officer and role's relationship to the CESM	Not applicable – the role of the CBFCO is provided for in division 2 and as mentioned above the position of the CESM is not recognised under the Bush Fires Act.

Name and address	Submission	Shire's response
	Include clause on dissolution of a brigade	Not applicable as this item is covered by clause 2.6 - <i>Dissolution of Bush Fire Brigade</i>
	Include "Training Officer" in section 1.3(2) and 2.2(1)(c)	Clause 1.3(2) and 2.2(1)(c) have been amended to include "Training Officer."
	Schedule 1, Clause 3.5(3)(a) amend to reflect correct reference	Schedule 1, Clause 3.5(3)(a) amended
	Reference to "Associate" member should be amended to "Auxillary" member	Updated
	Reference to "Executive Committee" in Schedule 1, Part 1 – Preliminary should be deleted as there is no further reference to "Executive Committee"	Definition of "Executive Committee" states: <i>"Executive Committee (if appointed) consists of Office Bearers of the Brigade as provided for under section 6"</i> ; therefore the definition remains to cover for any appointment of an "Executive Committee" in the future.
Chittering Bush Fire Advisory Committee	Clause 8.2(3) needs to be updated to make reference to the Shire's Executive Manager Corporate Services can be used as Auditor	Clause has been amended to provide more flexibility. <i>"The Brigade in conjunction with the local government will appoint an auditor, not being a brigade member, for the ensuing financial year."</i>
Fire and Emergency Services Authority	Clause 2.1 insert the following <i>"activities in accordance with section 41 of the Bush Fires Act 1954:</i>	Clause 2.1 amended
	Clause 2.3(2) insert the following <i>"in accordance with section 13 of the Bush Fires Act 1954"</i>	Clause 2.3(2) amended
	Clause 3.5(a) insert after "leadership" the following <i>"and direction"</i>	Clause 3.5(a) amended
	Schedule 1, part 2.1 "Objectives" replace <i>"quality"</i> with <i>"efficient"</i>	Schedule 1, part 2.1 amended
	Schedule 1, part 4.4 "Conditions of Membership", at point 3(b) insert <i>"(v) Westplan Bushfire"</i>	Schedule 1, part 4.4 amended

Following the final adoption of the local law the Shire must publish it in the Government Gazette, and give a copy to the Minister for Local Government.

The final adoption of the local law will be duly signed by the Chief Executive Officer and the Shire President and sealed as a matter of course. In addition, the Joint Standing Committee on Delegated Legislation requires copies to be signed by the Chief Executive Officer and Shire President.

After the local law has been published in the Gazette the Shire is to give local public notice—

- (a) Stating the title of the local law
- (b) Summarising the purpose and effect of the local law (specifying the day on which it comes into operation)
- (c) Advising that copies of the local law may be inspected or obtained from the Shire's administration office.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 111212

Moved Cr Mackie / Seconded Cr Clarke

That Council in accordance with the *Local Government (Administration) Regulations 1996, Regulation 10(2)*, considers the revocation of resolution number 101112 "Bush Fire Brigades Local Law 2012" of the Ordinary meeting of Council held on 21 November 2012, due to the absence of "Training Officer" in clause 1.3(2) and Clause 2.2(1)(c) which was previously listed as "not applicable" in the table of comments.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 121212

Moved Cr Mackie / Seconded Cr Gibson

That Council in accordance with the *Local Government (Administration) Regulations 1996, Regulation 10(2)*, revokes resolution number 101112 "Bush Fire Brigades Local Law 2012" of the Ordinary meeting of Council held on 21 November 2012.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 131212

Moved Cr Mackie / Seconded Cr Gibson

1. That the submissions received from Mr P Groves (Captain - Bindoon Volunteer BFB), Department of Local Government, Upper Chittering Bush Fire Bridge, Chittering Bush Fire Advisory Committee and FESA be noted.
2. That Council adopts the proposed *Shire of Chittering Bush Fire Brigades Local Law 2012* incorporating reference to "Training Officer" in the other minor changes as recommended by the Department of Local Government and Regional Development and others as detailed in the table of comments.

3. That the *Shire of Chittering Bush Fire Brigades Local Law 2012* be published in the Government Gazette.
4. That the Shire President and Chief Executive Officer be authorised to sign and affix the Common Seal to the *Shire of Chittering Bush Fire Brigades Local Law 2012*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE

9.4.5 Local Government Ordinary Election 2013

Applicant	Shire of Chittering
File ref	13/06/0001
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	Nil

Summary

This report is for the Shire of Chittering to consider appointment of the Electoral Commissioner to conduct the 2013 Local Government Elections in the method of a postal election.

Background

The next local government ordinary elections are being held on Saturday, 19 October 2013. The Western Australian Electoral Commission has written to the Shire advising that the Commission is again available to assume responsibility for these elections, should the Shire of Chittering wish to retain the postal voting method.

Postal elections have been available to Western Australian Local Government since 1995, and in a short period have become the preferred way that elections are conducted by country Councils.

Consultation

Nil

Statutory Environment

Local Government Act 1995

4.19 The returning officer

The principal electoral office of a local government is that of returning officer.

4.20 CEO to be returning officer unless other arrangements are made:

- *Subject to this section the CEO is the returning officer of a local government for each election.*
- *A local government may, having first obtained the written agreement of the person concerned and the written approval of the Electoral Commissioner, appoint* a person other than the CEO to be the returning officer of the local government for—*
 - (a) an election; or*
 - (b) all elections held while the appointment of the person subsists*

**Absolute majority required*

- (3) An appointment under subsection (2) –*
 - (a) is to specify the term of the person's appointment; and*
 - (b) has no effect if it is made after the 80th day before an election day.*

- (4) A local government may, having first obtained the written agreement of the Electoral Commissioner, declare* the Electoral Commissioner to be responsible for the conduct of an election, or all elections conducted within a particular period of time and if such a declaration is made, the Electoral Commissioner is to appoint a person to be the returning officer of the local government election or elections.

**Absolute majority required*

- (5) A declaration under subsection (4) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (6) A declaration made under subsection (4) on or before the 80th day before election day cannot be rescinded after that 80th day.

[Section 4.20 amended by No 64 of 1998 s.19(1); No 49 of 2004 s.16(4) and 32(1)-(4).]

4.61 Choice of methods conducting the election

- (1) The election can be conducted as a—
“**postal election**” which is an election at which the method of casting votes is by posting or delivering them to an electoral officers on or before election day; or
“**voting in person**” which is an election at which the principal method of casting votes is by voting in person on election day but at which votes can also be cast in person before election day, or posted or delivered, in accordance with regulations.
- (2) The local government may decide* to conduct the election as a postal election.
- *Absolute major required*
- (3) A decision under subsection (2) has no effect if it is made after the 80th day before election day unless a declaration has already been made in respect of an election for the local government and the declaration is in respect of an additional election for the same local government.
- (4) A decision under subsection (2) has no effect unless it is made after a declaration is made under section 4.20(4) that the Electoral Commissioner is to be responsible for the conduct of the election or in conjunction with such declaration.
- (5) A decision made under subsection (2) on or before the 80th day before election day cannot be rescinded after that 80th day.
- (6) For the purposes of this Act, the poll for an election is to be regarded as having been held on election day even though the election is conducted as a postal election.
- (7) Unless a resolution under subsection (2) has effect, the election is to be conducted as a voting in person election.

[Section 4.61 amended by No 64 of 1998 s.25; No 49 of 2004 s.16(4) and 32(5).]

Policy Implications

Nil

Financial Implications

The estimated cost provided by the Electoral Commission for them to conduct the postal election is \$17,000.00 (including GST), which has been based on the following assumptions:

- 3,200 electors
- response rate of approximately 35%
- three vacancies; and
- count to be conducted at the offices of the Shire of Chittering

Costs not incorporated in this estimate include:

- non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising).
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns.
- one local government staff member to work in the polling place on election day.

These costs will be included in the 2013/2014 Annual Budget.

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

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

Comment

There are two methods for conducting local government elections, this being postal voting or voting in person. The *Local Government Act 1995* stipulates that postal elections must only be conducted by the Western Australian Electoral Commission.

There are two significant benefits for the elections to be conducted as a postal election:

1. It increases the voter turnout
2. It removes Shire of Chittering staff from the process (the Returning Officer is appointed by the Commission) therefore creating independence and impartiality.

Having an external person appointed by the Electoral Commission as the Returning Officer creates separation and provides independence to the process.

Other benefits that have been quoted for postal elections are:

- It is easier for electors to vote
- It assists new candidates as all electors get the profile of all candidates
- There is a perception that the playing field is more level for sitting Councillors versus nominated candidates and that the success of being elected is not correlated to previous experience.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION –141212

Moved Cr Rossouw / Seconded Cr Clarke

That Council:

- 1 **declares**, in accordance with Section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the 2013 ordinary elections together with any other elections or polls which may also be required.
- 2 **decides**, in accordance with Section 4.61(2) of the *Local Government Act 1995* that the method of conducting the election will be as a postal election.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE**

9.4.6 Change to Authorised Officers

Applicant	Shire of Chittering
File ref	13/05/2
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	Nil

Background

The appointment of all Authorised Officers for the Shire of Chittering is required to be advertised in the Government Gazette, confirming Council endorsement of nominated Shire officers to carry out their duties as per the Acts nominated.

With the resignation of Alan Brown and the appointment of Matthew Johns, Casual Ranger, Council is requested to approve the changes detailed below to the Register of Authorised Officers to ensure Mr Johns has the necessary approvals to carry out his duties as the Shire's Ranger. Mr Johns commenced on the 15 November 2012 and Council's approval for Mr Johns to be an Authorised Officer is necessary for him to undertake the role of Ranger.

Consultation

Manager Human Resources

Statutory Environment

Local Government Act 1995

Bush Fires Act 1954

Dog Act 1976

Control of Off Road Vehicles Act 1978

Litter Act 1979

Local Government Laws

Local Government (Miscellaneous Provisions) Act 1960

Cemeteries Act 1986

Policy Implications

Nil

Financial Implications

There will be a charge for advertising in the Government Gazette.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

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

Social Implications

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

Environmental Implications

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

Comment

Endorsement of the changes requested will ensure that compliance of the associated Acts can be fulfilled at all times.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 151212

Moved Cr Gibson / Seconded Cr Mackie

That Council:

1. **endorse** the appointment of Matthew Johns (Ranger) to represent the Shire of Chittering in the capacity nominated under the:
 - (a) *Dog Act 1976 & Regulations, Control of Off-Road Vehicles Act 1978 & Regulations, Litter Act 1979 & Regulations, Local Government Laws, Local Government Act 1995 (Sections 3.39, 9.10, 9.11, 9.15);*
 - (b) *Local Government (Miscellaneous Provisions) Act 1960, Section 449 – Ranger & Pound Keeper;*
 - (c) *Issue of Infringement Notices – Section 59 (2) (a) – Bush Fires Act 1954 and Section 64 (1) – Cemeteries Act 1986;*
 - (d) *Bush Fires Act 1954, Section 38 (Fire Control Officers);*
 - (e) *Powers of Entry – Part 3 – Division 3 Section 3.28 & 3.29 – Local Government Act 1995;*
 - (f) *Miscellaneous Provisions About Enforcement – part 9 – Division 2 - Subdivision 1 Sections 9.13, 9.16 & 9.17 – Local Government Act 1995; and*
 - (g) *Impounding & Removing Goods Involved in Certain Contraventions Section 3.39 – Local Government Act 1995.*
2. **approve** the removal of Alan Brown, Ross Keegan and Paul Groves from the Register of Authorised Officers.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE

9.4.7 Fines, Penalties and Infringement Notice Enforcement Act 1994*

Applicant	Shire of Chittering
File ref	19/01/2
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. General Infringement Process Flow Chart

Background

Council has the ability to issue infringement notices under various legislation (i.e. *Bush Fire Act 1954* – no firebreak installed), and to assist with their collection may use the Infringement Notices Enforcement Scheme.

When an alleged offender has not paid the amount claimed in a final demand or made an election for the matter to be dealt with by the Magistrates Court, then, after the expiration of 28 days, a prosecuting authority may register the infringement notice with the Fines Enforcement Registry.

Once matters are registered with the Fines Enforcement Registry, the Registry is responsible for their enforcement. If payment is not received it may lead to a '*Notice of Intention to Suspend Licences*'.

Consultation

Department of the Attorney General

Statutory Environment

Section 5.16 of the *Local Government Act 1995* – "Delegations"
Shire of Chittering (DA34) - "Appointment of Authorised Officers"

Section 9.10 of the *Local Government Act 1995* - "*Appointment of authorised persons*"

Fines, Penalties and Infringement Notice Enforcement Act 1994

Policy Implications

Nil

Financial Implications

Most local government infringement notice offences have a time period of 24 months from the date of the offence for the commencement of prosecutions, therefore, fines must be registered with Fines Enforcement Registry (FER) before this time.

Total outstanding infringements on record from 2003 amount to \$22,810.00 (113 infringements).

Due to the statutory time constraints on enforcement, it will now only be possible for council to recover the amount of \$7,160.00 (32 infringements).

Other Financial implications

Prosecuting Authorities are required to pay a registration fee for each infringement notice registered, unless listed as exempt under the *Fines, Penalties and Infringement Notices Enforcement Regulations 1994*.

Local Government authorities are not exempt.

The enforcement fees recoverable from alleged offenders are prescribed by Schedule 2 of the *Fines, Penalties and Infringement Notices Enforcement Regulations 1994*. The enforcement fees as from 18 June 2011 are set out below:

- | | |
|---|--|
| • Issuing final demand | \$13.50 – Council fee |
| • Preparing enforcement certificate | \$11.50 – Fines Enforcement Registry fee |
| • Registration of infringement notice | \$43.00 – Fines Enforcement Registry fee |
| • Notice of intention to suspend licences | \$28.50 – Fines Enforcement Registry fee |

Upon registration, a prosecuting authority may demand the alleged offender pay the prescribed enforcement fees for preparing an enforcement certificate and registering the infringement notice.

After registration, the Registry will issue a 'Court Order to Pay or Elect', which has the status of a court order requiring the alleged offender within 28 days to:

- pay the stipulated penalty in full or organise a Time to Pay; or
- elect to have the matter heard and determined in the Magistrates Court.

Where there is no response to the order to pay or elect, the Fines Enforcement Registrar may issue a 'Notice of Intention to Suspend Licences' pursuant to section 18 of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* (FPINE).

Strategic Implications

Council's software SynergySoft has an infringements system which can be used to record and manage Infringements such as Parking, Dog and Bushfire Infringements. The module includes functionality to assist in liaising with the Fines Enforcement Registry (FER).

The use of Synergy will provide better administration efficiencies.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

Higher infringement recovery.

Social Implications

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

Environmental Implications

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

Comment

The Department of the Attorney Generals states the following as the advantages of using the Infringement Notices Enforcement Scheme Works;

Less Administration Work

For matters registered with the Fines Enforcement Registry, the prosecuting authority will not need to prepare prosecution notices or affidavits, or organise the swearing or affirmation of those documents, in order to commence a prosecution.

User Pays Principle

The Fines Enforcement Scheme allows prosecuting authorities to recover prescribed enforcement costs. Prosecuting authorities may charge for each final demand issued, for the preparation of the enforcement certificate and, where applicable, the registration fee for registering the infringement notice.

Fewer Court Appearances

Since cases registered with the Fines Enforcement Registry are more likely to be resolved before commencement of a prosecution, prosecuting authority officers are less likely to have to attend court to give evidence. Of the matters registered with the Fines Enforcement Registry, to date fewer than 1% have been returned to court for determination.

Less Administration Work after Court

Once matters are registered with the Fines Enforcement Registry, the Registry is responsible for their enforcement. Payments must not be accepted from the alleged offender by the prosecuting authority after registration of that infringement notice. Prosecuting authorities are therefore not required to process any time to pay applications, payments etc.

The prosecuting authority may withdraw the case from the scheme if it wishes to negotiate or deal with the alleged offender directly. However, the enforcement fees are forfeited in this instance. Any money paid to the Fines Enforcement Registry by the alleged offender will be refunded. If the time limitation period in which to commence a prosecution has expired, the prosecuting authority will be unable to take any further action against the alleged offender.

Recovery Period Shortened

The time from the issue of the infringement notice until the matter is satisfied is, in most cases, greatly reduced. The follow up of fines is therefore more effective and a greater percentage of them are paid.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION –161212

Moved Cr Rossouw / Seconded Cr Mackie

That Council:

- (a) advise the Registrar for Fine Enforcement Registry that it wishes to participate in the Infringement Notice Enforcement Scheme.**
- (b) amend its DA34 Appointment of Authorised Officers to include the *Fines, Penalties and Infringement Notices Enforcement Act 1994***
- (c) amend the 2012-13 Schedule of Fees and Charges to include the “Issuing Final Demand” fee of \$13.50**
- (d) advertise that the new fee will come into effect on 20 December 2012.**

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY VOTE**

9.4.8 Proposed Shire of Chittering Facebook Page*

Applicant	Shire of Chittering
File ref	02/07/2
Prepared by	Karen Dore, Economic Development Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1 Facebook (Social Media) Report2 Social Media Policy (draft)3 Facebook Proposed Web Page (draft)4 Privacy Statement (draft)5 Website Disclaimer (draft)

Background

The recently adopted "*Shire of Chittering Community Engagement Plan 2012*" makes reference to future consideration being given to social networking, through Facebook and / or online blogs, for the purposes of community engagement at an informative level.

The proposed "*Shire of Chittering Communication Plan 2012*" refers to the creation of a Facebook page for promotion and information dissemination.

Key duties/responsibilities of the position of Economic Development Officer include; to "*organise and coordinate promotional activities*" and to "*develop operation practices and guidelines as they pertain to the position*".

Consultation

The newly created position of Economic Development Officer, the Community Engagement Plan and the Communication Plan were all products of the Strategic Community Plan 2012-2022. Extensive community consultation was undertaken through this process.

Statutory Environment

Nil

Policy Implications

There are no existing policy implications, but should the creation of a Shire Facebook page be supported there would be a requirement to adopt a Social Media Policy, a proposed draft of such a policy is attached.

Financial Implications

There are no direct budget implications related to the creation of a Shire Facebook page as the application is free and the work would be undertaken in-house.

However, should Council wish to provide social media training for themselves and Shire staff there would more than likely be costs involved.

It should also be noted that there will be the requirement for an iPad, or similar device, to be used to access Facebook due to security settings on the Shire system. It may be satisfactory for one of the

Executive Managers to make their iPad available for this purpose, but should this arrangement prove unsuccessful there may be the need to purchase an additional device.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic Implications

Tourism has been identified in the Community Strategic Plan 2012-2022 as a strategy to provide "Economic: Prosperity for the Future". An additional proven marketing tool could assist with raising the profile of Chittering, increasing visitor numbers and promoting community inclusion in events and activities.

Social Implications

Whilst the main aim of the Facebook page will be for promotion, it will also add value to the community through inclusion.

Environmental Implications

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

Comment

The use of social media is increasing rapidly and the growing popularity of smartphones is having an enormous impact on the way people are communicating and accessing information.

The Shire of Chittering has a lot to gain, predominantly in the areas of tourism and promotion, from the use of social media as outlined in the attached report.

The research undertaken to prepare the attached report ensures that should the creation of a Shire Facebook page be endorsed it will be undertaken carefully with ongoing monitoring. The Action Plan contained within the report outlines a clear purpose and strategic approach to the creation and management of a Shire of Chittering Facebook Page which will ensure that the Shire has the capability to take advantage of the many opportunities presented. Should the venture not prove to be successful, which will be indicated through the proposed monitoring, it will be a simple enough exercise to close the page.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 171212

Moved Cr Mackie / Seconded Cr Norton

That Council:

1. **endorse the creation of a Shire of Chittering Facebook Page in line with the Action Plan provided.**
2. **adopt the Social Media Policy as attached.**
3. **endorse the Privacy Statement as attached.**
4. **endorse the Website Disclaimer as attached.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4.9 LATE ITEM - Lease Agreement – Portion of Lot 1023 (No 11) Edmonds Place, Bindoon*

Applicant	Swanville Investments Pty Ltd
File ref	A9538; 04/18/26
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements:	Simple Majority
Documents table:	1. Lease Agreement

Background

The above matter was previously considered by Council at its meeting held on 16 February 2011. Council at that meeting resolved as follows:

“That Council agree to lease a portion of Pt Lot 1023 not to exceed 300 square meters directly behind Lot 7 Binda Place to enable the installation of a new septic system to allow the extension of the building occupied by the Bindoon IGA store with a view to subdividing this portion of Pt lot 1023 and adding it to Lot 7 Binda Place at some future time; subject to the following conditions:

- 1. Area to be stabilised to the satisfaction of the Chief Executive Officer.*
- 2. All costs associated with the leasing of this land shall be borne by the applicant.”*

There is no delegation in place for the Shire’s Administration to authorise the Shire of Chittering to affix the Common Seal and hence the report to Council to formally request the common seal to be affixed.

Consultation

Nil

Statutory Environment

Local Government Act 2005, Clause 9.49A – Execution of Documents.

Policy Implications

Execution of documents

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

The Applicant is paying an annual lease for the use of the subject land to the amount of \$4,125 plus GST.

Social Implications

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

Environmental Implications

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

Comment

As this is a formality requiring Council's resolution to affix the Common Seal, it is recommended that Council supports the authorisation of the Chief Executive Officer and the Shire President to affix the Common Seal as a requirement of the lease agreement for portion of Lot 1023 (No 11) Edmonds Place, Bindoon.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 181212

Moved Cr Hawes / Seconded Cr Gibson

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal as a requirement of the lease agreement with Swanville Investments Pty Ltd for the portion of Lot 1023 (No 11) Edmonds Place, Bindoon.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

10. REPORTS OF COMMITTEES

Nil

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS, OF WHICH NOTICE WAS GIVEN DURING THE MEETING, TO BE CONSIDERED AT A LATER MEETING

Nil

13. URGENT BUSINESS

PROCEDURAL MOTION - 191212

Moved Cr Hawes / seconded Cr Mackie

That Council considers an item of urgent business.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

13.1 Naming of the Wannamal Rest Area

Cr Hawes advised that the Wannamal Community has requested permission to rename the Wannamal Rest Area to the 'Robert Hindmarsh Rest Area' at their Australia Day Event in 2013. The renaming of the rest area is to acknowledge the many years of service Robert provided in up keeping the rest area.

COUNCILLOR MOTION - 201212

Moved Cr Hawes / Seconded Cr Mackie

That Council renames the Wannamal Rest Area to the 'Robert Hindmarsh Rest Area.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

14. CONFIDENTIAL ITEMS

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 211212

Moved Cr Mackie / Seconded Cr Clarke

That Council moves into a confidential session to discuss this item under the terms of the *Local Government Act 1995, Section 5.23(2)*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

At 8.04pm the meeting closed to the public and all members of the public gallery left the meeting.

14.1 Proposed Extractive Industry for Sand, Lots 1 & 2 Tea Tree Road, Bindoon*

Applicant:	Whelans Pty Ltd
File ref:	A1056; P095/12
Prepared by:	Azhar Awang, Executive Manager Development Services
Supervised by:	Gary Tuffin, Chief Executive Officer
Voting requirements:	Simple Majority
Documents table:	Nil
Attachments:	1. Amended Excavation Management Plan 2. Justification on changes to the proposal 3. Draft Conditions 4. Traffic Counts Record

OFFICER RECOMMENDATION

Moved Cr Rossouw / Seconded Cr Clarke

1. That Council grants planning approval for the extractive industry for sand at Lots 1 and 2 Tea Tree Road, Bindoon subject to the following conditions:
 - a. Subject to Condition 2, this approval shall be for the period from the date of issue until 30 June 2022.
 - b. The Excavation - Rehabilitation Management Plan dated May 2012 shall be reviewed by the Applicant and lodged for approval by the Shire no later than 30 June 2017. If the reviewed Excavation - Rehabilitation Management Plan:
 - (i) is approved by the Shire, the development shall thereafter be carried out in accordance with the approved plan;
 - (ii) is not approved by the Shire because of the perceived inability of the Applicant to adequately manage any matter the subject of the plan, the use shall cease upon the Shire giving notice to the Applicant that the reviewed plan is not approved.

A decision by the Shire to approve the reviewed Excavation - Rehabilitation Management Plan subject to conditions, or to refuse to approve the reviewed plan, shall be a determination in respect of the exercise of a discretionary power under the Scheme of which the Applicant may seek review pursuant to clause 10.10 of the Scheme.

Conditions to be satisfied prior to commencement

- c. Prior to the issue of an Excavation Licence a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in Schedule 3 of the Shire's *By-law Relating to Extractive Industries 1994*.
- d. Prior to the issue of an Excavation Licence the Applicant shall provide a feature survey of the proposed excavation area, providing contours and all dimensions for the area shown on Figure 1 of the application, by a licensed surveyor and submitted for approval by the Chief Executive Officer.
- e. Prior to the commencement of operations, the Applicant shall mark out the boundaries of the approved extraction area by way of readily identifiable posts and or markers, and shall thereafter maintain those markers for the duration of the operations.
- f. Prior to the issue of an Excavation Licence the Applicant is to lodge with the Shire a plan showing a buffer area of 500m between all proposed pits, stockpile and loading areas associated with the operations, and any existing residence.
- g. Prior to the issue of an Excavation Licence the applicant shall provide a staged plan of the excavation area;
- h. Prior to the issue of an Excavation Licence a Fire Management Plan is to be prepared to the satisfaction of the Chief Executive Officer, in accordance with *Local Planning Policy No 21- Fire Management Plan*;
- i. Prior to the issue of an Excavation Licence a Refueling Management Plan is to be prepared to the satisfaction of the Chief Executive Officer, incorporating:
 - (i) All on site refueling to take place within a lined and bunded area in accordance with the Department of Mines and Petroleum requirements and any other relevant regulations;
 - (ii) Any fuel leakages or spills to be cleaned up within 24 hours;
 - (iii) As part of the close –out plan, contaminated soil to be disposed of to the satisfaction of the Chief Executive Officer;
- j. Prior to the issue of an Excavation Licence the Applicant shall submit to the Chief Executive Officer evidence of currency of public liability insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the Applicant. The Applicant shall ensure that he/she and/or the excavating contractor and/or transportation contractor hold sufficient public liability insurance cover for any claim against them;
- k. Prior to the issue of an Excavation Licence:
 - (i) An assessment shall be conducted to determine whether acid sulphate and dieback are present on the land and, if present, their extent and severity;
 - (ii) If the site is found to contain acid sulphate soils or dieback, an *Acid Sulphate Soils Management Plan* (ASSMP) or Dieback Management Plan shall be submitted and approved by the Chief Executive Officer;
 - (iii) That the samples be taken from the site by an independent qualified person; and
 - (iv) Operations shall be carried out in accordance with the provisions of the approved Management Plan;

- l. Prior to the issue of an Excavation Licence the Applicant shall upgrade or treat the internal access roads, so as to minimise dust risk, such as by applying a chemical stabilising sealant to the road surface or relocating access roads. The Applicant shall liaise with the Shire to determine the work required to be done to satisfy this condition;
- m. Prior to the issue of an Excavation Licence the Applicant shall undertake a visual impact assessment as per *Visual Landscape Planning in Western Australia 2007* to the satisfaction of the Chief Executive Officer;
- n. Prior to the issue of an Excavation Licence the Applicant shall obtain approval and construct the crossover to Tea Tree Road to the satisfaction of the Chief Executive Officer;
- o. Prior to the issue of an Excavation Licence the Applicant shall enter into an agreement with the Council for the payment of fees for road construction and road maintenance of Tea Tree Road;
- p. Prior to the issue of an Excavation Licence the Applicant shall submit a *Traffic Management Plan* for the upgrade, use and maintenance of Tea Tree Road;
- q. Prior to the issue of an Excavation Licence the Applicant shall create a complaints and contingency register for records of any complaints and contingency actions. The Applicant must keep the register up to date and keep it on-site at all times. The Shire may view the register on request.
- r. Prior to commencement of work on each pit a Soil and Water Monitoring Program (including methodology, periodic sampling and analysis by an independent laboratory) shall be submitted and approved by the Chief Executive Officer in consultation with the Department of Environment and Conservation, incorporating:
 - (i) Monitoring of removed material, irrespective of whether the excavation area is within a location identified as 'high risk' of containing acid sulphate soil material or there is an approved ASSMP; and
 - (ii) Monitoring of water quality retained within on-site excavations;

Limits of Approval

- s. The maximum area of pit being worked (excavated) at any one time shall be one (1) hectare;
- t. Where practicable all static and other equipments are to be located on the floor of the pit to provide visual and acoustic screening.
- u. Materials extracted from the site must not exceed 100,000 tonnes per annum. A record of each year's output must be kept on site and must be provided to Council at any time upon request;
- v. The hours of operation shall be limited to:
 - Monday to Friday 0700hrs to 1800hrs except that there shall be no truck movement using Tea Tree Road between the hours of 0800 hrs – 0900hrs and 1500hrs -1600hrs on any school day.
 - Saturday 0730hrs to 1700hrs
 - Sunday and Public Holidays not permitted

Any variation to these times requires written approval from Council;

- w. Excavation shall not occur in the following areas:
- Within 100 metres of a boundary of any land not owned by the proponent or Planning Consent holder;
 - Within 20 metres of any land affected by a registered grant of easement;
 - Within 40 metres of any designated water course;
 - Within 500 metres of any house;
 - Below the level of winter groundwater table;
 - Within 40 metres of any road or road reserve; and
 - Below 6 metres from natural ground level;

Other Approvals

- x. The Applicant is to maintain a DEC Licence as required for the volumes and methods of operation.
- y. The Applicant is to obtain a Clearing Permit as required by the Department of Environment and Conservation (DEC) for the clearing of native vegetation if such a permit is required.

Dust

- z. The Applicant is to prepare and undertake an ongoing dust monitoring program which is to be incorporated as part of an amended Dust Management Plan to be submitted to the Shire for approval prior to the issue of an Excavation Licence. The plan is to be in accordance with the Department of Environment and Conservation guideline '*A guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other related activities (January 2011)*'.
- aa. Dust must be managed and monitored in accordance with the Dust Management Plan approved by the Shire.
- bb. A water tanker of adequate capacity to dampen dust producing areas must be maintained on-site during the term of the approval.
- cc. No visible dust shall be discharged beyond the property boundary;
- dd. When winds or other site conditions are sufficient to negate the effects of effective dust management, the quarry operations must cease until conditions improve and compliance can be achieved.
- ee. If in the opinion of the Shire the operation is generating an unreasonable amount of dust, or that the operations are not compliant with the approved Dust Management Plan, the Shire may in writing direct the Applicant to
- Amend the Dust Management Plan, and submit it to the Shire for approval; and/or
 - Bring the operations into compliance
- In this condition an "unreasonable amount of dust" means visible dust crossing the lot boundary or visibly excessive dust on site.

- ff. No truck is permitted to enter the property for carting purposes unless fitted with an appropriate cover to prevent dust or loss of material and none shall exit without the cover in use.

Equipment

- gg. The equipment and machinery used for excavation purposes shall be limited to:
- 3 – 4 Dump Trucks;
 - 1x Water Tanker as required for dust suppression; and
 - 1 x Dozer;
- and the numbers or capacity shall not be increased without approval of the Chief Executive Officer;
- hh. No trucks are to be parked on any public road after hours;
- ii. A maximum of twenty (20) single truck movements are permitted on a daily basis;

Noise

- jj. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise and the operations are to have due regard to the health and amenity of any person in the vicinity;

Water

- kk. All stormwater shall be retained on site and no discharge of pit-water shall occur without prior approval from the Chief Executive Officer;

Biodiversity - Land Restoration

- ll. The operations shall be carried out in accordance with the provisions of the approved Dieback Management Plan;
- mm. The Rehabilitation Management Plan contained in the Excavation - Rehabilitation Management Plan dated May 2012 shall be adhered to.
- nn. Upon decommissioning of each portion of pit, rehabilitation shall take place in accordance with the approved Rehabilitation Management Plan using the stockpiled topsoil and replanting of appropriate parkland pasture with clumps of local native species and is to take place during the first winter months following restoration and be monitored for a further two years;
- oo. Rehabilitation of each pit shall include surface water control measures on all pit faces to prevent gully erosion, and final batters to be graded to provide safe entry and exit slopes;
- pp. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases;

Reporting

- qq. An annual report shall be submitted to the Chief Executive Officer prior to 30 June each year that includes:
- The progress of excavation, including survey drawing(s) that provide the dimensions and depth of excavations undertaken during the year of reporting;
 - The depth of each pit;

- The amount of materials extracted;
- Monitoring program results and findings;
- Progress of rehabilitation;
- Contingency actions and outcomes; and
- Community complaints and responses.

Compliance

- rr. If the development, the subject of this approval is not substantially commenced within a period of twelve months from the date of the approval, the approval shall lapse and be of no further effect;
- ss. Development shall occur in accordance with the Excavation-Rehabilitation Management Plan dated May 2012 submitted with the application for planning approval, unless specified otherwise in this approval. The Excavation – Rehabilitation Management Plan (and the other management plans within it which together comprise the Excavation – Rehabilitation Management Plan) may be amended from time to time if approved by the Chief Executive Officer. The development must thereafter be carried out in accordance with the approved amended plan.
- tt. The development shall comply with the provisions of the Shire of Chittering's *Town Planning Scheme No 6* and *By-law Relating to Extractive Industries 1994*; *Health Act 1911*, *Building code of Australia* and any other relevant Acts, Regulations, Local Laws except where varied by this approval.
- uu. Any amendments or variations to the Rehabilitation or Excavation Management Plan associated with the excavation shall be approved in writing by the Chief Executive Officer.
2. That Council delegate authority to the Chief Executive Officer to issue an excavation licence for sand at Lots 1& 2 Tea Tree Road, Bindoon in accordance with the Planning Approval granted above, and on satisfaction of conditions c. to r. and z.

ADVICE NOTES:

Extractive Industry Licence

- 1 Subject to the assessment of the results from the on-site dust monitoring program being to Council's satisfaction (See Condition z) the Applicant may apply for an extension of the Extractive Industries Licence for a further period of five (5) years until 30 June 2017 and thereafter for five years to match the planning consent.
- 2 The application for an Extractive Industries Licence is to be made no later than three (3) months prior to the expiry of the current licence. Failure to submit the application within the time frame may result in the issue of the Licence being delayed;
- 3 The Excavation Licence shall only remain valid while there is the appropriate planning approval in place to support the extraction of sand;
- 4 Failure to submit the annual report prior to close of business on 30 June each year may result in the suspension of the excavation licence until such time as the report has been submitted;

Appeal

- 5 Should the Applicant be aggrieved by a decision of Council, the State Administrative Tribunal can be requested to review the decision. Such a request should be lodged within twenty-eight (28) days of Council's decision.

THE MOTION WAS PUT AND DECLARED LOST 0/7

COUNCIL MOTION / COUNCIL RESOLUTION – 221212

Moved Cr Hawes/ Seconded Cr Norton

That Council affirms its previous decision and refuses to support the proposed extractive industry for sand extraction at lots 1 & 2 Tea Tree Road, Bindoon for the following reasons:

- 1. the proposal is incompatible with the surrounding area which is predominantly rural lifestyle.**
- 2. the potential conflict of traffic movements between the trucks and local traffic.**
- 3. the proposal is not in the interest of the surrounding community due to the likely adverse impact on noise and dust.**
- 4. the subject land is within close proximity of the conservation category wetland to the north east portion of the property and therefore needs to be protected from any potential adverse impact to the environment.**
- 5. the subject land is identified as high priority development area for the purpose of rural retreat and would not be consistent with the intent of the rural retreat Zone of the land.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

14.2 State Administrative Tribunal Mediation Extractive Industry License -Lot 7 Toy Road, Bindoon*

Applicant	J Dwyer
File ref	A1289
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Letter from applicant regarding modifications 2. Planning Conditions 3. Amended Dust Management Plan

OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 231212

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

1. Varies its decision of 19 September 2012 to grant conditional planning approval to the extractive industry (gravel) at Lot 7 Toy Road, Bindoon, pursuant to section 31 of the *State Administrative Tribunal Act 2004*, as follows:
 - (a) Condition 15 dot point 1 is amended to reduce the setback to 20 metres of a boundary of any land not owned by the proponent or Planning Consent holder.
 - (b) Condition 36 is deleted, but becomes Advice Note 5 subject to the word 'may' being substituted for the word 'will'.
 - (c) Condition 41 is deleted.
 - (d) Renumber the resolution as follows:
 - (i) *"That Council grant planning approval...."* becomes recommendation 1;
 - (ii) The conditions of the approval be renumbered to a. b. c. and so on; and
 - (iii) Condition 42 be deleted and an additional recommendation 2 be added as follows:
"That Council delegate authority to the Chief Executive Officer to issue an excavation licence for gravel at Lot 7 (RN 75) Toy Road, Bindoon consistent with the planning consent granted above, and on satisfaction of conditions b. to i. and r., however the initial term of the excavation licence shall be limited to 30 June 2015, to allow the results of the first 2 years of the dust monitoring program to be considered."
2. Endorses the revised Dust Management Plan dated December 2012.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

PROCEDURAL MOTION / COUNCIL RESOLUTION - 241212

Moved Cr Norton / Seconded Cr Rossouw

That the meeting come out from behind closed doors.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

At 8.55pm the meeting was re-opened and no members of the public gallery returned.

15. CLOSURE

The presiding member to declare the meeting closed at 8.55pm



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