



Ordinary Meeting of Council

Wednesday 18 March 2020
Commencing at 7pm

Held at the Council Chambers, 6177 Great Northern Highway, Bindoon

Preface

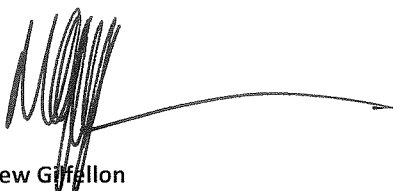
When the Chief Executive Officer approves these Minutes for distribution they are in essence "*Unconfirmed*" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

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

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

Unconfirmed Minutes

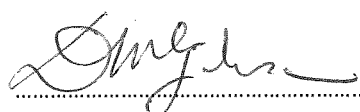
These minutes were approved for distribution on 27 March 2020.



Matthew Giffellon
Chief Executive Officer

Confirmed Minutes

These minutes were confirmed at a meeting held on 15 April 2020.

Signed 

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

Disclaimer

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

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

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

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

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* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

Cr Gibson declared the meeting open at 6:59PM

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

2.1 Attendance

The following Members were in attendance:

Member:	Cr Don Gibson	President (Presiding Member)
	Cr Peter Osborn	
	Cr John Curtis	
	Cr John Davis	Deputy President
	Cr Carmel Ross	
	Cr Mary Angus	
	Cr Kylie Hughes	

Quorum – 4 members

The following Shire staff were in attendance:

Staff	Matthew Gilfellow	Chief Executive Officer
	Melinda Prinsloo	Executive Manager Corporate Services
	Peter Stuart	Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Natasha Mossman	Executive Assistant / Council Support (Minute Secretary)

Members of
the public 10

Media 0

2.2 Apologies

Nil

2.3 Approved leave of absence

Nil

2.4 Announcements

Cr Don Gibson

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

21 February to 16 March – approved leave of absence

Cr John Davis

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

21 February – WALGA Avon Midland Country Zone meeting

26 February – CEO meeting

26 February – Chittering Local Emergency Management Committee meeting

28 February – Northern Growth Alliance meeting

11 March – Council Information Session

11 March – Audit and Risk Committee meeting

11 March – Agenda Forum

Cr Peter Osborn

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

5 March to 15 March – approved leave of absence

Cr John Curtis

27 February – CEO meeting

10 March – Chittering Bushfire Advisory Committee meeting

11 March – Council Information Session

11 March – Audit and Risk Committee meeting

11 March – Agenda Forum

Cr Carmel Ross

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

10 March – Chittering Bushfire Advisory Committee meeting

11 March – Council Information Session

11 March – Audit and Risk Committee meeting

11 March – Agenda Forum

Cr Mary Angus

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

22 February – Chittering Youth Krew Advisory Group meeting

11 March – Council Information Session

11 March – Audit and Risk Committee meeting

11 March – Agenda Forum

Cr Kylie Hughes

20 February – meeting with Hon Michael McCormack (Deputy PM) and Christian Porter (Attorney General)

24 February – Ellen Brockman Integrated Catchment Group Committee meeting

25 February – Chittering Landcare Group Committee meeting

11 March – Council Information Session

11 March – Audit and Risk Committee meeting

11 March – Agenda Forum

16 March – meeting with Chief Executive Officer

3. DISCLOSURE OF INTEREST

Item 9.4.5 “Ferguson House: Lot 91 (RN 6138) Great Northern Highway, Bindoon”		
Councillor / Officer	Type of Interest	Nature / Extent of Interest
Cr Mary Angus	Impartiality	Nature: works with the applicant

Item 9.4.6 “Chittering Community Complex”		
Councillor / Officer	Type of Interest	Nature / Extent of Interest
Cr Kylie Hughes	Impartiality	Nature: executive committee member of the Muchea Netball Club and affiliated with the Muchea Hall Users Group.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

Nil

4.2 Public question time

Questions received in writing

4.2.1 Clint O'Neil, Chittering

Question: As Council endorsed local planning policies reflect the Council's expectations of maintaining and fostering the rural character of the Shire for the benefit of all residents, is it in the interests of all residents that Council updates the scope and nature of its existing LPP's to enable Council to exercise its discretionary powers based on local knowledge of a site, surrounds and community expectations of any proposal, as against throwing away and revoking that discretion to State universal policies and guidelines that may not be in the interests of residents and consistent with the stated aims and objectives of Council?

Answer: *Unfortunately the hierarchy of Western Australia's planning framework puts local planning policies at the bottom of the list. For example, where a State Planning Policy is at odds with a Local Planning Policy (such as SPP3.7), the State Planning Policy prevails. Additionally, and as is the case with the Local Planning Policies intended to be revoked in this instance, they have been overridden by other legislation inclusive of the Local Planning Strategy (2019). The latter would mean the existing legislation remains reflective of Council's expectations and the Shire's general rural character.*

Question: On a related matter, could Council identify when it resolved that the Council President and CEO endorse LPP 31 – structures in road reserves, as an adopted operational policy and, could Council explain why a review of LPP 6 – water supply and drainage, would incur a budget cost of \$33,333?

Answer: *There is no information to confirm if and when Local Planning Policy 30 was finally endorsed, however that it has remained on the Shire's list of planning policies would necessitate the formal revocation regardless. The review of LPP6 is an error, as it should have read Local Planning Scheme No.6, per Council resolution of 20 February 2019.*

Question: The importance of developer submitted and approved fire management plans has gained prominence as a consequence of the tragic and devastating Eastern States fires and more recently a major industrial fire in the City of Swan.

It is my understanding that unlike development proposals in the Metropolitan Regional Scheme area, the Council/Shire is the responsible authority for approving fire protection and mitigation plans for industrial and residential type estates in its Local Government district. It is also my understanding that the Shire is the authority that certifies that the location and ongoing functional operation of street fire hydrants within those estates is compliant with Australian Standard AS2419 – Fire hydrant installation – system design, installation and commissioning, Australian Standard AS1851 – maintenance for fire protection equipment and the provisions of the Building Code of Australia.

Of relevance to LPP21 – fire management plans, it would appear that recent developer submissions to the Council/Shire have been silent on enduring estate fire protection and mitigation plans to protect the lives of people and their

property within the proposed built environment of those estates. Even though bushfire management reports for proposed estates may provide relevant information on the suitability of a particular site for an intended land use, it is unclear why industrial/residential estate fire protection and mitigation plans are not an essential element supporting scheme amendment initiations, structure plans and plans of subdivision.

Answer: They are in accordance with State Planning Policy 3.7 – they are referred to as Bushfire Management Plans or Bushfire Management Strategies.

Questions received during the meeting

4.2.2 John Nagel, Bindoon

Question: Mr President, are you aware there has been a group formed regarding the lack of aged care in our shire? Before we can go forward will the shire Council commit to providing land suitable in the Bindoon locality for aged care and retirement housing?

Answer: The President advised that 'yes', Council is aware of the group, and that Council has allocated the former golf course, which was previously owned by Retirees WA for aged care housing. Council is committed to bringing forward an aged care development on this site.

Question: Is the shire prepared to contact Silver Chain to see if they will reconsider their position to facilitate day respite for residents in Bindoon at Ferguson House, as they are the licence provider for this area?

Answer: The President advised that 'yes'.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council: 19 February 2020

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 010320

Moved Cr Davis / Seconded Cr Ross

That the minutes of the Ordinary Meeting of Council held on Wednesday 19 February 2020 be confirmed as a true and correct record of proceedings.

CARRIED 7/0
7:06PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

The President addressed the meeting and spoke on the recent bushfire crisis in the Eastern States on the current COVID19 crisis; with these two major events we are heading into a recession. We should not be looking at building any new infrastructure.

The President also advised that in the coming months he will be looking at relinquishing his role as President, however will serve out his tenure on Council.

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Proposed Scheme Amendment No. 67: Initiation of Proposal to Rezone from “Agricultural Resource” to “Light Industrial” – Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea*

Applicant	Urbis
File ref	18/02/35
Author	Executive Manager Development Services
Authorising Officer	Chief Executive Officer
Declaration of Interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Scheme Amendment Revision Documentation 2. Additional rationale for ‘loop road’ location

Executive Summary

Council is requested to initiate proposed Scheme Amendment 67 to *Local Planning Scheme No.6* for the rezoning of Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea (“**subject land**”). The zoning is proposed to be amended from ‘Agricultural Resource’ to ‘Light Industrial’, consistent with the Muchea Employment Node Structure Plan (MENSP). Amendment 67 additionally involves the addition of Precinct 3 within the existing Schedule 11 Land Use Definitions. The Amendment also intends to modify Clause 5.1.1 of Local Planning Scheme No.6, which pertains to updating the MENSP Special Control Area. The Amendment is intended to be initiated as a ‘Standard’ amendment in accordance with Regulation 34 of Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

FIGURE 1: LOCALITY PLAN



Background

The subject proposed Scheme Amendment relates to multiple properties property within the Muchea Industrial Park, all forming part of Precinct 3 within the MENSF. The subject area can be described as being located adjacent to Great Northern Highway on the south-western corner of Great Northern and Brand Highways. The western border is the NorthLink Highway, and the southernmost property within this application borders the City of Swan. There are eight properties included within the application, totalling an approximate area of 185ha.

While the total number of lots within the precinct is nine, as Lot M1606 was rezoned as part of Amendment 60, it is not necessary to include it in this proposal.

The remaining eight properties are owned independently by six landowners. From time-to-time, individual property owners have sought to have their own individual properties rezoned to industrial to help facilitate an intensification of industrial based land-uses. However as the precinct relies upon the construction of a loop road in order to appropriately cater for RAV10 road-trains, the Department of Planning have advised that Council should only initiate scheme amendments for the entire precinct only.

Henceforth, the majority of landowners within the subject application area have agreed to conduct the process through a single application. This application is now presented to Council to initiate the scheme amendment process. *The Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) dictate the procedure for Council to follow for a scheme amendment.

Consultation/Communication Implications

Local

The Regulations direct a local government to advertise a Scheme Amendment, and how. The Regulations set out the requirements for three different types of amendments:

- Basic – which relate to minor amendments, such as typographical errors or consistency;
- Complex – which are not consistent with a local planning strategy, or other strategic plan (such as the MENSF); and
- Standard – which is consistent with a strategic document, but is not a basic or complex amendment.

The Regulations provide for much more detail, and the above has been provided as a summation only.

Officers do not consider the amendment to be basic as the amendment involves the insertion of new standards and modifications to the scheme maps. Additionally, officers do not consider the amendment to be complex as the application is consistent with the Shire's Local Planning Strategy 2019, and the MENSF.

Therefore Council is recommend to initiate the amendment as a 'Standard' amendment, and subject to the Environmental Protection Authority (EPA)'s advice, allow it to be advertised in accordance with the Regulations in the following ways:

- i. Publish a notice of the amendment in the local newspaper;
- ii. Provide notice to landowners within a 1km radius; and
- iii. Publish a notice of the amendment on the Shire's website.

State

Prior to the local advertising requirements, the *Planning and Development Act 2005* requires that any amendment is referred to the EPA for assessment. Following the EPA's determination, and provided that the EPA accept the amendment, the local authority is permitted to undertake consultation with state agencies, in addition to the local communication.

The application is recommended to be advertised to a number of government and referral agencies as follows:

- i. Main Roads Western Australia;
- ii. Chittering Landcare Group;
- iii. Department of Water and Environment Regulation;
- iv. Department of Health;
- v. Department of Defence;
- vi. Department of Fire and Emergency Services;
- vii. Department of Lands, Planning and Heritage (Aboriginal Affairs);
- viii. Western Power;
- ix. Department of Primary Industry and Regional Development; and
- x. Department of Biodiversity and Attractions.

Per the Regulations, the amendment must be advertised for a period not less than 42 days.

Legislative Implications

State

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

As described above, the Scheme Amendment for the rezoning of the site is considered to be standard under the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations).

The MENSP details the process required to develop land within the Node and is as follows:

- *The provision of a Structure Plan prior to rezoning the MENSP to industry zoning.*

It should be noted that a Local Structure Plan has been submitted and is intended to coincide with the Scheme Amendment. The Structure Plan technically follows a separate process, however it has been agreed upon between all parties that it form part of the scheme amendment advertising procedure for consistency and clarity in process.

Policy Implications

Local

- *Local Planning Policy No.33 - Muchea Industrial Park - Design Guidelines*

Initiation, endorsement and ultimately approval to amend *Local Planning Scheme No.6* through this scheme amendment will enact *Local Planning Policy No.33*. The Policy prescribes standards and expectations of built form, wastewater, drainage and stormwater among other built form aspects. The role of the policy is to maintain appropriate and consistent built form, with aspects to help maintain high environmental values.

Financial Implications

There are no known financial implications associated with the initiation of the Scheme Amendment.

Strategic Implications

The Shire of Chittering's *Local Planning Strategy 2019 (LPS)* Clause 3.4.2 Industrial land use, provides the vision for the development of the Node. It additionally provides for the strategic initiative to allow for the industrialisation of the MENSF, while limiting industry outside of this location.

The LPS reinforces the existing MENSF, which was endorsed by the Western Australian Planning Commission in 2011. This site, amongst many others in the 1,100ha precinct, has been strategically identified for light industry purposes. This proposed Scheme Amendment is identified in Precinct 3 West within the MENSF and is consistent with the strategic objectives of this site.

Site Inspection

Multiple site visits to both the lots subject of rezoning and have found that:

- i. The subject area is well serviced in reference to the road network, however it is unlikely that access to future lots will be able to connect directly to the Great Northern or Brand Highways, in line with Main Roads WA's policy;
- ii. The area has, in parts, poor stormwater drainage; and
- iii. While majority of the physical land remains as pasture, there are instances where some lots are developed with existing industries.

The amendment seeks to more efficiently cater for all types of land uses, and incorporate significant steps to ensure future development occurs in an environmentally secure manner.

Triple Bottom Line Assessment

Economic implications

The proposed rezoning to 'Light Industrial' has the potential to broaden the employment opportunities of the community, and businesses alike. The MIP is strategically located at the intersection of the upgraded Great Northern Highway, which will allow access to 53.5m road trains to Muchea. Additionally it sits on the northern most intersection of the Tonkin Highway, allowing unfettered access to metropolitan ports. This culminates in the unique advantage for transport and rural based industries to capitalise on unprecedented transport access within such close proximity to the metropolitan boundary. Accordingly, it is expected that the precinct will cater for transport and logistics based industries, as well as light rural industries.

Social implications

Allowing for further industrial land will imply that the Shire is suitably capable for appropriate industries to be located within an accessible and purpose built location. This will in turn ensure new and existing businesses will have confidence in the Shire that it is capable of sustaining industry that has little to no impact on existing residential and rural properties. It may provide incentive for such persons working in the industrial area to settle within the Shire, thereby increasing the social connectivity that can occur with working and living in the Shire.

Environmental implications

The location of the Precinct 3 area requires significant environmental attention and protection. The precinct is located adjacent, in part, to the Ellen Brook, and therefore any stormwater or groundwater contamination may have significant impacts downstream. The application is accompanied by a local water management strategy along with many other environmental based technical reports to help mitigate any such issue.

Officer Comment/Details

Muchea Employment Node

Clause 5.7 Muchea Employment Node Special Control Area of LPS6 applies to this rezoning. The clause provides the basis for rezoning applications such as this. As described above and within the attachments to the report, the application is considered to satisfy the requirements of Clause 5.7 sufficiently to allow the initiation of the scheme amendment.

Water Prone Area – Ellen Brook Palusplain

This precinct is located within close proximity to the Ellen Brook and its tributaries. This means that the property is flood prone. Accordingly, the Scheme Amendment documentation includes a local water management strategy, a geotechnical report and a drainage management plan.

The majority of the site falls within a multiple-use wetland, meaning that all reasonable measures to ensure that the hydrological functions of the wetland are maintained post development. This may mean raising of road and lot finished levels, and allowing for greater drainage pits. While this has not been addressed through the scheme amendment stage, it is a matter for review at the local structure plan stage, and thereafter subdivision. Notwithstanding, in accordance with the local water management plan, *“The Government Sewerage Policy (GSP) (WA Government, 2019) requires that land used for effluent disposal in sewage sensitive areas must have a minimum clearance of 1.5m from the effluent discharge point (e.g. base of leach drain or ATU drip lines) to the highest groundwater level. Under the Policy, the required clearance cannot be achieved by filling but not by drainage.”* Accordingly, any newly created lots are expected to be filled to allow for sufficient clearance to the water table.

Conclusion

Initiation of the amendment to rezone Precinct 3 is sufficiently detailed to allow for detailed feedback from surrounding landowners and state authorities. Upon receipt of feedback, the applicant will be provided with the opportunity to respond and / or amend the amendment documentation prior to it being submitted to the Minister for Planning.

Accordingly, Council is recommended to allow the initiation of Amendment 67 to proceed, having regard to the information contained within the attachments, and that such information will be reviewed by suitably qualified authorities.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020320

Moved Cr Angus / Seconded Cr Osborn

That Council:

1. Pursuant to Section 75 of the *Planning and Development Act 2005* resolves to initiate an amendment to the Shire of Chittering *Local Planning Scheme No. 6* to:
 - a. Rezoning Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea from 'Agricultural Resource' zone to the 'Light Industrial' zone.

And amending the Scheme Maps accordingly.
 - b. Amending clause 5.1.1 Operation of Special Control Areas to include 'Muchea Employment Node' as new dot point 6; and reflecting Precinct 3 of the Muchea Employment Node on the Scheme Maps accordingly.
 - c. Introducing the following uses into Schedule 1 – Dictionary of Defined Words and Expressions of Local Planning Scheme 1 as follows:

'Concrete Batching Plant' means premises used for concrete batching, as defined in the *Environmental Protection Regulations 1987*

'Workforce Accommodation' means premises, which may include modular or relocatable buildings, used –
 - (a) Primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
 - (b) For any associated catering, sporting and recreation facilities for the occupants and authorised visitors'
 - d. Amending Schedule 2 – Zoning Table to identify the uses:
 - i. 'Concrete Batching Plant' as a 'D' use in the Light Industrial and General Industrial zones, and an 'X' use otherwise
 - ii. 'Workforce Accommodation' as a 'D' use in the Light Industrial zone, and an 'X' use otherwise
 - iii. 'Fast Food Outlet' in the Light Industrial Zone as a 'D' use
 - e. Amending clause 4.9: Requirements for Industrial Zones and Land Uses, of Local Planning Scheme 1 to introduce the following provisions:

where 'Workforce Accommodation' is a discretionary use –
 - i. the accommodation is to have a maximum floor area of 250m²
 - ii. the accommodation is to be incidental to the industrial land use
 - iii. subdivision of the accommodation from the parent lot will not be permitted
 - iv. the local government will not consider applications for Workforce Accommodation prior to the primary site activity being either approved or constructed
 - v. where simultaneous approval has been granted by local government for both Workforce Accommodation and the main activity on the same lot, the main activity must be developed and be operational prior to the occupation of the Workforce Accommodation
 - vi. Workforce Accommodation must be carefully sited and constructed so the potential site (or estate) impacts from noise, dust, odour, amenity and heavy vehicle access/egress from the site are minimised

And renumber the subsequent clauses accordingly.

- f. **Amending Schedule 11 – Muchea Employment Node Special Control Area of Local Planning Scheme No.6 by including provisions for Precinct 3 of the Muchea Industrial Park, after Precinct 1 as follows:**

NO.	DESCRIPTION OF LAND	CONDITIONS
2.	Precinct 3 (P3) of the Muchea Industrial Park	<p>1. Hierarchy of Plans Structure planning, subdivision and development shall be undertaken in accordance with the Scheme.</p> <p>2. Structure Plan</p> <p>a. Structure Plan Preparation A Structure Plan shall be prepared in accordance with the provisions of the deemed provisions over the entire area of Precinct 3 of the Muchea Industrial Park.</p> <p>b. Environmental Management Plans The following Environmental Management Plans shall be prepared as part of the Structure Plan process and approved as required by the relevant agency:</p> <ul style="list-style-type: none"> i. Local Water Management Strategy ii. Environmental Assessment and Management Strategy iii. Transport Impact Assessment <p>Environmental Management Plans shall be implemented to the satisfaction of the local authority.</p> <p>3. Subdivision</p> <ul style="list-style-type: none"> i. An Urban Water Management Plan shall be Author the developer, consistent with the Local Water Management Strategy, for approval by the relevant agency, to satisfy a condition of subdivision approval. ii. A reticulated water supply provided by a licensed operator shall be provided at the first stage of subdivision. iii. Road Reservation and Construction <ul style="list-style-type: none"> a. An internal Loop Road, constructed to accommodate RAV10 vehicles, shall be constructed in accordance with Austroads and MRWA standards b. When a lot is subdivided, the totality of land required for all road reserves within that lot shall be ceded to the Crown c. The full length of roads within the subdivision area is to be constructed on the creation of all lots. A staging plan and triggers for road construction, to ensure construction of all roads within the subdivided area is to be outlined in an approved Structure Plan. iv. Subdivision applications shall demonstrate that a suitable temporary turning circle for the Loop Road can be provided within the boundaries of the subdivision area until the entire Loop Road is constructed to allow RAV10 vehicles access and egress onto Great Northern Highway. At that time, the temporary turning circle

			<p>shall be removed and the land suitably remediated.</p> <p>v. Drainage</p> <p>a. The drainage approach for Precinct 3 is set out in the Structure Plan.</p> <p>b. When the first lot in a subdivision is created, any works or ceding of land associated with the drainage network is to be implemented.</p> <p>c. Where staging of drainage infrastructure is determined to be acceptable by the WAPC and relevant agencies including DWER and the local authority, proposals are to make provision for connection to the overall drainage network, and the approach is to be outlined in an UWMP that accompanies the subdivision application.</p> <p>4. Development</p> <p>i. Development of land shall be generally in accordance with the Scheme and approved Structure Plan.</p> <p>ii. Land use permissibility within Precinct 3 shall be in accordance with the Light Industrial Zone of LPS6 (as amended).</p>
2.	Resolves to number the proposed amendment as ‘Amendment No. 67’ to the Shire of Chittering Local Planning Scheme No. 6.		
3.	<p>Resolves that ‘Amendment No. 67’ is a ‘standard’ amendment under the provisions of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, for the following reasons:</p> <p>a. The amendment to the scheme map is consistent with the Muchea Employment Node Structure Plan (2011) and the Shire of Chittering Local Planning Strategy (2019); and</p> <p>b. The amendment is not a complex or basic amendment.</p>		
4.	Forwards the Scheme Amendment to the Environmental Protection Authority in accordance with Section 81 of the <i>Planning and Development Act 2005</i> prior to advertising.		
5.	Pursuant to Regulation 47 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> resolves to proceed to advertise the Scheme Amendment.		
			<p>CARRIED 7/0 7:09PM</p>

9.1.2 Proposal to Close Portion of 'Learners Way' and Rationalisation of Reserves at Bindoon Primary School, Learners Way, Bindoon*

Applicant	Department of Education
File ref	A10065
Author	Regulatory and Legal Officer (Development)
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to consider revoking its management order over Reserve 35116 so the Department of Education may take over its management. Council is also requested to consider permanently closing Learners Way for inclusion into Reserve 24627. These actions would rectify land administration anomalies which have resulted from the Department of Education building within a Shire managed reserve. The report discusses the purpose and procedure for these actions.

FIGURE 1: LOCALITY PLAN



Background

Bindoon Primary School is located at the northern end of Bindoon townsite, and is accessed from Learners Way, which intersects with the Great Northern Highway. In 2010 the Shire became aware of site works and building construction occurring at the Bindoon Primary School (Reserve 24627) which had encroached into the adjoining reserve land (Reserve 35116) vested to the Shire of Chittering. The Shire made the Department of Education aware of this and following some correspondence on ways to resolve the matter,

including Council's earlier determination at the 18 December 2013 Ordinary Council Meeting, the Department engaged a planning consultant to prepare a Scheme Amendment to rezone the Reserve land.

While the amendment was gazetted as part of Scheme Amendment 53, and reclassified the land under the planning framework, the Department subsequently has written to the Shire seeking assistance in resolving the remaining land administration issues.

The Department of Education has requested the Shire of Chittering assist them by:

1. Extinguishing Reserve 35116 for amalgamation with Reserve 24627; and
2. Permanently closing Learners Way for inclusion into Reserve 24627

The Department of Education has committed to indemnifying the Shire of Chittering for any claims or damages related to the above items and to bare all reasonable costs in relation to this matter.

Consultation/Communication Implications

Local

Council is required to advertise any proposed permanent closure of a road for 35 days and consider responses prior to resolving to make a request to the Minister. Council is not required to advertise the revocation of a Reserve's management order.

State

- Department of Education

This matter has been the subject of correspondence between the Shire of Chittering and the Department of Education since 2010.

- Water Corporation

The Department of Education has liaised with the Water Corporation in relation to this matter. The Water Corporation's Easement F228563 (located on Reserve 35116) accommodates access to the Bindoon Tank and associated infrastructure. Water Corporation requires the easement be transferred into any new reserve configuration. Water Corporation will also require an extension or new easement through the portion of Learners way which will be affected.

- Department of Lands

Administration has consulted with the Department of Lands in relation to revoking the management order over Reserve 35116. The Department of Lands has indicated a willingness to cancel the management order so long as the Department of Education is willing to take over the management of Reserve 35116 (which the Department of Education have agreed to multiple times in writing). Once the Department of Education assumes the management of Reserve 35116, it is up to them to whether they initiate the process of amalgamating Reserves 35116 and 24627.

Legislative Implications

State

- Statutory Procedure for Permanent Closure of a Road

The procedures for permanently closing a road are found in the *Land Administration Act 1997* (the LAA) and *Land Administration Regulations 1998* (the LAA Regulations). The Minister for Lands' approval is required to permanently close a road. The local government seeking to close a road must make a request in accordance with regulation 9 of the LAA Regulations.

A local government must advertise the proposed closure of a road for a period of 35 days and consider any objections prior to resolving to make a request to the Minister. The method of advertising is dictated by sub-section 58(3) of the LAA.

The form of a request to the Minister is specified by section 58 of the LAA.

On receiving a request, the Minister may determine to grant the request, direct the local government to reconsider or refuse the request.

If the Minister grants a request, the road is closed on and from the day on which the relevant order is registered. When a road is closed under this section, the land comprising the former road becomes unallocated Crown land.

- Statutory Procedure for Revoking a Management Order

A reserve is usually placed under the care, control and management of a state agency, local government authority or incorporated community group by way of a Management Order registered against the relevant parcels of Crown land within a reserve and endorsed on the Crown land title. A Management Order conveys a right to manage and control Crown land; it does not convey an interest in land.

Under section 50(1)(a) of the LAA, the Minister for Lands may revoke a management order where a management body agrees the order should be revoked.

Local

The management order over Reserve 35116 identifies its use as 'Parks and Recreation'. This is inconsistent with *Local Planning Scheme No.6* which identifies its purpose as 'Public Purposes: School'. Revoking the management order brings the administration of this land into conformity with the Scheme.

Policy Implications

State

Nil

Local

Nil

Financial Implications

The Department of Education has committed to indemnifying the Shire of Chittering for any claims or damages related to the closure of the relevant portion of Learners Way and the revocation of the management order over Reserve 35116. The Department of Education accepts that all reasonable costs associated with the proposed action will be borne by the Department of Education.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: No

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Council at the 18 December 2013 resolved to support the Reserve being surrendered to the Bindoon Primary School.

Reserve 35116 was created for the purpose of 'Public Recreation' but had not been developed or any plan to develop for the purpose it was created. An easement for access for Water Corporation is along the western and southern side of the Reserve, and will be required to be rectified following the closing of the portion of road and reclassification. It appears the school oval was developed into Reserve 35116 and the recent building works were clearly constructed in Reserve 35116 as can be seen from aerial photography.

In light of the above, and as it is consistent with previous Council determinations, it is recommended that the Shire revokes its management order over Reserve 35116. This will allow a new management order to be issued to the Department of Education for the purpose of providing primary education.

It is also recommended that the Shire undertake the process of permanently closing Learners Way for inclusion into reserve 24627.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030320

Moved Cr Davis / Seconded Cr Ross

That Council authorises the Chief Executive Officer to:

- 1. Advertise the proposed permanent closure of the relevant portion of Learners Way in accordance with section 58 of the *Land Administration Act 1997*.**
- 2. Revoke the Management Order over Reserve 35116.**

CARRIED 7/0
7:11PM

9.1.3 Application for Exemptions of Limitation of Number of Dogs: Lot 302 (RN 102) Ayrshire Loop, Lower Chittering*

Applicant	L Collier
File ref	A9975; 19/01/3
Author	Ranger
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. CONFIDENTIAL "NOT FOR PUBLIC DISCLOSURE" 2. Site Plan – Fencing & Containment Area

Executive Summary

Council is requested to consider an Application for Exemptions of Limitation of Number of Dogs to permit the applicant to keep three dogs at Lot 302 (RN 102) Ayrshire Loop, Lower Chittering. Allegations have been made of the dogs barking excessively and a previous dog attack recorded on 20 April 2014. The application has been referred to Council as a result of the objection lodged.

Background

The applicant is the owner of Lot 302 (RN 102) Ayrshire Loop, Lower Chittering. The subject property is zoned Rural Residential and is 20,000m². The fencing at the property is standard 1.2 metre high, ring lock. A PetSafe Dog Containment System (electric line which signals to a collar) for the front two acres is also installed. The applicant has requested to keep three dogs which are described as follows:

Name	Breed	Sex
'Louie'	Doberman	Male, neutered
'Lexie'	Kelpie cross	Female, spayed
'Buddy'	Husky, cross with German Shepherd	Male, neutered

An attack occurred on the 21 April 2014 with one of the applicant's dogs, 'Lexie', attacking the neighbour's dog through the fence. Injury was caused to the neighbour's dog. An investigation was completed and the applicant was issued with an infringement for the offence of *'Dog attack or chase causing physical injury'* (section 33D(1), Dog Act 1976).

The applicant has previously had approval for three dogs at the property. This application was approved by Council on 27 May 2014 subsequent to the dog attack on 21 April 2014. The additional dog had no history of offences and severe mobility disabilities. The additional dog is now since deceased.

An informal complaint regarding excessive barking from the dogs at the property has previously been made. However, Authorised Officers never received a formal complaint in the prescribed form (Form 7 accompanied by barking diaries demonstrating at least 14 days of excessive barking, as required under the Act).

The applicant has not incurred any further offences relating to her dogs since 21 April 2014. Two of the applicant's dogs have chronic medical issues: "Louie" has broken his neck and is on daily medication; and "Lexie" has ruptured both cranial cruciate ligaments (CCL, similar to the human anterior cruciate ligament, ACL) in her hind legs and is currently kept indoors. The third dog ("Buddy") is a rescue dog who was originally owned by the applicant's daughter for four years. The applicant's daughter has had a change of

circumstances and is no longer able to look after “Buddy”. According to the applicant, “Buddy” is only able to trust certain people due to its previous living arrangements, one of whom is the applicant.

Consultation/Communication Implications

Local

Letters were sent to eight adjacent and adjoining land owners giving them the opportunity to comment within 21 days (**Attachment 1**). The advertising period began on 26 September 2019, ceasing 17 October 2019. A total of two responses were received:

Submitter	Comments	Officer Response
Object	I wish to make objection to have the three dogs on the above property. The third dog, being the Husky cross has been at the property for some time and regularly joins in with the other two in continually barking at the occupants and any visitors to my property. This is ongoing and we have put in complaints prior when there were two dogs. You yourself were out here and saw the aggressive nature of the dogs Lexie and Louie. I put in a complaint through the Shire but this was never actioned. Coupled with Lexie attacked my dog which they were made to repay the vets bills sustained, I believe that they were also fined. They often wake us when let out early (prior to 8am), I have a text dating back to the 29 January 2015 at 0314 asking to quieten the dogs, they still bark excessively and wake us up on occasion. I’m not willing to allow a third dog to reside when they have not demonstrated effectively that they can control two dogs.	A barking dog complaint was made but a complaint was not lodged in a prescribed form (barking dog diary). A dog attack occurred with “Lexie” attacking a neighbour’s dog on the 20 April 2014. A dog attack investigation was completed and an infringement notice was subsequently issued for the dog attack.
Support	No issue as long as dogs are kept on the block i.e. gates kept closed.	Noted

State

Nil

Legislative Implications

State

- Dog Act 1976, Part V — The keeping of dogs

26. Limitation as to numbers

(1) A local government may, by a local law under this Act—

- limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government’s district; or
- limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government’s district.

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

Penalty:

- (a) *for an offence relating to a dangerous dog—*
 - (i) *a fine of \$10,000, but the minimum penalty is a fine of \$500;*
 - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$500;*
- (b) *for an offence relating to a dog other than a dangerous dog—*
 - (i) *a fine of \$5,000;*
 - (ii) *for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$100.*

- (5) Any person who is aggrieved—
(a) by the conditions imposed in relation to any exemption under subsection (3); or
(b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption, may apply to the State Administrative Tribunal for a review of the decision.
- (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

Local

- Shire of Chittering Dogs Local Law 2011

3.2 Limitation on the number of dogs

- (1) This clause does not apply to premises which have been—
a. licensed under Part 4 as an approved kennel establishment; or
b. granted an exemption under section 26(3) of the Act.
- (2) The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
a. 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
b. 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

Policy Implications

State

Nil

Local

- Environmental and Health Policy 10.7 Multiple Dogs

This Policy outlines the assessment process only, which per above, has been followed. The Policy also contains a table relating to the maximum number of dogs allowed per zone, however this table conflicts with the Local Law. Where a policy conflicts with a Local Law, the Local Law prevails to the extent of the inconsistency. Hence this table has not been applied for this reason.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

A site inspection was conducted on 18 November 2019, wherein the fencing and containment of the dogs was assessed. At the time of inspection, there was no evidence sufficient to suggest that the dogs are able to escape the property. The fencing on the property consists of ring-lock to a height of 1.2 metres and a PetSafe Dog Containment System installed in the front two acres of the property. The dogs' temperaments were assessed and no signs of aggression in the dogs were witnessed. The additional dog "Buddy" kept a minimum distance of five metres at all times and appeared to have a fear of people. There were no signs of aggressive or defensive behaviour shown by "Buddy" at the time of inspection.

Triple Bottom Line Assessment

Economic implications

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

Social implications

The increase in the number of dogs in the area may have the potential to create noise through barking if dog owners are not managing the situation. This is generally always made clear with dog owners as a method to address any excessive barking at all times. As the Local Law states that excessive barking can cause the cancellation of any permit, this can be applied as a condition of approval.

Environmental implications

There are no known significant environmental implications associated with this proposal. The property size is capable of containing and maintaining the number of dogs requested.

Officer Comment/Details

The applicant has not incurred any offences since the recorded dog attack on 21 April 2014. It is deemed that it is unlikely any attacks will occur in the future, given the dogs' health. While the complaints received are noted, the applicant has undertaken remedial works to prevent any further neighbourly issues. The applicant at all times has complied with each direction and suggestion made by the Ranger. Additionally it should be noted that the two existing dogs are generally in a less than optimal health condition, meaning there are unlikely to be capable of leaving the property. Being located inside the home can help to minimise issues associated with barking.

Accordingly the application is recommended to be approved subject to appropriate conditions.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040320**Moved Cr Hughes / Seconded Cr Angus****That Council approve the application, subject to the following conditions:**

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

Name	Breed	Microchip
'Louie'	Doberman	900 008 800 804 655
'Lexie'	Kelpie cross	978 008 800 421 625
'Buddy'	Husky cross	985 111 000 560 640

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

CARRIED 6/1
7:13PM

9.1.4 Proposal to Revoke Multiple Local Planning Policies*

Applicant	Shire of Chittering
File ref	18/06/010; 18/06/021; 18/06/026; 18/06/028; 18/06/031
Author	Temporary Principal Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Local Planning Policy No. 10 – Basic Raw Materials and Extractive Industries and Extractive Industries2. Local Planning Policy No. 21 – Fire Management Plans3. Local Planning Policy No. 26 – Waste Management4. Local Planning Policy No. 28 – Public Open Space Dedication on Rezoning5. Local Planning Policy No. 30 – Registered Road Verges

Executive Summary

Council is requested to consider revoking:

- *Local Planning Policy No. 10 – Basic Raw Materials and Extractive Industries (Attachment 1);*
- *Local Planning Policy No. 21 – Fire Management Plans (Attachment 2);*
- *Local Planning Policy No. 26 – Waste Management (Attachment 3);*
- *Local Planning Policy No. 28 – Public Open Space Dedication on Rezoning (Attachment 4); and*
- *Local Planning Policy No. 30 – Registered Road Verges (Attachment 5).*

Revoking the local planning policies is appropriate because they have become redundant following the creation of the Shire's *Local Planning Strategy* (2019) and changes to the State planning framework. This essentially results in less local planning policies, a more streamlined approach, and greater clarity in the Shire's planning processes.

Background

As part of a review of the statutory framework that currently guides development services, a number of endorsed local planning policies have been identified that are no longer necessary due to changes in State Government legislation and Policy. Local Planning Policies are now created, amended and revoked under the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). The Shire of Chittering (Shire) *Local Planning Scheme* (LPS6) is an updated version of the Shire's *Town Planning Scheme* (TPS6) and was gazetted on 30 November 2004. Local Planning Policies must be consistent with LPS6 and if any consistency arises, LPS6 shall prevail.

Local Planning Policy No. 10 – Basic Raw Materials and Extractive Industries (LPP10) was adopted by Council on 18 July 2007. LPP10 has the objective of facilitating the extraction of the Shire's basic raw materials, providing guidance on the preparation of an extractive industry proposal and indicative conditions that are likely to be applied in the context of maintaining the rural character of land and protecting rural amenity. LPP10 precedes State Planning Policy 2.4 Basic Raw Materials (SPP 2.4) created in July 2000, which is complemented by the Basic Raw Materials Applicant's Manual (November 2009). SPP 2.4 and the Basic Raw Materials Applicant's Manual are likely to be superseded as a newer version of both documents has been advertised for public comment by the Department of Planning, Heritage and Lands (DPLH).

Local Planning Policy No. 21 – Fire Management Plans (LPP21) was adopted by Council on 19 December 2007 and an amended approval to LPP21 was granted on 20 February 2013. The objective of LPP21 is to protect property and life and maintain the rural character of the Shire. LPP21 identifies that property owners and occupiers are required to comply with the Department of Fire and Emergency Services (FESA) and the Shire under the provisions of the *Bush Fires Act 1954*. It also states that owners and occupiers are to comply with the Shire's planning scheme and be in accordance with the Department of Planning's *Planning for Bushfire Protection Guidelines (Edition 2)*. The Schedules contained in the LPP21 have been taken from the *Planning for Bushfire Protection Guidelines (Edition 2)* document which was superseded by State Planning Policy 3.7: Planning for Bushfire Guidelines (SPP3.7) December 2015 and the associated document, *Guidelines for Planning in Bushfire Prone Areas* (December 2017). It is understood that these changes occurred as a result of the *Perth Hills Bushfire Inquiry* (Inquiry) which released "A shared responsibility" document tabled in parliament on 17 August 2011. The inquiry contributed to a change in planning practices in providing a more comprehensive approach to Bushfire Planning measures and techniques. This resulted in a new State Planning Policy, SPP3.7 and the establishment of the Office of Bushfire Management Risk. Importantly, the inquiry initiated measures that require bushfire planning practitioners to be accredited, and apply consistent and standard bushfire planning techniques.

Local Planning Policy No. 26 – Waste Management (LPP26) was adopted by Council on the 17 September 2008. The policy was 'prepared to provide householders with an indication of what waste collection and disposal options they might expect within the foreseeable future and to provide developers/contractors with Council's view on regional waste processing and disposal and associated rezoning.' Managing waste is a core function of local government services that has evolved from a waste collection role to an educational and waste avoidance activity. In 2014 the Shire commenced a roadside collection service for residents within specified areas and in 2018 the Shire introduced the *Waste Local Law* in accordance with the *Waste Avoidance and Resource Recovery Act* and *Local Government Act*.

Local Planning Policy No. 28 – Public Open Space Dedication on Rezoning (LPP28) was adopted for preliminary approval by Council on 14 December 2005 and adopted for final approval by Council on 15 November 2006. The objective of the policy is to ensure that there are adequate areas of public open space available for future residents when rural zoned land is rezoned to residential land. The policy is a reflection of the DPLH's "Development Control Policy 2.3 – Public open space in residential areas" May 2003 and Planning Bulletin 21 – Cash-in-lieu of public open space, 21 April 1997. In 2007 DPLH released "Liveable Neighbourhoods: a Western Australian Government sustainable cities initiatives." Liveable Neighbourhoods is an operational policy for the design and assessment for new urban (predominantly residential) areas in the metropolitan area and country centres, on greenfield and large urban infill sites. Earlier versions of Liveable neighbourhoods helped inform the Residential Design Codes in late 1990's/early 2000's with the more recent versions being used to inform structure plans and subdivision design incorporating the use and utilisation of public open space.

Local Planning Policy No. 30 – Registered road verges (LPP30) was adopted for preliminary approval by Council on 5 April 2006 and adopted for final approval by Council on 15 November 2006. The intent of LPP31 is to specify the functions of registered road reserves and the responsibilities of adjoining land owners and Council. LPP31 is intended to prevent the application of biocides, for organic certification or health reasons and protect exotic or natural vegetation, including declared rare flora. The Shire's Technical Services directorate contracts the service of verge spraying to a private contractor and informs them of verges they should not spray.

Consultation/Communication Implications

Local

Administration is required to advertise a Local Planning Policy under Clause 4, Part 2 – Local Planning Framework, Deemed provisions of LPS6 for public comment when a policy is initiated or amended. Administration is not required to advertise the proposal to revoke the local planning policies under LPS6, but is required to give notice following a determination to revoke a local planning policy.

State

There is no requirement to refer the proposal to the Western Australian Planning Commission (WAPC) as the Shire intends to revoke local planning policies which are inconsistent with state and local legislation and policies.

Legislative Implications

State

- Planning and Development (Local Planning Schemes) Regulations 2015
Sch. 2, Pt. 2, Cl. 6 of the Regulations dictate the process for the revocation of Local Planning Policies. Typically, Council resolve to revoke a Local Planning Policy(s) and publishes a notice of revocation in the local newspaper circulating in the Scheme area.

Local

- Local Planning Scheme No. 6
The Shire will no longer have due regard for LPP10, LPP21, LPP26, LPP28 and LPP31 when determining planning applications.

Policy Implications

State

- State Planning Policy 2.5: Rural Planning (SPP2.5)
SPP 2.5 will remain as the principal guiding document to guide the extraction of basic raw materials for the shire. The *Basic Raw Materials Applicants Manual (February 2009)* acts as supplement to SPP2.4 which essentially acts as the guiding document that will assist applicants in the establishment of an extractive industry. The *Basic Raw Materials Applicants Manual (February 2009)* supersedes LPP10 and assists applicants in providing the appropriate information required to determine an extractive industry planning application.
- State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7)
State Planning Policy 3.7: Planning in Bushfire Prone Areas (SPP3.7) and associated guidelines will become the principal guiding document to guide and control bushfire planning issues.

Local

- Shire of Chittering Local Planning Scheme (LPS6)
Administration is required to have due regard to SPP2.5, SPP3.7 and other matters as required under Cl.67 'Matters to be considered by Local Government' as per the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Financial Implications

Revoking the policies will require a notice in the locally distributed newspaper.

Strategic Implications

Local

- Strategic Community Plan

Focus area: 5. Strong Leadership

Objective: 5.1 Strong partnerships and relationships

Strategy: Working with stakeholders to build strong and sustainable relationships and to ensure the best use of Shire resources.

Revoking the policies will help to make the planning office more efficient, as well as future investors in the Shire more assured about Council's policy framework.

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The revocation of the Local Planning Policies will provide greater clarity for the Shire's stakeholders and remove inconsistencies between the Shire's Local Planning Policies, *LPS6* and State Planning Policies.

The Local Planning Policies identified in this report have been superseded by various measures to allow best practices in bushfire planning and a modern and informative guide to establishing extractive industries. *LPP10* served as an important document to complement *SPP2.5* which provided assistance to proponents of extractive industries. However, the purpose of *LPP10* has been superseded by the *Basic Raw Materials Applicant's Manual*, which provides a more succinct and updated approach to measures that will reduce the impact of extractive industries.

LPP21 is superseded by *SPP3.7* and its associated guidelines, significant State Government resources have been provided to manage the threat of bushfire, including the establishment of the Office of Bushfire Risk Management.

The objective of *LPP26* is to provide an indication of future waste collection options and to provide developers with Council's view on regional waste processing is no longer relevant. Developers are required to act in a sustainable manner and avoid waste impacts. Waste is legislated at different levels of government and recently has been addressed through the implementation of the Shire's *Waste Local Law 2018*.

LPP28 has been superseded by DPLH's *Liveable Neighbourhood* document and is complemented by existing State Government statutory planning documents on public open space dedication.

LPP30 does not provide a planning purpose and is no longer utilised by the Shire for the purpose of registering road verges.

LPP10, *LPP21* and *LPP28* have been updated by State Government documents which provide and inform better development outcomes. This has resulted in *LPP10*, *LPP21* and *LPP28* being superseded and being no longer relevant.

LPP26 and *LPP30* do not provide a planning purpose and are no longer utilised by administration for any purpose.

It is therefore recommended that Council resolve to revoke the identified Local Planning Policies and direct administration to publish a notice in accordance *Planning and Development (Local Planning Schemes) Regulations 2015*.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 050320

Moved Cr Angus / Seconded Cr Davis

That Council:

- 1. Proceed with the revocation of:**
 - a. *Local Planning Policy No. 10 - Basic Raw Materials, Extractive Industries;***
 - b. *Local Planning Policy No. 21 - Fire Management Plans;***
 - c. *Local Planning Policy No. 26 – Waste Management;***
 - d. *Local Planning Policy No. 28 – Public Open Space Dedication on Rezoning; and***
 - e. *Local Planning Policy No. 30 – Registered Road Verges*****as provided in Attachment 2 pursuant to Schedule 2, Part 2, Clause 6(b)(i) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 2. Notes that administration will be placing a notice in a newspaper circulating in the Scheme area in accordance with Schedule 2, Part 2, Clause 6(b)(ii) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

CARRIED 7/0

7:14PM

9.1.5 Amendment to Local Planning Policy No. 7 - Outbuildings*

Applicant	Shire of Chittering
File ref	18/06/0007
Author	Temporary Principal Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Amended Local Planning Policy No. 7 – Outbuildings 2. Schedule of Submission

Executive Summary

Council is requested to consider whether to adopt the amended *Local Planning Policy No. 7 – ‘Outbuildings’*. The amendments to the policy provide clarity to the statutory exemptions already available. This essentially results in less approval requirements for outbuildings in the Rural Residential zone and less restrictions on the size of outbuildings.

Background

Within the last 18 months, Council has made resolutions on outbuilding development applications that are variations to the Shire of Chittering *Local Planning Policy No. 7 – ‘Outbuildings’* (LPP7). Council have typically allowed increased floor area and height limits of outbuildings in the Rural Residential Zone. Council also permitted a shed to be constructed prior to the construction of a dwelling. These variations to LPP7 are considered significant and warrant a review of the policy.

In July 2019, Administration conducted workshops with Council on the following matters:

1. Floor area of outbuildings in the Rural Residential zone;
2. Height restriction on outbuildings in the Rural Residential zone;
3. Outbuildings constructed before dwellings in the Rural Residential zone; and
4. Outbuildings in the Townsite zone (with no R-code) having no assessable criteria.

The outcome of the workshops with Council gave direction to administration to consider allowing greater flexibility in allowing an increase in the aggregate size of outbuildings permissible in the Rural Residential zone and to investigate legal avenues for outbuildings to be constructed (and used for storage) prior to a dwelling.

In light of the above, administration commenced a review of LPP7. The review uncovered some further legal issues with the Policy's interaction with the Shire of Chittering *Local Planning Scheme No. 6* (LPS6) and the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). These issues have been addressed in the amended LPP7 which were presented to Council for consideration. On 11 December 2019 Council resolved to proceed with the amended Local Planning Policy No. 7 for advertising purposes in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*.

Consultation/Communication Implications

Local

The Regulations direct a local government to advertise an amendment to a Local Planning Policy, unless the amendment is considered to be of a minor nature. Officers do not consider the amendment to be minor, and therefore will recommend LPP7 be advertised in accordance with the Regulations in the following ways:

- (i) Publish a notice of the amendment in the local newspaper; and
- (ii) Publish a notice of the amendment on the Shire's website.

At the close of advertising Administration received one submission to the proposal (**Attachment 2**).

State

Further to the local advertising requirements, the Regulations require that any Local Planning Policy adoption (or amendment) is referred to the Western Australian Planning Commission (WAPC) for comment, if the Policy is a variation to a State Planning Policy. The existing LPP7 was modified and endorsed by the WAPC in 2016 and as there is no modification to this aspect of the policy - it is not considered necessary to formally consult with the WAPC. Administration will liaise with the DPLH, whom act for the WAPC and inform them of the changes to the LPP7.

Legislative Implications

State

- Planning and Development (Local Planning Schemes) Regulations 2015
Sch. 2, Pt. 2, Cl. 5 of the Regulations dictate the process for amending a Local Planning Policy. Typically, the Council resolve to amend a Policy, advertises the amendment(s), and then again considers the amendment(s) in light of any submissions received.

Following the advertising period, Council has the opportunity to further modify the Policy, in response to any submissions.

Local

- Shire of Chittering Local Planning Scheme No. 6 – Outbuilding Exemptions
As highlighted in the background of this report, the review of LPP7 uncovered some statutory inconsistencies with the Policy and LPS6. In the event of any inconsistency between a Local Planning Policy and a Local Planning Scheme, the Scheme shall always prevail.

The cause for the inconsistency is embedded within Schedule A – 'Supplemental Provisions' of LPS6. Schedule A provides specific exemptions for development approval, in addition to those exemptions provided for in the Regulations. This Schedule was introduced into LPS6 via a scheme amendment gazetted in February 2017.

Schedule A, Clause 61(1)(m) provides the following exemption for development approval (underlined words for emphasis):

- (m) *the erection or extension of an outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house if a single house is a permitted ("P") use in the zone (where the R Codes do not apply) and where the development standards set out in the scheme (including the schedules) for that particular zone (including boundary setbacks) are satisfied, unless the development is located in a place that is:*

- i. *Entered in the Register of Heritage Places under the Heritage of Western Australia Act 1990; or*
- ii. *The subject of an order under Part 6 of the Heritage of Western Australia Act 1990; or*
- iii. *Included on a heritage list prepared in accordance with this Scheme; or*
- iv. *Within an area designated under the Scheme as a heritage area; or*
- v. *The subject of a heritage agreement entered into under the Heritage of Western Australia Act 1990 section 29; or*
- vi. *In a vegetation protection area, identified in an approved environmental management plan or structure plan; or*
- vii. *The proposal requires access from an unconstructed road; or*
- viii. *The proposal is located within a designated bushfire hazard area, as identified in Schedule 10 – Bushfire Hazard Areas of the Scheme.*

The above provision exempts the requirement for development approval to be obtained for all outbuildings in the Rural Residential zone, if a dwelling is constructed within the building envelope and subject to the restrictions outlined above. Presently LPP7 provides maximum floor areas and wall heights that if exceeded, required development approval to be obtained. This is inconsistent with the above exemption of LPS6, and as noted previously, where there is an inconsistency, the Scheme prevails.

Therefore, as outbuildings in the Rural Residential zone are exempt from development approval subject to the conditions outlined, the maximum floor area and height limits within LPP7 are redundant. As such, the amended LPP7 has removed all reference to floor area and height limits in this zone.

It is noted that the removal of floor area and height restrictions on outbuildings in the Rural Residential zone is generally consistent with Council's historical decisions to permit larger outbuildings, in order to facilitate the storage needs of the community. It should be made clear that although the amended Policy does not restrict the dimensions of an outbuilding, LPS6 still controls how it can be used. An outbuilding can only be used in association with a dwelling on the same lot (personal storage). Any commercial activities proposed within an outbuilding will require planning approval from the Shire.

Further to the above, it is noted that LPS6 provides restrictions on outbuildings in Special Control Areas (Landscape Protection, Water Prone, Military Considerations, Basic Raw Materials, Muchea Employment Node and Land Refuse) and also imposes restrictions on reflective material being used. In these instances, development approval will be required and an application will be assessed against the relevant LPS6 provisions.

- *Shire of Chittering Local Planning Scheme No. 6 - Outbuilding before Dwelling*

Council have previously approved an outbuilding before a dwelling, contrary to the provisions of the current LPP7. It was understood that this was to assist a landowner in transitioning to the property, prior to building a dwelling. It was also indicated through the Council workshop in July 2019 that this should be detailed in the Policy. The intent is to allow an outbuilding to be used for the storage of personal items while the landowner builds a house and transitions to the property.

The issue with this concept is that an outbuilding is only exempt from development approval where there is a 'single house' on the lot. Therefore any outbuilding prior to a dwelling requires development approval and would also be categorised as a 'shed', as the definition of an outbuilding

requires some association with a dwelling (as per the R-Codes definitions). The shed could not technically be used for any household storage purpose, as this is a land use in its own right that requires development approval. Storage of domestic or personal items is only permitted with a dwelling, as it is considered 'incidental' to the predominant residential land use. The 'storage' land use in the Rural Residential zone is an 'x' (not permitted) use, pursuant to LPS6.

Due to these difficulties, the amended policy cannot technically allow the use of an outbuilding/shed on rural residential land prior to a dwelling being constructed. The amended Policy does however offer some flexibility in that an outbuilding can be constructed, if a dwelling has been substantially commenced on the same lot (entire slab poured). This is expected to offer land owners an ability to transition to the property by having on-site, safe and secure storage, whilst the Shire can have the confidence that a dwelling will be built. It avoids the risk that a shed is built on the property, and remains in place without a dwelling, creating opportunities for illegal habitation of the shed. If this aspect requires control in the future, it can be addressed through a future scheme amendment or when LPS6 is reviewed in its entirety.

Policy Implications

State

- State Planning Policy 7.3 – Residential Design Codes of Western Australia
State Planning Policy 7.3 – Residential Design Codes of Western Australia (R-Codes) provides size limitations for outbuildings in R-coded areas (i.e. parts of Muchea Townsite and Bindoon Townsite). The R-Codes restrict outbuildings to aggregate size of 60m².

LPP7 increases the maximum aggregate outbuilding size within R-Code areas to 120m². This is better reflective of the lot sizes available in the Muchea and Bindoon Townsites and needs of the community.

Local

Nil

Financial Implications

The amended Policy is likely to reduce the amount of development applications submitted to the Shire for outbuildings, which attracts a standard fee (\$147 fee if the cost of constructing the outbuilding is less than \$50,000). This could result in a loss of annual revenue for the Shire however, this should not be seen as a reason to maintain the Policy in its current form.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The amended Policy is expected to reduce the likelihood for development applications to be submitted for outbuildings in the Rural Residential zone, saving the ratepayer the cost of an application fee. It also allows flexibility in terms of outbuilding sizing which may encourage prospective ratepayers to invest in rural residential land within the Shire, as opposed to local governments that have stringent controls on outbuilding sizes.

Social implications

Over recent times, there has been a significant amount of interest and approvals granted for 'oversized sheds' (greater than 200m²). The amendment to LPP7 creates opportunities for ratepayers to develop their land in a manner that suits their needs.

There is also an opportunity for large sheds to be constructed in plain sight of other properties and public spaces having adverse impacts on the visual amenity of the area. It is however acknowledged, that this is currently permitted by Schedule A of LPS6, and the amendment to the Policy is simply correcting an existing inconsistency.

Environmental implications

There are no known environmental implications associated with this proposal.

Officer Comment/Details

The proposed amendments to the Policy are primarily correcting inconsistencies that exist between the Policy and LPS6. These amendments will, in summary, achieve the following in the Rural Residential zone:

- (i) Remove size limitations on outbuildings; and
- (ii) Remove development approval requirements for all outbuildings (outside of Special Control Areas).

In the Agricultural Resource zone, the following will be achieved by the amended Policy:

- Remove the development approval requirements for rural sheds and outbuildings (outside of Special Control Areas);

In addition to the above proposed changes, the current LPP7 has no parameters or guidance on outbuildings in the Townsite zone that does not have an R-Code. This affects the central portion of the Muchea Townsite. Planning staff have previously applied a pragmatic approach when faced with development applications in this area, and assessed the outbuilding against the size of the property and other outbuilding sizes in the locality. Amending the Policy to include sizing parameters gives the Shire formal guidance when assessing these applications, in addition to providing ratepayers and prospective purchasers a clear indication of acceptable maximum aggregate outbuildings sizes.

It is proposed to limit outbuilding floor sizes to 200m² in these areas as this seems to be generally reflective of current outbuildings in this area, and is considered contextually appropriate given the larger lot sizes (2 ha - 4 ha), whilst acknowledging the objectives of the Townsite zone.

It is acknowledged 'Schedule A' of LPS6 exempts the requirement for development approval in this area however, due to the presence of a Water Prone Special Control Area (SCA), a development approval is required. It is only through the presence of this SCA that the outbuilding sizes can be controlled. Although not a perfect solution, it will be effective to achieve the intended purpose, until such time that a complete review of LPS6 is conducted.

In terms of the usability of the Policy by the public, some elements may be challenging to understand, particularly with reference to the exemptions provided by the Regulations. It is expected that if the amended Policy is adopted, Shire staff will develop a simple to read flowchart, which can be used to clearly identify whether or not development approval is required. This would be provided simply as an information sheet associated with the LPP7 and would not require endorsement from Council.

The proposed amendments to LPP7 are effectively correcting inconsistencies with LPS6 to ensure the statutory provisions of LPS6 are correctly applied. The changes will reduce planning approval requirements and provide greater flexibility to the community for their personal storage needs.

9.1.5 OFFICER RECOMMENDATION / CARRIED 060320

Moved Cr Gibson / Seconded Cr Davis

That Council:

- 1. Pursuant to Schedule A – Supplementary Provisions contained in the *Shire of Chittering Local Planning Scheme No. 6* adopts *Local Planning Policy No. 7 – Outbuildings*, as contained in Attachment 1.**
- 2. Notes Administration will be placing a notice in a newspaper circulating in the scheme area in accordance with Part 2, Division 2 Clause 4(4) of the Deemed Provisions contained in Schedule A of the *Shire of Chittering Local Planning Scheme No. 6*; and**
- 3. Advises submitters and the Western Australian Planning Commission (WAPC) of Council's resolution.**

CARRIED 7/0
7:15PM

9.1.6 Application for Development Approval – “Proposed dwelling with reduced setbacks”: Lot 107 Chittering Road, Chittering*

Applicant	RK Brine Master Builders
File ref	A11722; P089/19
Author	Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Schedule of submissions

Executive Summary

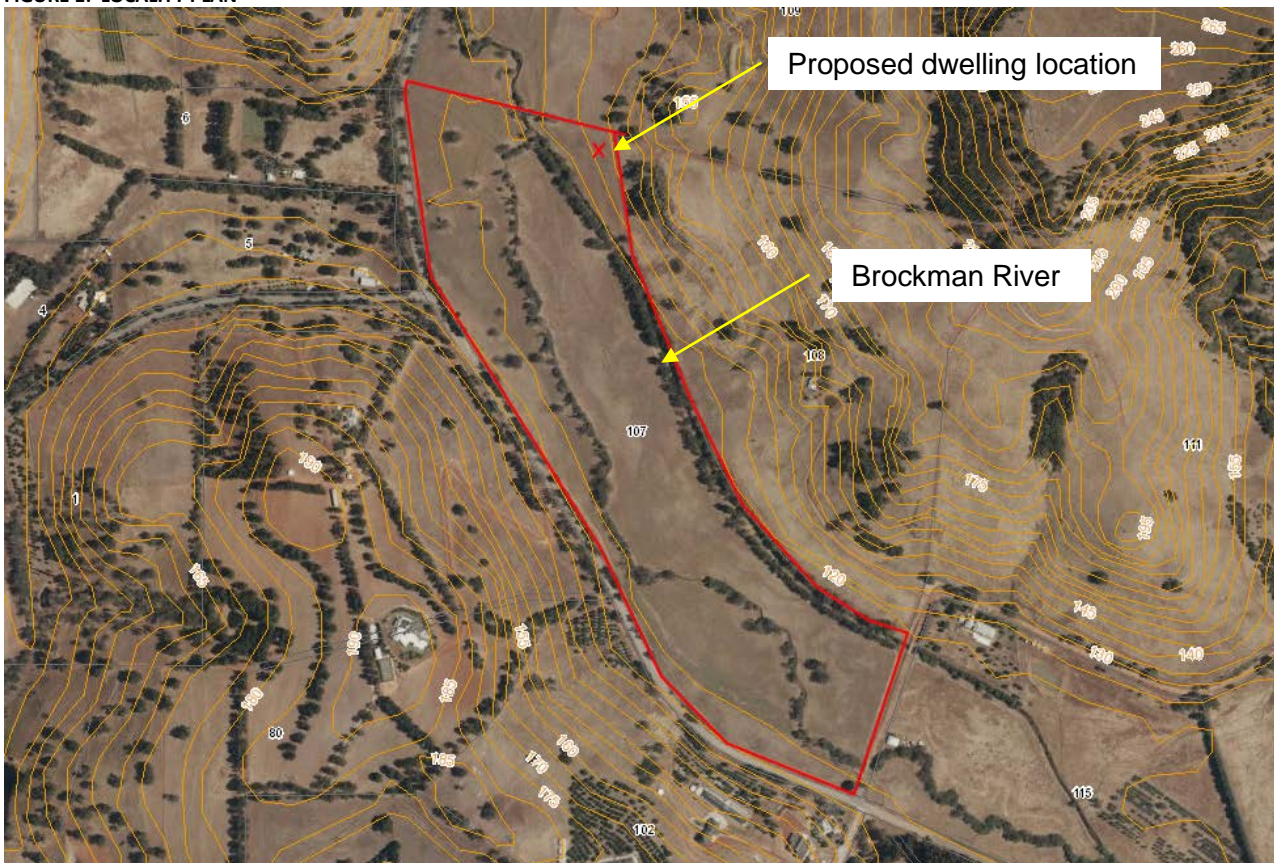
Council is to consider an Application for Development Approval for a single dwelling on Lot 107 Chittering Road, Chittering. The application proposes a variation to the required setback distances prescribed by Council to provide a sufficient setback from the Brockman River which crosses through the property and to overcome other site constraints. Two adjoining landowners have raised objections to the Application.

Background

The Shire received an Application for Development Approval on 20 September 2019 for a dwelling at the abovementioned property. The 31.2 hectare property is in a low-lying area and contains the Brockman River along the eastern boundary of the property and other drainage gullies that flow west and south from the Brockman River through the site. The land is very flat, with a small elevated area at the north-eastern corner of the lot between the river and the property boundary, which is the proposed site for the dwelling. The land is subject to flooding and inundation.

The application proposes setbacks of 12 metres from the rear property boundary and 15.3 metres from the side property boundary which is a variation to the Shire’s *Local Planning Policy No. 18* (LPP 18), which requires setbacks of 30 metres from side and rear boundaries. The applicant has stated that the reason for the variation to the setback requirements is to overcome site constraints and allow for the dwelling and area of proposed works to be a minimum distance of 30 metres from the Brockman River waterway, as required by Clause 5.4 of LPP 18. The applicant has stated that there are no other suitable areas on Lot 107 to construct a dwelling due to the low-lying land and associated flood risk.

FIGURE 1: LOCALITY PLAN



Consultation/Communication Implications

Local

The application was advertised to the owners of neighbouring properties (Lot 109 Chittering Road and Lot 108 Valley View Drive) for the required period of 21 days. Both landowners raised objections to the application.

A summary of the key matters of concern raised are listed as follows:

- The location of the dwelling will impact the privacy of neighbouring dwellings
- As no boundary fence exists between Lot 107 and Lot 109, during construction of the dwelling contractors and builders may encroach onto Lot 109 causing security concerns
- Soil moves downslope onto the proposed dwelling site on wet days and may impact environmental health
- Concerns over the use of a raised sand pad to build on rather than cutting and filling of land
- Availability of space elsewhere on the subject lot to construct a dwelling
- Location of proposed dwelling may inhibit future plans adjoining landowner may have to develop that corner of their property.

A full schedule of submissions has been provided as **Attachment 1** to this report with the proponent's and officer's responses to each concern raised.

State

Nil

Legislative Implications

State

Nil

Local

- Local Planning Scheme No. 6 – Agricultural Resource zone

The objectives of the Agricultural Resource zone are to:

- a) Preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;
- b) Protect the landform and landscape values of the district against despoliation and land degradation;
- c) Encourage intensive agriculture and associated tourist facilities, where appropriate; and
- d) Allow for the extraction of basic raw materials where it is environmentally and socially acceptable.

The Application is consistent with the objectives of the Agricultural Resource zone and is not considered to negatively affect the landform and landscape values of the area. The proposed location of the dwelling protects and prevents fragmentation of the grazing land on the remainder of Lot 107.

- Local Planning Scheme No. 6 – Chittering Valley Landscape Protection Area

Clause 5.2.5 of LPS 6 requires the Shire to, when considering an application for development approval in the Landscape Protection area, have regard to:

- a) The statement and nature of key elements of the landscape and its character;
- b) The conservation and enhancement of landscape values;
- c) The impact of any buildings and associated works on the landscape due to height, bulk, colour, general appearance and the need to remove vegetation;
- d) The requirement for all roofing of any building to be of a non-reflective nature;
- e) A change of land use where in the opinion of the local government the proposed development may cause a deterioration of the landscape value and/or cause an adverse effect(s) on the environment.

The Application is consistent with the objectives of the Landscape Protection Area as the proposed dwelling will be screened from view from Chittering Road by existing vegetation, and will not require the clearing of remnant native vegetation.

Policy Implications

State

- Government Sewerage Policy (GSP)

The subject site is within a designated Sewerage Sensitive Area (within 1km of a significant wetland) and within the Brockman River Catchment area. Single dwellings on single lots are exempt from the requirements of the GSP, meaning that the GSP is not applicable to this Application.

- State Planning Policy 3.7 – Planning in bushfire prone areas, and associated guidelines
The applicant has supplied a Bushfire Attack Level (BAL) Assessment report as required, which shows that the Application complies with State bushfire policy requirements.

Local

- Local Planning Policy No. 18 – Setbacks
Section 5.7 (a) of LPP 18 sets out the minimum required setback distances for buildings in the Agricultural Resource zone. The applicable setbacks and proposed setbacks for the application are detailed in the below table:

Boundary type	Required setback distance	Proposed setback distance
Major road (Chittering Road)	50m	Approximately 290m
Rear	30m	12m
Side	30m	15.3m
Water body/area subject to inundation	30m	30m

The Application proposes variations to the rear and side setback requirements in order to meet the required 30m setback from the Brockman River. Compliance with the river setback requirement is considered to be of greater importance in order to protect the environmental health of the waterway and to minimize flood risk to the dwelling. Furthermore, as the land is within a rural area with large sized lots and relatively long distances between neighbouring dwellings, a minor variation to the side and rear setback requirements are considered appropriate in this instance in order to overcome site constraints.

- Firebreak & Bushfire Hazard Reduction Notice 2019/20
The Firebreak and Bushfire Hazard Reduction Notice requires dwellings to maintain a 20 metre reduced fuel zone around dwellings, also known as an Asset Protection Zone (APZ). As the proposed dwelling is set back 12 metres from the rear boundary and 15.3 metres from the side boundary, the Application does not comply with the 20 metre requirement. As the Application is still compliant with State bushfire policy requirements and there is sufficient area for firefighting trucks to manoeuvre around the dwelling between the lot boundaries, the minor variation to the Firebreak & Bushfire Hazard Reduction Notice is not considered to significantly increase fire risk to the property and surrounding properties.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

A site inspection was undertaken on 28 February 2020. It was noted that the subject land is at a lower elevation than Chittering Road and is very flat. The Brockman River waterway and surrounding land area was dry, however the deep river channel and flood depth markers on the Valley View Drive crossover indicate flooding does occur in wet months. The north-east corner of Lot 107 slopes up towards the corner of the lot, as indicated in the site photos.



Photo: Planning Officer

Photo taken on Chittering Road from the northern boundary of Lot 107, facing east.

Triple Bottom Line Assessment**Economic implications**

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

Social implications

The development itself is not considered to have an impact on the social environment of the area as the off-site impacts are minimal and, despite setbacks being varied, the distance of the proposed dwelling from existing neighbouring dwellings (between 390m-492m) and the presence of native vegetation within sight lines means that the privacy of neighbours is not considered to be significantly impacted.

Environmental implications

The area is within a designated sewerage sensitive area under the GSP. Much of Lot 107 is low-lying and subject to inundation, as indicated by the flood depth markers on Valley View Drive to the south of Lot 107. Floodplain mapping has not been completed for the Brockman River area, however it is known that flooding does occur in the area. The impact of the development on the environmental health of the Brockman River is mitigated by locating the dwelling on higher ground, as is proposed.

Officer Comment/Details

The proposed location of the dwelling on Lot 107 is considered to be the most suitable location to overcome flooding risk and protect environmental health. The objections from neighbouring landowners largely do not relate to the variation in setback distances, and the variation is not considered to impact on the privacy of neighbouring landowners due to the long distances and presence of screening vegetation. For these reasons, it is recommended that the application is approved.

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070320

Moved Cr Angus / Seconded Cr Hughes

That Council approves the Application for Development Approval for a single dwelling at Lot 107 Chittering Road, Chittering, subject to conditions:

- 1. All development shall be in accordance with the approved plans.**
- 2. Prior to the occupation of the proposed dwelling, the Asset Protection Zone shall be established and the property thereafter maintained in accordance with the Bushfire Attack Level Report dated 16 December 2019.**
- 3. A Section 70A notification pursuant to the *Transfer of Land Act 1893* (or as amended) must be placed on the Certificate of Title of the lot, at the full cost of the proponent, prior to occupation of the proposed dwelling, alerting landowners to the existence of the approved Bushfire Attack Level assessment and advising landowners of their obligations in respect to the use and ongoing management of the land.**
- 4. The roof of the proposed dwelling shall be constructed of non-reflective material to the satisfaction of the Shire.**
- 5. The approved dwelling shall include provision for the storage of water in tanks of not less than 120,000litres of which 10,000litres shall be kept at all times for the purpose of firefighting, and fitted with a standard Camlock Valve to the satisfaction of the Shire.**

Advice Notes:

Note 1: With regard to Condition "3." the Applicant is advised to contact Landgate for further information regarding lodging a Section 70A notification on the Title of the lot.

Note 2: That Council informs all submitters of Council's determination.

CARRIED 7/0
7:17PM

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 List of Accounts Paid for the period ending 29 February 2020*

Applicant	Shire of Chittering
File ref	12/03/4
Author	Finance Officer - Accounts
Authorising Officer	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 29 February 2020

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 29 February 2020.

Background

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

Consultation/Communication Implications

Local

Acting Executive Manager Corporate Services

State

Nil

Legislative Implications

State

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

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

All expenditure has been approved via adoption of the 2019/20 Annual Budget, or resulting from a Council resolution for a budget amendment.

Strategic Implications

State

Nil

Local

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The attached "List of Accounts Paid as at 29 February 2020" is presented to Council for endorsement.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080320

Moved Cr Hughes / Seconded Cr Osborn

That Council endorses the following List of Accounts Paid as per Attachment 1 totalling \$680,909.24 for the period ending 29 February 2020:

- 1. PR5365, PR5404;**
- 2. EFT19497 – EFT19608;**
- 3. Direct Debits, Cheques and Transfers as listed; and**
- 4. Trust Fund payments as listed.**

CARRIED 7/0
7:18PM

9.3.2 2019-2020 Budget Review to 31 December 2019*

Applicant	Shire of Chittering
File ref	12/07/4
Author	Finance Consultant (Internal)
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	1. Budget Review for period ending 31 December 2019 2. 2019/20 Budget Review Variances

Executive Summary

Council is requested to adopt the review of the 2019-2020 Annual Budget.

Background

The *Local Government (Financial Management) Regulations 1996, Regulation 33A* requires that between 1 January and 31 March in each financial year a local government is to carry out a review of its Annual Budget for that year. Within 30 days after the review of the Annual Budget of a local government is carried out, it is to be submitted to Council. The Council is to consider the review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendation made in the review. Within 30 days after Council has made a determination, a copy of the Budget Review and determination is to be provided to the Department.

A Statement of Financial Activity for the period ended 31 December 2019 incorporating forecast actual budget variations to 30 June 2019 is presented with this report.

Consultation/Communication Implications

Local

Chief Executive Officer
Executive Manager Technical Services
Executive Manager Development Services
Human Resources Coordinator

State

Nil

Legislative Implications

State

Local Government (Financial Management) Regulations 1996

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

Strategic Community Plan 2017-2027

Corporate Business Plan 2017-2021

Long Term Financial Plan 2018-19 to 2027-28

Roads Asset Management Plan – Version October 2017

Buildings Asset Management Plan – Version October 2017

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The Budget Review was completed on 18 February 2020 and has been based on the Shire's 31 December 2019 actual financial balances. In a snapshot, the overall operating costs have increased by \$2,207 and the capital program has increased by \$230,737. The changes result in a forecast surplus closing position of \$0 in the 2019/20 Annual Budget Review document prepared for the Ordinary Council Meeting to be held in March 2020.

The Executive Management Team has discussed the findings of the Review compared to what was adopted in the Budget for 2019/20 and note the difference in the Opening Funding Surplus relates mostly to the changes to the Australian Accounting Standards AASB 1058 and the treatment of Unspent Grants. A summary of the major changes and action taken is listed below.

- The Opening Position of \$652,057 in the Statutory Budget and the Adopted Budget Column of the Budget Review document contains an adjustment of \$211,965 relating to changes in the Accounting Standard AASB1058. The Statutory Budget contains an adjustment to the opening position used in the Budget document of \$211,965. This adjustment was disclosed in the Statutory Budget as follows:

SHIRE OF CHITTERING			
NOTES TO AND FORMING PART OF THE BUDGET			
FOR THE YEAR ENDED 30TH JUNE 2020			
15. SIGNIFICANT ACCOUNTING POLICIES - CHANGE			
IN ACCOUNTING POLICIES (Continued)			
INCOME FOR NOT-FOR-PROFIT ENTITIES			
The Shire of Chittering has adopted AASB 1058 from 1 July 2019 which resulted in changes in accounting policies. In accordance with the transition provisions AASB 1058, the Shire of Chittering has adopted the new rules retrospectively with the cumulative effect of initially applying AASB 1058 recognised at 1 July 2019. Comparative information for prior reporting periods shall not be restated in accordance with AASB 1058 transition requirements.			
In applying AASB 1058 retrospectively with the cumulative effect of initially applying the Standard on 1 July 2019 changes occurred to the following financial statement line items by application of AASB as compared to AASB 1004 Contributions before the change:			
	AASB 1004		AASB 1058
	carrying amount		carrying amount
	30 June 19	Reclassification	01 July 19
	\$	\$	\$
Trade and other payables	536,591	211,965	748,556
Adjustment to retained surplus from adoption of AASB 1058		(211,965)	

The adjustment resulted in \$211,965 being reduced from the opening funds available in the Budget. There was however contra entries in the Budget where these funds were re-budgeted. Details of these funds are as follows:

○ Blackspot Wandena Road	\$79,473
○ WALGC Flat Rocks Road Bridge 5374	\$40,000
○ RRG Chittering Road	<u>\$92,492</u>
	\$211,965

NB: After preparation of the Annual Budget it was found that the \$92,492 above was actually as at 30 June 2019. This amount has been removed from the funds expected to be received in the 2019/20 Budget Review.

The Actual Closing Position per the audited 2018/19 Annual Financial Report was \$912,531. There is an imbalance of \$260,474. It should be noted that the adjustment to the Opening Position of \$211,965 carried out in the preparation of the Statutory Budget did not occur in the Annual Financial Report. This means that there is actually a favourable (Surplus) imbalance of \$48,509 in the Opening Position (Statutory Budget vs Annual Financial Report).

NB: It is usual to have variances between the Budgeted Opening Position and the Actual Audited Closing Position.

- An adjustment to Grant funds received for Chittering Valley Road Bridge 4868 of \$135,000 (in accordance with AASB 1058) has been made as it is only expected to be 50% completed by year end.
- Roads to Recovery Grants of \$236,633 were budgeted whereas we have been advised that we shall receive \$295,792 – an increase of \$59,159, the corresponding expenditure on Chittering Road has been adjusted.
- Grant funds for Carty to Clune Walk Trail have been removed as this is a 2020/21 project.

- Several projects in Other Recreation and Sport have been delayed until 2020/21 resulting in decreased Grant funds of \$238,000.
 - Brockman Centre \$28,000
 - Blackboy Ridge \$60,000
 - John Glenn Park \$150,000
 - \$238,000
- Expenditure relating to the above projects has also been removed - \$510,000.
- Grant funds relating to the Chittering Community Complex (CCC) have been reduced by \$766,180 and the Self Supporting Loan Contribution of \$625,000 has also been removed. The scope of works for this project has also been reduced resulting in reduction in expenditure of \$1,579,573.
- The Muchea Hall Temporary Change Rooms Project has had a reduction in the scope of works resulting in a saving of \$93,599; however the Lower Chittering Hall Temporary Change Rooms required an increase in funds of \$5,873 to finalise the project.
- Works at the Depot which was completed in 2018/19 was not invoiced by suppliers until this year and as the funds were not carried forward and adjustment to expenditure is required. This has resulted in increased expenditure of \$23,778.
- The Community Bus changeover has been deferred once again until 2020/21 resulting in a net savings of \$159,091 the corresponding transfer from the Plant Reserve for the Community Bus has also been deferred.
- Consultancy fees have been reduced by \$25,000 with the removal of the Feasibility Studies, Reconciliation Action Plan, Early Year Nature Play and Child Care Feasibility.
- \$33,333 has been allocated for the Review of Local Planning Policy No 6 – this will be required over a three year period from 2019/20 to 2021/22.
- There is an increase in revenue expected in Town Planning for reimbursements and fines and penalties of \$26,000.
- There is a loss in revenue expected in Building Control relating to a reduction in Building Applications anticipated.
- An adjustment for increased review for Admin Rebates of \$16,501 has been made and relates to the recalculation of fees for Workers Compensation coverage in the 2018/19 year. This fee is adjusted at year end each year.
- A number of staff will access their Long Service Leave this year so an adjustment to LSL Recoups from other Shires has been made for \$35,420.
- Plant Operating Costs have increased significantly for External Parts and Repairs \$100,035 and Fuels and Oils \$50,482 however there is an expected savings of \$30,000 for Tyres and Tubes.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090320

Moved Cr Osborn / Seconded Cr Angus

That Council BY AN ABSOLUTE MAJORITY adopts the Budget Review as presented in the Statement of Financial Activity for the period ended 31 December 2019 and amend the 2019-2020 Annual Budget accordingly.

CARRIED 7/0
7:21PM

9.3.3 Monthly Financial Reports for the Period Ending 29 February 2020*

Applicant	Shire of Chittering
File ref	12/03/4
Author	Senior Finance Coordinator
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1 Monthly Financial Report for period ending 29 February 2020

Executive Summary

Council is requested to consider the financial statement for the period ending 29 February 2020.

Background

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

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

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

Consultation/Communication Implications

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

Legislative Implications

State

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

Local

Nil

Policy Implications

Local

Finance Policy 2.1 Budget Preparation

Finance Policy 2.2 Investment of Funds

Finance Policy 2.7 Significant Accounting Policies

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2017-2027
Focus area: Strong leadership
Objective: S5.2 Strong partnerships and relationships
Strategy: S5.2.1 Built effective partnerships with stakeholders
Objective: S5.3 Accountable governance
Strategy: S5.3.1 Good governance which supports efficient and effective service delivery

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Council adopted the Annual Budget for the 2019/20 financial year on 30 July 2019 (Resolution 220719). The figures in this report are compared to the Adopted Budget.

9.3.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100320

Moved Cr Davis / Seconded Cr Hughes

That Council receives the Monthly Financial Reports for period ending 29 February 2020, as per Attachment 1.

CARRIED 7/0
7:22PM

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Disposal of Property: Lot 7 (RN 131) Muchea East Road, Muchea*

Applicant	Shire of Chittering
File ref	A10136; 18/02/19
Author	Executive Support Officer
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Northern Valleys News, February 2020 (page 13)

Executive Summary

Council is requested to consider an offer for the sale of Lot 7 (RN 131) Muchea East Road, Muchea.

Background

The subject property is a vacant parcel of land (3.715 hectares), zoned "Parks and Recreation" is generally of rectangular shape, corner, vacant lot with a front boundary to Muchea East Road (see Image 1). The site consists of a mix of cleared portions and native trees/vegetation. The site is located adjacent to the Muchea Livestock Centre and is situated above the road grade, rising upwards from west to east whilst being undulating throughout. The site was previously utilised as a green waste disposal site.

IMAGE 1: Locality Plan



At the Ordinary Meeting of Council held on 20 November 2019, Council resolved the following:

9.4.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 151119

Moved Cr Davis / Seconded Cr Hughes

That Council authorise the Chief Executive Officer to dispose of Lot 7 (RN 131) Muchea East Road, Muchea by public auction in accordance s5.38(2) of the Local Government Act 1995.

CARRIED 7/0
7.58PM

Consultation/Communication Implications

Local

The Shire advertised the property in the local newspaper, Northern Valleys News (**Attachment 1**), website and Facebook page. The notice advised the community that the Shire is proposing to sell Lot 7 (RN 131) Muchea East Road, Muchea to Alan Barnes for \$325,000. Members of the public were invited to make submissions in relating to the sale and had until 4pm on Friday 21 February 2020.

At the close of the submission period the Shire received no submissions.

State

Nil

Legislative Implications

State

• Local Government Act 1995

3.58 Disposing of property

(1) *In this section—*

dispose includes to sell, lease, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

(2) *Except as stated in this section, a local government can only dispose of property to—*

(a) *the highest bidder at public auction; or*

(b) *the person who at public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.*

(3) *A local government can dispose of property other than under subsection (2) if, before agreeing to dispose of the property —*

(a) *it gives local public notice of the proposed disposition —*

(i) *describing the property concerned; and*

(ii) *giving details of the proposed disposition; and*

(iii) *inviting submissions to be made to the local government before a date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*

and

(b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*

- (4) *The details of a proposed disposition that are required by subsection (3)(a)(ii) include —*
- (a) the names of all other parties concerned; and*
 - (b) the consideration to be received by the local government for the disposition; and*
 - (c) the market value of the disposition —*
 - (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*

Local

Nil

Policy Implications

Nil

Financial Implications

There will be costs incurred for the use of a settlement agency to finalise the sale of the property. The Shire has contacted KDD Conveyancing and they have advised that fees will be under \$1,000, which will be charged against GL 2040252.2101 OTH GOV—Other Consultancy.

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Site inspection undertaken: Yes

Opteon Property Group Pty Ltd undertook a site inspection on 25 July 2019.

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The disposal of this property has been undertaken in accordance with s3.58 of the *Local Government Act 1995*. It is recommended that Council accept the offer as presented.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110320

Moved Cr Curtis / Seconded Cr Ross

That Council accept the offer from Alan Barnes of \$325,000 (plus GST) for Lot 7 (RN 131) Muchea East Road, Muchea, and proceed with the disposal of land.

CARRIED 7/0
7:23PM

9.4.2 Wannamal Community Centre Inc: Appointment of Representative(s)*

Applicant	Wannamal Community Centre Inc
File ref	03/01/1
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to appoint representative(s) to attend the Wannamal Community Centre Inc's committee meetings.

Background

Prior to the 2019 Local Government elections, Council has previously nominated two representatives to attend the committee meetings of the Wannamal Community Centre Inc. However, following the last elections, the Wannamal Community Centre did not respond to the Shire's request for Council representation.

On 29 January 2020, the Shire received an email from the Wannamal Community Centre Inc seeking a representative from Council.

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

- Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits

Objectives To clearly outline the support and allowances available to the Shire's Elected Members within the provisions of the Local Government Act 1995 (the "Act") to cover any "out of pocket" expenses that are incurred in carrying out their function as an Elected Member. It also establishes guidelines in respect to Elected Members' participation in conferences and training.

Policy In addition to those allowances and reimbursements available to Elected Members under the Act, and Regulations made under the Act, this Policy will outline "approved expenses" the Shire will reimburse Elected Members if incurred in their capacity as an Elected Member.

The Council also recognises that Elected Members have a responsibility to undertake development opportunities necessary to enable them to fulfil their duties of public office.

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Strong leadership

Objective: S5.2 Strong partnerships and relationships

Strategy: S5.2.1 Built effective partnerships with stakeholders

Objective: S5.3 Accountable governance

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

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Meeting dates for the Wannamal Community Centre Inc's committee for 2020 are as follows:

- Tuesday 14 April;
- Tuesday 9 June;
- Tuesday 11 August;
- Tuesday 13 October;
- Tuesday 8 December;

The Committee meetings are held in the Wannamal Community Centre and commence at 7.30pm.

The Annual General Meeting is held during September, details of date and time will be distributed to the nominees.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120320

Moved Cr Ross / Seconded Cr Hughes

That Council appoints the following representatives to the Wannamal Community Centre Inc:

- 1. Cr Peter Osborn; and**
- 2. Cr Carmel Ross.**

CARRIED 7/0
7:25PM

9.4.3 Refund Point Agreement: Container Deposit Scheme

Applicant	WA Return Recycle Renew Limited (WARRRL)
File ref	31/01/3
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to authorise the President and Chief Executive Officer to sign the Refund Point Agreement for the Container Deposit Scheme.

Background

In July 2019 the State Government announced at the container deposit scheme would start on 2 June 2020.

The following table summarises the timeline of the scheme:

TABLE 1: SCHEME TIMELINE TO DATE

30 November 2018	Legislation to establish a container deposit scheme is introduced into State Parliament.
13 March 2019	Bill to allow the container deposit scheme passes both houses of Parliament
15 April 2019	Ministerial Announcement regarding preparations being on track for launch - refund stamps have been created and bottle suppliers have been notified of two-year period to remove unmarked eligible bottles
14 May 2019	WA Return Recycle Renew Limited announced as the operator of the container deposit scheme
June 2019	McGowan Government announces its commitment to waste reduction in 2019 -20 budget, including the scheme
18 July 2019	Environment Minister Stephen Dawson announces launch date of Western Australia's new container deposit scheme and its name, Containers for Change
17 December 2019	Regulations for Western Australia's Containers for Change are completed
16 January 2020	The first 145 Containers for Change Refund Points announced
5 & 6 February 2020	Containers for Change Refund Point Induction
14 February 2020	Scheme pricing announced

WARRRL has been appointed as the coordinator by Government to deliver the Container Deposit Scheme. As coordinator, WARRRL will be responsible for:

- Scheme accessibility – Establishing a network of Refund Points to provide communities in Western Australia with access to collection points to return Eligible Containers;
- Product stewardship – Ensuring that all First Responsible Suppliers fund the Scheme including establishing and maintaining a process for the approval of Eligible Containers that are supplied into Western Australia;
- Scheme payments – Setting and facilitating payments under the Scheme;

- Scheme awareness – Promoting the Scheme and managing complaints with respect to both Customers and Scheme Participants;
- Recycling – Ensuring ongoing, efficient and effective arrangements are available in Western Australia for empty Eligible Containers to be collected, sorted, processed and recycled; and
- Scheme Integrity – Ensuring payments and reporting are verified and the Scheme is free from fraud.

All Refund Point Operators will be required to ensure that:

- Each Refund Point is available to the general public during the opening hours specified;
- The opening hours of the Refund Point are reasonable in light of the volume of Eligible Containers collected at the Refund Point;
- The opening hours are well advertised to the general public;
- The Coordinator is immediately notified of proposed changes to the opening hours. The proposed variation will be reviewed by WARRRL in accordance with the Refund Point Agreement and by reference to the Minimum Network Standards;
- The Coordinator is immediately notified if the opening hours depicted on the Scheme website are inaccurate; and
- The opening hours meet the ongoing requirements of the Act and Regulations.

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

- *Waste Avoidance and Resource Recovery Amendment (Container Deposit) Act 2019*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

The scheme will result in additional income for the Muchea Waste Site, due to a handling fee of \$0.06 per container. There will be limited capital costs associated with the set-up of the refund point. This will be covered by the current waste site budget. Depending on how much the refund point is used, additional staffing may be required for peak times, but this will be covered by the funds received to process containers.

Strategic Implications

Local

- Strategic Community Plan 2017-2027
Focus area: Our natural environment
Objective: S2.2 Sustainable resources
Strategy: S2.2.3 Improved waste management outcomes

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

If the Shire of Chittering operates a Refund Point, then it will be able to enable community groups to host donation points as they will have somewhere in close vicinity within the shire to take the collected containers. This will aid in their fund raising efforts.

Social implications

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

Environmental implications

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

Officer Comment/Details

The scheme will be aligned with those in other Australian jurisdictions - providing a 10 cent refund for all eligible beverage containers including soft drink cans and bottles, bottled water containers and flavoured milk cartons. The returned containers must be recycled or reused.

Projections show the scheme will result in 706 million fewer beverage containers littered over the next 20 years, and reduce the number of containers sent to landfill by 5.9 billion.

During the same period, it is expected that WA's container scheme is expected to deliver net positive benefits of about \$152 million.

9.4.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130320

Moved Cr Ross / Seconded Cr Hughes

That Council authorises the President and Chief Executive Officer to sign and apply the Common Seal to the "Refund Point Agreement" with WA Return Recycle Renew Ltd.

CARRIED 7/0

7:26PM

9.4.4 Local Government House Trust: Deed of Variation*

Applicant	Shire of Chittering
File ref	04/18/49
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Email from WALGA CEO Nick Sloan (dated 19 February 2020) 2. Deed of Variation (Draft) 3. Clause 12 of Trust Deed 1994

Executive Summary

Council's consent is sought, to a variation to the Trust Deed for the Local Government House Trust (The Trust) as the Shire of Chittering is a unit holder and beneficiary to the Local Government House Trust, holding two units as advised in WALGA's recent Quarterly Report Q4 2019.

The Trust's Board of Management is seeking to vary the Trust Deed in order to assist the Trust's income tax exempt status. As stipulated by the Deed, the Trust requires consent of at least 75 per cent of all beneficiaries in order to execute this variation.

As a beneficiary, the Shire of Chittering is requested to consent to the enclosed Deed of Variation supported by a resolution of Council; and to communicate this consent in writing, to consent for the Trustee to formally execute the Deed of Variation (**Attachment 2**).

Background

The Local Government House Trust ("The Trust") exists primarily to provide building accommodation for the Western Australian Local Government Association. Since January 2014, the Trust has provided WALGA with accommodation at 170 Railway Parade West Leederville.

The current trust deed commenced in 1993 and was amended in 2002 to reflect the merger of the metropolitan and country associations into WALGA. The current Trust Deed pronounces WALGA as Trustee and unit holders as Beneficiaries, with the Trustee holding property and associated monies "upon Trust" and in proportion to the units provided.

Commencement date of the current deed is 17 February 1993, with a vesting date 79 years from commencement - which means that the Trust ends in 2072.

The Trust is exempt from income tax on the basis of being a State/Territory Body (STB) pursuant to Division 1AB of the *Income Tax Assessment Act 1936*.

Trust Deed Variation

1. removing the existing Trustee's power to retire and appoint a new Trustee (Clause 2.1 and 2.2 (22.3) of the Deed of Variation)
2. enabling the beneficiaries to appoint and remove a Trustee (Clause 2.2 (22.4) of the Deed of Variation), and
3. ensuring that the Board of Management is the 'governing body' of the Trust (Clause 2.3 of the Deed of Variation)

The three proposed amendments when applied to the relevant clauses inserted by the Deed of Variation dated 5 June 2002 will subsequently read as follows (proposed amendments shown in red text):

1. Variation 2.1 amends clause 22.1 to point to additional clause:

22.1 Any Trustee of the Trust may retire as Trustee of the Trust. ~~The Subject to clause 22.3, the~~ right to appoint any new or additional trustee or trustees of the Trust is hereby vested in the retiring or continuing trustee. A corporation or incorporated association may be appointed as Trustee of the Trust.

2. Variation 2.2 inserts two new clauses:

22.3 The retiring or continuing trustee shall only be entitled to appoint any new or additional trustee of the Trust with the consent of not less than 75% of the Beneficiaries.

22.4 The Beneficiaries may at any time by Special Resolution:

- (a) remove a Trustee from the office as Trustee of the Trust; and
- (b) appoint such new or additional Trustee.

3. Variation 2.3 insert a new clause 13A

13A Delegation to the Board of Management

Unless the Beneficiaries otherwise direct (such direction to be given by not less than 75% of the Beneficiaries), the Trustees shall delegate all of the powers authorities and discretions contained in subclauses (a) to (x) of clause 12 to the Board of Management. The Trustees shall, at the direction of the Board of Management, do such things as may be necessary to give effect to the exercise of a power, authority or discretion by the Board of Management.

Consultation/Communication Implications

Local

No external consultation has been undertaken, nor is proposed or deemed required.

State

No external consultation has been undertaken, nor is proposed or deemed required.

Legislative Implications

State

There are no relevant statutory provisions.

Local

There are no relevant statutory provisions.

Policy Implications

State

There are no relevant policy implications.

Local

There are no relevant policy implications.

Financial Implications

There are no relevant financial implications upon the Council's Budget or Long Term Financial Plan.

One Seventy (170) Railway Parade, (Local Government House), where WALGA is located, is owned by the Association. The Shire of Chittering owns two units in the Trust that owns the 'local government house', which were valued at \$17,805 per unit (as at January 2020 as advised by WALGA).

Supporting the Deed of Variation will only strengthen WALGA's financial position, of which the Shire of Chittering is a financial member.

Strategic Implications

Local

- Strategic Community Plan 2017-2027
Focus area: 5 Strong leadership
Objective: S5.2 Strong partnerships and relationships
Strategy: S5.2.1 Built effective partnerships with stakeholders

State

There are no relevant strategic implications.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The first two amendments outlined above remove powers granted to the Trustee in the 2002 Deed Variation resulting from the merger to a single Association representing WA Local Governments. These amendments which previously facilitated the transfer of trusteeship to the then new Western Australian Local Government Association are removed, but with the clarification that any appointment must be with the consent of the beneficiaries.

The final amendment intends to confirm that power rests with the Board of Management. As the Board of Management comprises Local Governments, this satisfies the requirements of a STB for tax purposes. This amendment reflects the actual operation of the Trustee in implementing the decisions of the Board of Management whilst retaining sufficient operational discretion to place and renew investments and pay suppliers.

These amendments provide greater power to beneficiaries through the Board of Management, and as such it is anticipated they will be considered acceptable.

9.4.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140320

Moved Cr Davis / Seconded Cr Osborn

That, with respect to the Local Government House Trust – Deed of Variation, Council:

- 1. Consent to a variation to the Trust Deed for the Local Government House Trust (The Trust) as detailed in Attachment 1; and**
- 2. Communicate this consent in writing to the Local Government House Trust's Board of Management.**

CARRIED 7/0

7:27PM

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

Applicant	Shire of Chittering
File ref	A11711; 02/02/0001
Author	Community Development Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Expression of Interest Notification 2. Confidential "NOT FOR PUBLIC DISCLOSURE"

Executive Summary

Council is requested to put on hold their decision with regard to the use of Ferguson House until October 2020.

Background

Expressions of Interest (EOI) Opportunity for the Lease of "Ferguson House" Lot 91 (RN 6138) Great Northern Highway, Bindoon, were sought between 9 December 2019 – 12 February 2020. This EOI process was undertaken following COUNCIL RESOLUTION 181119, at the Ordinary Council Meeting held on 20 November 2020.

MOTION / COUNCIL RESOLUTION 181119

Moved Cr Ross / seconded Cr Hughes

That the Chief Executive Officer go back to the market to seek alternative applicants to provide appropriate aged care services with Ferguson House.

CARRIED 7/0
8.12PM

Cr Ross provided the following reasons

Moringa Home Services are not a registered company and offering the building to an organisation that may not be legal, is not good governance. Council should go back to the market and see if there are other organisations that are suitable.

At this meeting, Council were requested to reconsider the Expressions of Interest submitted for the lease of "Ferguson House" Lot 91 (RN 6138) Great Northern Highway, Bindoon following the withdrawal of intent to lease by Kidz First Learning Centre.

Background to this Resolution can be found by referring to the following Council Resolutions:

- i. Ordinary Council Meeting held on 20 March 2019:

11.2 ALTERNATIVE / COUNCIL RESOLUTION 300319

Moved Cr King / Seconded Cr Gibson

That the Shire publically advertise the availability of Ferguson House for interested community users/providers of community services, to lodge proposals for Council's consideration.

THE ALTERNATIVE WAS PUT AND DECLARED CARRIED 6/0

10:36PM

- ii. Council Resolution 240619, reached at the Ordinary Council meeting on 19 June 2019:

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 240619

Moved Cr Angus / Seconded Cr Ross

That Council:

1. Confirms Kidz First as its preferred lessee for "Ferguson House" Lot 91 (RN 6138) Great Northern Highway, Bindoon, and to include the following lease conditions:
 - a. a fixed term of five years;
 - b. all relevant Shire approvals (e.g. Planning, Health and Building requirements, etc.) being obtained by the Lessee;
 - c. no structural changes without prior consent by the Shire;
 - d. any proposal of starting a long day-care service (with the potential for the Lessee to supply and erect demountable classrooms) to be the subject of a separate application by the Lessee for consideration by Council; and
 - e. commencement rental of \$150/week (to be reviewed at the conclusion of each 12 months period with the view to reaching a commercial rental at the earliest reasonable opportunity).
2. Authorises the Chief Executive Officer to:
 - a. secure as per *Local Government Act 1995*, S3.58, the relevant information (e.g. market valuations) and undertake the necessary public advertising; and
 - b. arrange for the development of a Standard "Commercial Lease" document that can be utilised for this Ferguson House Lease (and which can also be used as a base document for other future commercial type leases of the Shire); and
3. If there are no submissions resultant from the S3.58 public advertising period, authorise the Chief Executive Officer to execute the Lease document.

CARRIED 5/1

CR GIBSON VOTED AGAINST THE MOTION

8:43PM

- iii. At the Ordinary Council meeting on 21 August 2019, a change of circumstances for Kidz First, as the approved lessee of Ferguson House, Lot 91 (RN6138) Great Northern Highway, Bindoon necessitated reconsideration of COUNCIL RESOLUTION 240619. Council resolved the following:

14.1.1 RECOMMENDATION / COUNCIL RESOLUTION 240819

Moved Cr Ross / Seconded Cr Osborn

That Council:

- 1. Confirm Kidz First as the preferred lessee for lease of Ferguson House, Lot 91 (RN6138) Great Northern Highway, Bindoon, and direct the Chief Executive Officer to proceed with the lease arrangements for the facility under the following conditions:**
 - a. a fixed term of five years;**
 - b. all relevant Shire approvals (e.g. Planning, Health and Building requirements, etc.) being obtained by the Lessee;**
 - c. no structural changes without prior consent by the Shire; and**
 - d. commencement rental of \$150/week (to be reviewed at the conclusion of each 12 months period with the view to reaching a commercial rental at the earliest reasonable opportunity).**
- 2. Authorises the Chief Executive Officer to:**
 - a. secure as per *Local Government Act 1995*, S3.58, the relevant information (e.g. market valuations) and undertake the necessary public advertising; and**
 - b. arrange for the development of a Standard "Commercial Lease" document that can be utilised for this Ferguson House Lease (and which can also be used as a base document for other future commercial type leases of the Shire); and**
- 3. If there are no objecting submissions resultant from the S3.58 public advertising period, authorise the President and Chief Executive Officer to execute the Lease document.**

CARRIED 6/1

CR GIBSON VOTED AGAINST THE MOTION

9:33PM

- iv. Following the Ordinary Council Meeting held on Wednesday, 20 November 2020 Expressions of Interest (EOI) were sought for the Lease of " Ferguson House" Lot 91 (RN 6138) Great Northern Highway, Bindoon.

An Expression of Interest informational sheet was circulated on 9 December 2019 via the following avenues:

- Direct mail out Age Care providers servicing the Wheatbelt and Perth Metropolitan areas as listed within the DPS Guide to Aged Care – Western Australia 2019.
- Leading Aged Services Australia e communication to members.
- The West Australian, Local Government Notices Section, Wednesday, 11 December 2019 and Wednesday, 15 January 2020.
- Chittering Health Services Network.
- Northern Valley News - Chatter Section December 2019.

At the close of the expression of interest period, at 4:30pm on 12 February 2020, only one submission was received for the proposed use of "Ferguson House" Lot 91 (RN 6138) Great Northern Highway, Bindoon.

This expression of interest has been submitted to Council as a confidential item subject

Consultation/Communication Implications

Local

The Chittering Health Advisory Group (CHAG) have been researching different models of Community Hubs to support community health and wellness initiatives across the Shire, including ways to connect vulnerable and isolated people. CHAG have identified and commenced engagement with stakeholders involved in the development and delivery of the following models of community Hubs and are yet to determine a proposed model of service delivery:

- Weavers programs (<https://weavers.tacsi.org.au/>)
- Social Support Apps (UWA pilots)
- Caring through the Community (Vicki Barry)
- Village Hub WA (Peter Kenyon and Retirees WA) Examples occurring in Kalamunda and Victoria Park (https://www.connectvictoriapark.org/content.aspx?page_id=22&club_id=873726&module_id=299003)
- Dementia Friendly Towns (Manjimup)

The Chittering Resident and Ratepayers Association Inc. (CRRA) have established a subcommittee exploring the potential for Residential Aged Care within the Bindoon town site. Alongside Leading Age Care Services Australia (LASA) and the Shire CEO, the CRRA are working towards understanding the current and future accommodation and care needs of local residents.

The current Community Development Review, being undertaken by the Shire , also aims to understand the priorities for our community to ensure that existing Shire resources can be directed towards what matters for the community. Feedback to this review is currently being collated, with a report to Council expect at the April Ordinary Council Meeting. Fostering and maintaining community connections factors significantly within the feedback received to date.

State

Nil

Legislative Implications

State

- Quality of Care Principles 2014 made under section 96 1 of the Aged Care Act 1997
Schedule 3 Home Care Services (pg. 24) and specifically Support and Services, items (k) and (p) which refer to respite and social outings (centre based day centre). Funding is paid through the Home Care Packages for these specific service types in alignment with the consumers assessed needs.
- Local Government Act 1995, S3.58 (Disposing of property) includes leasing of a property. A local government can only dispose of property via auction, or tender, or alternatively, if, before agreeing to dispose of the property, it provides 14 days local public notice of the proposed disposition occurring (describing the property, providing details of the proposal, and inviting submissions) and then considers any submissions received. A market value of the disposition must also form part of the decision making process.
- *Health (Treatment of Sewage and Disposal of Effluent and liquid Waste) Regulations 1974*

Local

In relation to the proposed use of the premises, there may be local planning considerations that will need to be considered.

- Local Planning Scheme No.6 – Development approval may be required prior to occupation of Ferguson House.
- Waste Local Law 2018 – Prior to occupation it will be a requirement that the occupier complies with relevant requirements under the Health Local Law 2017 and Waste Local Law 2018.
- Health Local Law 2017

Policy Implications

State

Nil

Local

- Administration Policy 1.12 Asset Management – Infrastructure Assets
- Finance Policy 2.12 Purchasing

In accordance with Supporting Local Industry the Shire will be engaging the services of a local real Estate agent to facilitate the disposal of the property.

Financial Implications

Should Council resolve to dispose of “Ferguson House”, Lot 91 (RN 6138) Great Northern Highway, Bindoon an estimate of fees (sourced Nov 2019) from two local real estate agencies is provided below:

Agency	Marketing	Auctioneer Fee	Selling Fee	Total (inc GST)
Country Values Real Estate	\$1,100	\$1,100	\$11,000	\$13,200
Harcourts Alliance	\$2,000	\$1,000	\$8,000	\$11,000

Alternatively, should Council wish to pursue the option of leasing this property via a commercial lease, a local public notice to advertise the lease proposal would cost approximately \$295. Preparation of lease documents and valuation, approximately \$2,500.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

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

Objective: S1.2 Strong sense of community

Strategy: S1.2.1 Actively support community, volunteer groups and networks

Objective: S1.2 Strong sense of community

Strategy: S1.2.3 Activate our local centres and towns

Objective: S1.3 A safe and healthy community

Strategy: S1.3.2 Advocate for improved education and health services

Objective: S4.1 Economic growth
Strategy: S4.1.1 Support private investment which stimulates significant and sustainable jobs growth

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The disposal of this property could reduce some of the financial burden on the Shire Long Term Financial Plan and would be consistent with the Shire's CEO Key Performance Criteria – Significant Projects 4.4 Disposal of surplus properties. The significant investment by Council into establishing this facility as a Day Respite Centre between 2009 and 2011 is now considered a sunk cost and therefore unrealistic to expect that we will ever recoup the full costs invested into this facility.

Any suggestion that Council operate Ferguson House as a Day Respite Centre needs to be approached with a certain level of caution as the Shire of Chittering is not currently approved as a Home Care Service Provider. The approvals process is significant with financial and staffing implications needing to be considered and explored.

The alternative option, of retaining the facility as a Community Wellbeing Hub, could see the potential for commercial rental being charged, should Council consider the proposal submitted by Sally Diano.

Otherwise, Council could consider the possibility of leasing the facility on a peppercorn basis, consistent with other community based facilities currently within the Shire; managed by a not for profit community based service.

Should the facility be leased, either on a commercial or community basis, there may be costs associated with necessary upgrades to the existing effluent system of the facility.

Social implications

The proposal to dispose of the facility could initially be received quite negatively by those within the community who had previously utilized this facility as a Day Respite Centre or for those who may have a family member or close friend/neighbor who utilized the facility. However, with the lack of an existing Home Care Service Provider willing to operate the facility as a day respite service, Council is left with the need to consider alternative uses. This facility as has remained empty for a considerable time and attempts made by Council to retain Ferguson House as a respite centre have been unsuccessful.

The use of the facility as a Community Wellbeing Hub as described within the EOI received by Sally Diano, could improve local access to alternative therapies and general wellbeing programs, not currently provided within the town of Bindoon. These programs could compliment those programs currently offered by Jupiter Health Service and WA Country Health Service, operating out of the Chittering Health Centre.

Environmental implications

Should Council retain Ferguson House, the age of the facility and the intended purposes of any lease holder may necessitate an upgrade to the existing effluent system of the facility. The original system is now very outdated and was not designed to accommodate more than a domestic use of the facility.

Officer Comment/Details

“Ferguson House” has remained vacant since October 2017, despite three attempts by Council to seek a suitable tenant willing to operate a Centre Based Respite Service. Current providers to the Chittering area have not expressed a desire to utilise this facility for day respite.

As evidenced since April 2019, calls for expressions of interest to utilise “Ferguson House” has attracted some submissions from within the local community to use the facility as an Arts Hub, Wildlife Centre and Community Wellbeing Hub. However, on each of the occasions that Council has considered expressions of interest to utilise Ferguson House, since the March 2019 Ordinary Council Meeting, Council has shown a preference towards retaining the facility for community base pursuits, consistent with the original intention of the facility when it was acquired and renovated as a day respite centre in 2009.

The current submission presented by Sally Diano being considered by Council, although not a respite service, is consistent with the current sentiment of the Chittering Health Advisory Group (CHAG). As outlined above, CHAG have Identified as a priority for 2020/2021 to build capacity and connections within the community and its service providers. One proposal being explored by CHAG is the possibility of developing community hubs to foster connection, inclusion and support the general wellbeing of our community.

Retaining “Ferguson House” for a wellness hub seems surplus to our requirements when we have other facilities, namely the Chittering Health Centre and our community Halls that are known by Council and the Community to be under-utilised. These existing facilities could be activated with the addition of Health and Wellness Programs similar to those described within Sally Diano’s submission or the implementation of a Community Hub model with wrap around services and supports for the community.

Therefore, retaining “Ferguson House” as a community-based facility for the Age Care Respite seems to have run its course. In the pursuit of retaining this as a respite centre, we have now had a facility remain vacant for a period of nearly three years. It would therefore seem prudent that Council consider disposing of the facility.

Nonetheless, if Council does not wish to sell the facility, they may wish to consider the confidential proposal submitted for a Wellness Hub, providing access to a central facility for alternative health services such as Yoga, Tai Chi, Naturopath, Bowen Therapy, and Massage. The expression of interest submitted for a Wellness Hub, does not outline how this type of service will be managed or propose what might be considered an appropriate rental fee to ensure the facility is viable for the Business owners. Some discussion would need to occur with the applicant to determine their proposed management model and a determination by Council as to their expectations for charging market rent for this facility.

OFFICER RECOMMENDATION

That Council not proceed with the Expression of Interest and revisit the use of “Ferguson House” (Lot 91 Great Northern Highway, Bindoon) in October 2020.

Cr Angus foreshadowed the following Alternative Motion in the event that the Proposed Motion was lost:

That council invite the applicant to meet with council to explain the vision for the centre and how it will operate.

Cr Angus provided the following reasons

Cr Angus has spoken with the applicant, who explained in more detail information on a wellness centre. Cr Angus also stated that there are people who don't always want to go a GP for treatment.

OFFICER RECOMMENDATION

Moved Cr Davis / Seconded Cr Angus

That Council not proceed with the Expression of Interest and revisit the use of “Ferguson House” (Lot 91 Great Northern Highway, Bindoon) in October 2020.

LOST 1/6
7:36PM

9.4.5 FORESHADOWED MOTION / COUNCIL RESOLUTION 150320

Moved Cr Angus / Seconded Cr Hughes

That council invite the applicant to meet with council to explain the vision for the centre and how it will operate.

CARRIED 7/0
7:39PM

9.4.6 Chittering Community Complex*

Applicant	Shire of Chittering
File ref	02/08/5; 05/05/2; 15/01/16; 18/07/15; A11560
Author	Chief Executive Officer
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Community Information Newsletter **DRAFT**

Executive Summary

Council is requested to make a decision to move forward with the Chittering Community Complex project on the basis of the following modifications being made to the original plan:

- Plans for the Function Centre to be modified to allow for the development of a Community Centre that will act as a meeting point for the community and provide a range of shire and community services and programs to all age groups;
- Remove the indoor sporting centre and rectangle oval from the plans;
- A request be made to the AusIndustry BBRF Program to move a portion of the Building Better Regions Fund to allow for new change rooms and clubrooms to be built at Muchea Hall in order to develop more appropriate facilities for female participants;
- Proceeding without a contribution from Immaculate Heart College and without assigning any 'Use Rights';
- The loan required to fund the project be limited so that repayments will be covered from the natural increase of rates that will flow from new businesses and houses that have been approved in the past 12months, meaning that there will be no financial impact on current ratepayers.

Background

In March 2019, Council was successful in obtaining a grant of \$4.71m to construct a Sport and Recreation Centre in Lower Chittering. In order to match the grant, a contribution of \$3m was required from the shire and \$2m from Immaculate Heart College.

In April 2019, Council approved a self-supporting loan to Immaculate Heart College of up to \$2m, comprising of a \$1.725m contribution towards to the Chittering Community Complex and \$275,000 towards the purchase of 3ha of land from the Shire. The preference was for the \$275,000 to be provided in cash. The loan was also conditional on a suitable loan debt security and that any supplementary grants be remitted to the shire as "advance principle repayments".

The following month, Council authorised the Chief Executive Officer to finalise a self-supporting loan agreement for a sum of \$1,625,000.

At the November 2019 Ordinary Meeting of Council, Cr Gibson and Cr Davis gave notice of motion that Council put on hold the Chittering Community Complex project in its current form, and work to find an outcome that is acceptable to the community and all relevant stakeholders. At this meeting the following decision was made:

11.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 211119

Moved Cr Hughes / Seconded Cr Gibson

That Council:

- 1. Place the Chittering Community Complex Project on hold for a period of six months and suspend all borrowings and payments while Council considers the options available to it and better assesses the community's desire for the future of the Project.*
- 2. Request the Chief Executive Officer to negotiate with the Building Better Regions Fund grant provider to change the grant agreement to allow for a six month hold by Council.*
- 3. Obtain quotes for a probity/procurement audit to provide an assessment of the process of this Project up to this current stage.*

CARRIED 7/0

8.31PM

As at January 2020 the self-supporting loan agreement had not been finalised, therefore at the January Special Meeting of Council, the following decision was made:

5.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030120

Moved Cr Angus / Seconded Cr Hughes

That Council:

- 1. Withdraw the Authorisation given to the Chief Executive Officer under Council Resolution 080519 to finalise self-supporting loan agreement between the Shire of Chittering and Immaculate Heart College;*
- 2. Withdraw the Authorisation given to the President and Chief Executive Officer under Council Resolution 110419 to apply the Common Seal and to sign the Self-Supporting Loan Agreement on the Shire of Chittering's behalf; and*
- 3. Requires the Chief Executive Officer to cease all efforts to finalise a self-supporting loan agreement between Immaculate Heart College and the Shire of Chittering.*

CARRIED 7/0

6:18PM

Consultation/Communication Implications

Local

Immaculate Heart College

State

AusIndustry BBRF Team (Federal)

RDA Wheatbelt (Federal)

West Australian Treasury Corporation

Department of Sport and Recreation

Legislative Implications

Nil

Policy Implications

Nil

Financial Implications

The Chittering and Muchea projects have been included in the budget review so no budget amendment is necessary.

The recommended project will require a maximum loan amount of \$3.5m including project contingencies. A \$3.5m loan over a 20yr period will require repayments of approximately \$233,989.72/yr. In the past 12 months, three developments have been approved which have a total value of \$47,000,000. Although rate calculations do differ depending on the business type, it is likely that these approvals would result in an additional rates of approximately \$235,000/yr which would cover the loan repayments.

Strategic Implications

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

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The project is focused on making a social impact, however the development of the economy does rely on developing businesses, housing and social facilities as each of these aspects are complementary to each other.

Social implications

A Community Centre constructed in Chittering will help to develop greater community connectedness in the area by providing a focal point for community members to meet up. The programs that can be offered from the center will foster an improvement in the health and well-being of the community including those that are aged. The reconstruction of the Muchea Change rooms and Clubrooms will provide a standard necessary to encourage female participants to join in and continue playing sports, which helps with both mental and physical well-being.

Environmental implications

The area on which the Community Centre is being built will be designed to ensure that there is minimal impact on the environment. In future, it may also take some pressure of the Lower Chittering Hall which is constructed in an environmentally sensitive area.

Officer Comment/Details

Over the period in which the project has been placed on hold, discussions have been had with relevant organisations and government bodies in addition to Council discussing community concerns with the project to try and find a way forward that provides the most benefit to the community.

Council discussions have covered a number of topics including:

- The self-supporting loan and the role of funding partners;
- The long term financial feasibility of the project including operational costs and capital contributions;
- Environmental impact and the required water source;
- The benefits of a community centre and other services being provided in Chittering;
- Opportunity costs including other sports facilities and aged care;
- Other potential uses of the grant;
- Not using the grant.

Following a series of discussions by Council, a recommendation has been provided to continue the project by building a Community Centre in Chittering, reducing the overall size of the project and trying to move some funds to upgrade the facilities in Muchea to provide the required facilities to cater for the recent interest and growth of female sport in Muchea.

If Council proceeds with the officer recommendation, it would be advisable that the Community Information Newsletter that is an attachment to this item be released and a series of workshops be held to explain the decision to the community, respond to questions that they may have and receive any feedback on the project.

OFFICER RECOMMENDATION

Moved Cr Ross / Seconded Cr Angus

That Council:

1. Take the project off hold and remove the suspension on borrowings and payments.
2. Request the Chief Executive Officer to negotiate with the AusIndustry BBRF Program to make a variation to the Building Better Regions Grant (BBRF74244) that will allow for the changes to the project scope that has been indicated by Council to be the desired path forward.
3. Authorise the Chief Executive Officer to engage relevant consultants where necessary to assist with the grant agreement variation.

AMENDMENT

Moved Cr Hughes / Seconded Cr Gibson

1. That the following new Condition "1." be inserted in the Officer Recommendation:
Requires Shire to review and update the Long Term Financial Plan (last updated 2017) and associated Building Asset Management Plans (last updated 2013) to incorporate the significant proposed changes to the scope of the Lower Chittering Community Complex and additional building, and upgrades to the Muchea Sporting Complex that an informed and financial sustainable decision can be made about the best way forward as a matter of urgency.
2. That Condition "1." in the Officer Recommendation be amended to read as follows and renumbered to Condition "2."
Pending Condition "1." take the project off hold.
3. That Condition "3." In the Officer Recommendation be deleted.

LOST 3/4
8:00PM

Cr Hughes provided the following reasons:

Cr Hughes agreed that council needs to move forward on this, and is mindful of current times, however does not want to take away local building opportunities. Council needs to also ensure that all new projects are financially sustainable, as we are currently going on old figures contained in the shire's plans. With IHC withdrawing their funding, there has been a number of substantial changes.

9.4.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160320

Moved Cr Ross / Seconded Cr Angus

That Council:

1. Take the project off hold and remove the suspension on borrowings and payments.
2. Request the Chief Executive Officer to negotiate with the AusIndustry BBRF Program to make a variation to the Building Better Regions Grant (BBRF74244) that will allow for the changes to the project scope that has been indicated by Council to be the desired path forward.
3. Authorise the Chief Executive Officer to engage relevant consultants where necessary to assist with the grant agreement variation.

CARRIED 4/3
8:04PM

10. REPORTS OF COMMITTEES

10.1 Audit and Risk Committee: 11 March 2020

10.1.1 Compliance Audit Return 2019*

Applicant	Shire of Chittering
File ref	04/02/0002
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. 'Unconfirmed' minutes from 11 March 2020

Executive Summary

Council is requested to adopt the Compliance Audit Return for 2019, which was presented to the Audit Committee on 11 March 2020; and also receive the 'unconfirmed' minutes from that meeting.

Background

Each local government is to carry out a Compliance Audit for the period 1 January to 31 December against certain requirements included within a Compliance Audit Return (CAR) provided by the Department of Local Government.

The CAR was presented to the Audit Committee and the following recommendation is now presented to Council:

OFFICER/COMMITTEE RECOMMENDATION

Moved Cr Ross / Seconded Cr Curtis

That the Audit Committee reviews the Local Government Compliance Audit Return for the period 1 January 2019 to 31 December 2019 and presents to Council for adoption at the Ordinary Meeting of Council on 18 March 2020.

CARRIED 5/0

5:40PM

Consultation/Communication Implications

Local

Chief Executive Officer
Executive Manager Corporate Services
Executive Manager Technical Services

State

Nil

Legislative Implications

State

- Local Government Act 1995

5.22. Minutes of council and committee meetings

- (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

- *Local Government (Functions and General) Regulations*
- *Local Government (Administration) Regulations*
- *Local Government (Rules of Conduct) Regulations*
- *Local Government (Elections) Regulations*
- *Local Government (Audit) Regulations*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The CAR for the 2019 calendar year has been completed by the Support Officer Governance. It is recommended that the Audit Committee review the CAR and recommend to Council that the CAR be adopted by Council at the next Ordinary meeting to be held on 18 March 2020.

10.1.1 OFFICER/COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION 170320

Moved Cr Ross / Seconded Cr Gibson

That Council:

- 1. Adopts the Local Government Compliance Audit Return for the period 1 January 2019 to 31 December 2019.**
- 2. Receives the 'unconfirmed' minutes from the Audit and Risk Committee meeting held on 11 March 2020.**

CARRIED 7/0
8:05PM

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

In accordance with the *Local Government (Council Meetings) Local Law 2014, c5.3(1), (2)* the following motions are included in the agenda.

11.1 Cr John Curtis: Yellow Bin Collection Service

PROPOSED MOTION

Moved Cr Curtis / Seconded Cr Davis

That Council terminate the yellow bin collection service when the current contract expires in 2021.

LOST 3/4
8:24PM

Cr Curtis provided the following reasons:

With the termination of the yellow bin collection service a higher quality of recycling will be achieved by residents by sorting at the source, eliminating the contamination rate of 25%, which is one in four rubbish trucks that go to landfill.

Incentives can provide a driving force for change. The abolishment of the collection fee and the introduction of the Container Deposit Scheme (CDS) will be that force; also encourage residents to look at other options of disposing of items that the CDS does not take, such as recycling centres, community collection service run in conjunction with their refund or donation points, pop-up drop-offs, etc, etc.

Cost should be modest as sorting of recyclables is carried out by ratepayers, transport of materials to the South Midland Resource Centre (SMRC) will be at a cost that can be covered by a small levy or better still, apply for funding through Waste Authority Landfill Levy Fund on this motions initiative approach to reduce the problem of contamination.

With your support of this motion, Council can become an example of other shires what can be done to reduce cost to ratepayers on collection fees.

Officer comment/details

The Shire's Kerbside Waste and Recycling Service has been in operation since September 2014. Over this time the annual domestic recovery rate of waste and recyclable materials has increased from 3.5%, prior to the introduction of the kerbside service, to approximately 29% in 2018/19. The average contamination rate of kerbside recycling bins in the region is approximately 18%, as reported by Avon Waste. Contaminants are further sorted and removed from the recycling stream at the Avon Waste Depot prior to dispatch to the Southern Metropolitan Regional Council (SMRC) for further sorting and sale to overseas markets.

The cost of the kerbside recycling service is \$143.50/yr for 26 fortnightly pickups. This equates to a charge of \$5.50/fortnight or \$2.75/wk for each eligible property. The Waste Authority of WA has supported kerbside recycling services by local government for decades as a cost-effective and efficient means of recovering useful recyclable materials. Without kerbside services, and the educational programmes that support it, waste reduction targets could not be achieved. Put simply, people will discard valuable recyclables into their rubbish bins – which was what was

happening prior to the introduction of the kerbside service in 2014 when the recovery rate was down to a low 3.5%. The well-developed collection, transport and sorting infrastructure that underpins our contract with Avon Waste has been successful, because it involves the whole community thereby reducing overall costs per capita.

While kerbside services by local governments have been successful, the Waste Authority of WA recognises that this strategy alone is not enough. WA has a poor report card compared to most other states in Australia. The *Waste Avoidance and Resource Recovery Strategy 2030* advocates for a “circular economy” where materials are retained in the economy as long as possible. The Waste Strategy 2030 states:

“A circular economy builds on long-standing sustainability concepts, including life cycle thinking and resource efficiency, and it complements the waste hierarchy. A circular economy refers to the flow of both materials and energy – it moves away from the linear ‘take, make, use and dispose’ model to one which keeps materials and energy circulating in the economy for as long as possible. A circular economy presents opportunities for increased local recycling activity. Local solutions create local jobs, and minimise the costs and impacts of unnecessary transport. Local solutions are particularly important in a state as large as WA where access to markets is limited, and transport costs and impacts are high. WA has an opportunity to benefit from greater local recycling activity. If local recycling options are not available, solutions within Australia will be preferred.”

Due to global impacts such as China’s National Sword Policy (2018), there are both threats and opportunities in the waste industry. The government recognises that we must become more independent to deal with the recyclables that are no longer accepted overseas and is working towards that goal. The government encourages local solutions for recycling products.

The Shire’s contract with Avon Waste has been effective and economical to date and the kerbside bin system has been accepted by the majority of residents as being convenient and time-saving. The commencement of the Container Deposit Scheme will provide another means of improving recycling efficiency by removing take-away containers from the waste stream and reducing littering. However, it should not be seen as a model for recycling other materials as it has been proven that the kerbside collection system is the most efficient and economical method.

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

14. MEETING CLOSED TO THE PUBLIC

Nil

15. CLOSURE

Cr Gibson declared the meeting closed at 8:25PM