



COUNCIL MINUTES

Ordinary Meeting of Council

7pm, Wednesday 17 March 2021

Council Chambers, 6177 Great Northern Highway, Bindoon



RECORDING AND ACCESS TO RECORDINGS OF COUNCIL MEETINGS POLICY

Objective

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

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

Recording of Proceedings

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

Access to Recordings

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

Retention of Recordings

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

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

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

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

PREFACE

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

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

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

UNCONFIRMED MINUTES

These Audit Committee minutes were approved for distribution on 30 March 2021

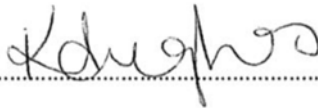


Matthew Gilfellow
Chief Executive Officer

CONFIRMED MINUTES

These minutes were confirmed at a meeting held on 21 April 2021

Signed



NOTE: the Presiding Member at the meeting at which these minutes are confirmed is the person who signs above.

Disclaimer

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

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

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

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

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

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

Cr Hughes declared the meeting open at 7:00PM

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

Attendance

Cr Kylie Hughes	(Presiding Member)
Cr Carmel Ross	
Cr John Curtis	
Cr Peter Osborn	
Cr Mary Angus	
Cr Mark Campbell	

The following Shire staff are in attendance:

Matthew Gilfellon	Chief Executive Officer
Melinda Prinsloo	Executive Manager Corporate Services
Peter Stuart	Executive Manager Development Services
Jim Garrett	Executive Manager Technical Services

Members of the General Public: 9

Media: 0

Apologies

Cr Rebecca Foulkes-Taylor

Approved leave of absence

Nil

Announcements

Cr Kylie Hughes

Cr Carmel Ross

19 February – Avon Zone Meeting, Moora
 23 February – WALGA Councillor Training
 24 February – President and CEO Meeting
 9 March – Council Information Session (Recreation Facility Discussion)
 9 March – Chittering Bushfire Advisory Committee Meeting
 10 March – President and CEO Meeting
 10 March – Councillor Briefings and Agenda Forum
 11 March – Chittering Tourism Advisory Group Meeting

Cr Peter Osborn

15 February - Recreation Facility Tour
 17 February – Ordinary Council Meeting
 18 February – Mountain Bike Steering group onsite meeting
 9 March – Council Information Session (Recreation Facility Discussion)
 9 March – Chittering Bush Fire Advisory Committee meeting
 10 March – Agenda Forum

Cr John Curtis

8 March – Bindoon Museum Meeting
 9 March – Council Information Session (Recreation Facility Discussion)
 9 March – Chittering Bushfire Advisory Committee Meeting
 10 March – Agenda Forum
 11 March – Chittering Tourism Advisory Group Meeting

Cr Mary Angus

9 March – Council Information Session (Recreation Facility Discussion)
 10 March – Agenda Forum

Cr Mark Campbell

9 March – Council Information Session (Recreation Facility Discussion)
 9 March – Chittering Bushfire Advisory Committee Meeting
 10 March – Councillor Briefings and Agenda Forum

Cr Rebecca Foulkes-Taylor

10 March – Councillor Briefings and Agenda Forum

ITEM 3. DISCLOSURE OF INTEREST

DS01-03/21 Spunky Spud Application to trade within the Bindoon and Muchea Town Sites		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Carmel Ross	Impartiality	Nature: Spunky Spud is a stallholder at the Bindoon Farmers Market and has been for the last five markets. Extent: Minimal.

CEO02-03/21 Muchea Clubroom and Change room upgrade		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Kylie Hughes	Impartiality	Nature: I am a Committee Member of Muchea Netball Club and MHUG group. Extent: Minimal.

ITEM 4. PUBLIC QUESTION TIME

Response to previous public questions taken on notice

PQT01-02/21 Clint O'Neil, Chittering

Background At the Council meeting of 17 February 2021 the Council President lodged a signed impartiality interest declaration [without bias or prejudice] for agenda item CEO02-02/21, subsequently voting for the Shire to borrow some \$3.0M to support the Muchea facility upgrade and expansion. Some 3 months prior to the February 2021 Council meeting, the Council President put forward and voted for the resolution to abandon and throw away the new Lower Chittering complex development that entertained the Shire borrowing some \$3.0M from WA Treasury to supplement the approved \$5.0M Federal Government grant. The Council President's recorded reasons for initiating and voting for the resolution was 'due to the substantial changes to the project that has made the project untenable in its current form'

Question 1: Could the Council President identify the clear, compelling and substantive differences between the Shire borrowing some \$3.0M for the proposed Muchea facility upgrade and expansion and some \$3.0M for the now abandoned and thrown away new Lower Chittering facility complex?

Response 1: The substantive differences are that the Muchea Project as per the agenda item at the February OCM only proposed that the Shire borrow \$2.24M, not some \$3.0M as you've stated.

This was to increase the allocation of funding set aside for the Muchea Clubroom/Changerooms building cost of \$1.65M to the revised proposed Total Project cost of \$3.01M to incorporate the ancillary infrastructure including a carpark that would ensure a completely finished facility for the community to be proud of. The building cost estimates are substantially higher and also included a contingency amount to account for the rapidly and significantly rising construction costs in the wake of the building boom resultant from covid-19 economic stimulus regulations. We are being upfront and transparent about the reality of the impacts upon the project in the current building and economic climate.

The Lower Chittering Community Complex project as it became to be known, was substantially different from and separate to this Muchea project which does not replace it. That LCCC project proposed various loan amounts in the vicinity of \$5M.

Question 2: Taking into consideration the statement made at the meeting, fully informing all Councillors that the CEO02-02/21 resolution put to Council superseded all previous resolutions related to the Muchea facility, which had not been implemented, does the Council's absolute majority decision to defeat the resolution now mean that Council and the Shire are not in a position to allocate or secure any funding for the proposed Muchea facility above and beyond the \$300,000 CSRFF grant, being a reimbursement grant with a specified claiming and expiry date?

Response 2: Although the motion to proceed with the Muchea Clubrooms and Change rooms Project as stipulated was not passed, it does not mean that the project ceases. This is because ceasing the project would require a Decision from Council to not proceed. The effect of the motion not being passed is that Council will need to revisit the project to determine a course of action that will be passed, which is what we will do at this month's meeting.

Public question time

PQT01-03/21 Clint O'Neil, Chittering

Question 1: Agenda item CEO02-03/21. Could the Council President provide clarity on the legitimacy of Agenda item CEO02-03/21 and the recommended resolution when the same, or a similar agenda item, CEO02-02/21 and resolution 120221 was put to council at the February Council Meeting and rejected by the absolute majority of Council.

Response 1: It's the same agenda item. It wasn't defeated, it just wasn't passed. It was passed by a majority of Council, but not an absolute majority. So it was 3/2. It needed to be 4.

The agenda as put to Council was that it required an absolute majority, it's in the minutes "an absolute majority proceed with the resolution". That was defeated, full stop, see you later and go away. So my question still relates to, if that was defeated by an absolute majority of Council present at the time, why is it being introduced at the next Council meeting?

The President elected for the CEO to the respond.

Essentially Council decisions should provide some sort of action for the CEO to go away and undertake. What happened last month was that the CEO proposed that an action be taken and Council did not agree with what was proposed, but they did not provide an alternative action for the CEO to go away and undertake. So what happened in that situation is that they haven't said for the CEO not to go ahead with it, they just haven't told the CEO to go ahead. So that's why it needs to be brought back to Council to get some sort of action to direct the CEO as to what they want him to do. If they don't want to do that then they need to direct the CEO, specifically, not to go ahead with the project

So as I understand, when a Council makes decision as a collegiate body, and says no, that doesn't limit the CEO reintroducing that same agenda item time and time again; to try to get to sway Council to the that individuals point of view.

It would depend on what decision they have made. So their decision wasn't a decision of "no", it was just a lack of a decision of "yes".

I thought that it was quite clear that the absolute majority said "no", see you later and go away. So...

President Hughes responded – the motion tonight is different because we've had a discussion about it further and we have considered some alternatives, still to proceed with the project. Just the main contentious point was, how are we dealing with the hall; like having two or three buildings on that site instead of replacing it with another one, because, you still got operational costs of the more buildings.

PQT02-03/21 John Nagel, Bindoon

Question 1: Madam President did all councillors receive a detailed Business Financial Plan on the Bindoon Mountain Bike Park prior to the last month's meeting in time for them to analyse it before you were asked to vote to go ahead, by buying the parcel of land for the proposed Bindoon Mountain Bike Park?

Response 1: Do you mean a plan about the Mountain Bike Park?

No financial, a Financial Business Plan. Has there been one done?

On the Mountain Bike Park?

Yes.

We haven't narrowed down yet exactly what the model will be but the opportunity presented to buy the land which is an integral part of putting in the application. Which we have put in a grant application. So there is a Business Plan as part of that.

The President elected for the CEO to the respond.

It's a matter of terminologies. So in a project like this you undertake a Business Case, not a Business Plan. So while we have been developing a Business Plan which is the management of it, and other such things; for this project we look at a Business Case. So a Business Case has been prepared and a Cost Benefit Analysis has also been prepared by an external economist as well.

That's doesn't really tell us anything. The only question, comment that I'd make on that before I go onto my next question is "Why would any business go and buy a block of land, before they know that they've got the funding to finish the project?" I mean, I would have thought that gone along and made an offer to the owner of that land, subject to you getting the land; because if you're finances fall over you've got a block of land up there that you're not going to be able to use. I don't understand it and I bought this up last month.

So we are not a business, we are a Local Government and so we buy land for many different purposes and there was a strong community push regardless of a Mountain Bike Park that they want public open space. We receive lease income from one mobile tower, that when Council agreed to the lease income it was specifically to provide further for further public open space. So regardless of a Mountain Bike Park I think that you'll find that this piece of land can be used for many different purposes; first would just be conservation to ensure that the view of Bindoon and

the nature in there can be conserved. It can be used for many other recreational pursuits as well. So it can be walking, it can be used for star gazing; there could be other events on there. So there are many different possibilities that can be had with that bit of land.

Question 2: Madam President in the Northern Valley Times, March 21 regarding the Bindoon Mountain Bike Park, it is noted that Council have said regarding the purchase of land, quote “this purchase will be funded through the sale of another lot of land and lease income”. I see in tonight’s agenda you are asking the Councillors to vote to approve a loan for the purchase of the land for \$386,700. You may now appreciate that the ratepayers of the Shire are very disillusioned and do not know what to believe as this is a stark difference to the way that you’ve put it forward before.

I mean to me, the shire’s got to be more up front. In the local paper you’re saying that you’re going to buy that land, by selling land and lease money and yet in the next, you come here tonight and you want the Councillor’s to put up an approval for a loan for \$386,000. I don’t quite follow that.

Response 2: There is a sale of land because that amount of \$386k that you mention, isn’t what the purchase price was. So the difference is being made up by the sale of another block of land and also the loan repayments, going forward, will be offset by income from a phone tower that is on that block. I think that that is what that’s referring to.

ITEM 5. PRESENTATIONS / PETITIONS / DEPUTATIONS

Petitions

Nil

Presentations

Nil

Deputations

Nil

ITEM 6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

ITEM 7. CONFIRMATION OF MINUTES

Ordinary Meeting of Council: 17 February 2021

COUNCIL RESOLUTION 010321

Moved Cr Ross/ Seconded Cr Angus

That the minutes of the Ordinary Meeting of Council held on Wednesday 17 February 2021 be confirmed.

VOTE 6 / 0

TIME 19.19pm

ITEM 8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Cr Hughes

Wanted to acknowledge that this month 2 of our prominent Bindoon residents - Ernie & Pat Parkinson - both turn 90 and also celebrated their 70th Wedding Anniversary.

Cr Ross

Wanted to note and acknowledge the recent death of Margaret Oversby, who passed away on Monday morning (15 March 21) of an aneurism. She was very much loved and respected member of just about every group that operated in and around Bindoon for many decades. Her death is a monumental loss to the community.

ITEM 9. REPORTS

DEVELOPMENT SERVICES

DS01-03/21 Spunky Spud Application to Trade within the Bindoon and Muchea Town Sites

Applicant	Darrin and Susan Wells
File ref	I21123354
Author	Principal Environmental Health 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 or relevant details
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to consider the approval of a traders permit within the Bindoon and Muchea town sites for the purposes of mobile food vending operations within public places. This application has been requested on behalf of the food business Spunky Spud Food Van.

It is recommended that Council approves the application as the food operator is looking at trading when other food businesses are closed and is offering the community food products that are not otherwise readily available within the town sites.

Background

The mobile food business, Spunky Spud, is currently registered as a Medium Risk Food Business pursuant to the *Food Act 2006* and was granted a traders permit on 6 August 2020. Since commencing trading at the following approved sites Muchea South Road, Brockman Centre and Djidi-Djidi ridge, the proprietor has become popular in the community and has had several requests to trade closer to the Bindoon and Muchea town sites.

Spunky Spud's application to trade within the Bindoon and Muchea town site was received on 7 January 2021 and has proposed extra locations they would like to trade. The proposed locations require a trader's permit under the *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* (Local Law). The proposed locations and trading times are outlined as follows:

	Location	Day	Time
-	Chinkabee complex	Thursday	5pm – 8pm
-	John Glenn Park Muchea	Tuesday	5pm – 8pm

Consultation/Communication Implications

Local

Assessment of the trading application was conducted by the Principal Environmental Health Officer in consultation with the Executive Manager Development Services. To enable proper consultation, an email with notice of the Spunky Spud Food Van trading application was sent to relevant permanent food businesses and stakeholders located in Bindoon and Muchea town sites. Written comments to the application were invited within a 14 day timeframe. By the close of the consultation period, two items of correspondence were received. One opposed the application was due to the fear of loss of business and the other opposed due to the impact of rubbish removal, poor lighting and lack of facilities. Below are the responses.

Muchea Roadhouse and General Store

"We are struggling to remain in business at the Muchea Store after the road changes which saw 30% of our business wiped out. To have a food van in the park opposite us or anywhere local would be unfair. We pay a large rate bill annually to have this business and are working hard to retain the employment of 30 staff. The community is small in Muchea and there is little business at present and to add Spunky Spud into the area would be another threat to the fragile job environment at present".

Bindoon Sport and Recreation Association

"The Committee and members of the Bindoon Sport and Recreation Association, as the facility managers for the proposed site, feel that a take away option based at the Chinkabee facility will impact on rubbish removal for the facility, patrons would not have access to public toilets and with only one light in the carpark, the visibility of the van and for those patrons of the van will be very poor. We feel that Clune Park would be a more suitable site, as there is ample lighting, public toilets and picnic tables to accommodate patrons wishing to eat before they drive away."

Trading within a public place is managed by Local Laws, and the locations proposed in the application are outside and within 300m, which is compliant with the local laws. However, the application is not compliant with Council policy 10.9 trading in thoroughfares and public places (The Policy).

State

Nil

Legislative Implications

State

The *Food Act 2008* requires all food businesses to be registered with the Local Government where they operate from or in the case of food vehicles where they are permanently located (i.e. home or commercial premises).

Local

The Shire of Chittering adopted the *"Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law"* (Local Law) on 21 April 2001. Part 6 of the Local Law applies, particularly 6.3 – Trader's Permits, 6.5 – Relevant considerations in determining application for permit, 6.6 – Conditions of permit and 6.8 – Conduct of stallholders and traders. Attached are excerpts from the Local Law.

It should be noted in Clause 6.3(3) that a permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase being made.

Clause 6.8(2) is discussed more in detail in comments section.

It should also be noted under clause 7.10 that a permit may be cancelled by the Shire for a range of reasons including non-compliance with a condition of the permit. Clause 10.3 (offences) provides for penalties up to \$5000 or daily penalties up \$500 a day for not complying with any requirement of the Local Law.

If unsuccessful, applicants for Trader's Permits are able to appeal under Clause 8.1 of the Local Law.

Policy Implications

State

Nil

Local

The Shire of Chittering adopted the *Council Policy 10.9 Trading in Thoroughfares and Public Places (The Policy) on 12 December 2019*. The policy assists Council in determining suitability of applications in relation to Council's Local Law.

It should be noted that Part 2 of The Policy, trader's permits for food vehicles/stalls will not be issued for venues within the Bindoon town site, Muchea town site or other locations of commercial sensitivity.

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Economic growth

Objective: S4.2 Local business growth

Strategy: S4.2.1 Encourage and support local business and new investments for the future

Although the application is for a temporary small business the Shire Strategic Community Plan 2017-2027 encourages and support for local business. By supporting the application, the operator would be given an opportunity to contribute to the economic growth of the Shire at a time of day otherwise dormant of activity.

State

Nil

Site Inspection

Site inspections were conducted at both locations. There is adequate parking for customers and bins are provided for the disposal of waste.

Aerial views of the proposed trading sites.

Image 1: Chinkabee Complex Bindoon



Image 2: John Glen Park Muchea



Triple Bottom Line Assessment

Economic implications

There are no anticipated economic implications on permanent food business as the operator will be providing a different range of products that is not been offered by the permanent premises that still operate after 5pm. The van operating after 5pm may also boost business for premises still operating as customers may see it as an opportunity to purchase a few items before heading home.

Social implications

The approval of a mobile food van trading within the town sites may promote a sense of community within the Shire by encouraging interaction between customers in a public space.

Environmental implications

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

Officer Comment/Details

There have been recent separate enquiries about trading in the town sites from a food van owner and a coffee van operator who are currently registered under the *Food Act 2008* with City of Swan and Gosnells respectively. The Locavore Store has enquired about having a food van trade outside the store in order to encourage customers to come in when the store is open late on Thursdays. It is expected that the Shire will continue to receive Trader's Permit applications in the future therefore it is important that all applications take into consideration Council's views. This should encompass the views of permanent business owners, the food van operators and the general community so as to enable the best possible outcome in an economic and social sense.

One thought for consideration is to give preference to local food van businesses rather than outsiders from other local governments.

In relation to the subject proposal, Section 6.8(2)(a) of the Local Law provides the relevant matter to consider:

'attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stallholder or trader except with the written approval of the local government'

Muchea

As described above, the most closely affected business is outside of the 300 metre exclusion zone. Nonetheless the Muchea roadhouse and general store considers it to be unduly threatened by a food van at the John Glenn Park site since the majority of local customers come from this direction.

The proprietors make the point that since the opening of the extension of Tonkin Highway they have experienced a 30% loss in business. The general store operates generally in isolation insofar as it is the only business within the vicinity of John Glenn Park / Muchea town site that offers take-away food for sale. These products however do not have any goods or services of the kind being offered by Spunky Spud and though the two businesses will be in competition, this application is consistent with the Local Law.

Since been approved in July 2020 Spunky spud has been trading from Muchea South Road and corner of Humphrey's Road which is an approved location. The proprietor has seen an increase business and had requests from community members to trade from John Glenn Park site. This therefore appears to indicate that the community does want other food options to be available in regards to takeaway food.

Nevertheless, if the site is approved, a condition providing for evaluation of its impacts after three months would help to ascertain whether the market share is in fact viable, derogatory, or even beneficial to the town.

Bindoon

Even though within the 300 metre zone, the Bindoon Mediterranean restaurant closed in 2020 and therefore would not be affected by the operations of the food van. The Bindoon general store does not offer cooked meals and the Bindoon Sport and Recreation Association only operates when they have a sporting event on. This therefore gives the food van an opportunity to trade within the town site once a week at a time when no other competing businesses will be open.

The Local Law further states:

6.5 (2) (d) *The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –*

That the needs of the district, or part for which the permit is sought are adequately catered for by established shops or by persons who have valid permits to carry on trading or to conduct a stall;

It is evident that Bindoon town site food businesses have not opposed the food van operating in town as the operator is offering something completely different and the trading hours are different to the established food businesses. Spunky Spud mainly sells “Baked Potatoes and Nachos with salsa, chilli con carne, cheese, sour cream, spring onions, pineapple and coleslaw”. It is evident that such products are not already available from existing businesses in the town site therefore approval will be in accordance with the Local Law.

OFFICER RECOMMENDATION

That Council, pursuant to Part 6, Division 1, Subdivision 2, 6.5 (1) of the Shire of Chittering’s *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, APPROVES the application for an annual Traders Permit to trade from Chinkabee Complex, Bindoon and John Glenn Park, Muchea for a period of one year, and subject to the following conditions:

1. The applicant is advised that this approval does not permit the applicant exclusive use of the sites;
2. A three month review of the approval is to be conducted by the Chief Executive Officer and is to assesses the economic impacts associated with the mobile food van use in context of surrounding local businesses;
3. All conduct shall be in the compliance with the Shire of Chittering ‘Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law’; the *Food Act 2008* and the Food Standards Code;
4. At conclusion of each trading day, the permit holder shall remove all waste generated from the event from the designated area;
5. Trading is permitted to occur between 5:00pm – 8:00pm only;
6. Approval permit is to be displayed at all times; and
7. Any issues/complaints arising from the operations of permit holders are to be submitted the Chief Executive Officer. Any unresolved complaints may result in a revocation of the permit.

AMENDMENT

Moved Cr Ross / Seconded Cr Curtis

That point B be added to read (that) “specific locations be identified in Bindoon and Muchea where the van would be permitted to operate from”.

CARRIED 6/0

AND FORMED PART OF THE SUBSTANTIVE MOTION

AMENDMENT

Moved Cr Ross / Seconded Cr Curtis

That an addition be made to Item 5 to include “on Thursdays in Bindoon and on Tuesdays in Muchea”.

CARRIED 6/0

AND FORMED PART OF THE SUBSTANTIVE MOTION

AMENDMENT

Moved Cr Curtis/ Seconded Cr Hughes

That point C be added to read “That Council deems the location of the Chinkabee Complex as an inappropriate site due to the inability of seat patrons, and provide sufficient traffic management in the instance of a conflict of events. Council none the less recognises that after hours trading in the Bindoon townsite currently is lacking, and accordingly invites the applicant to investigate Clune Park as a possible alternative location”.

CARRIED 5/1

AND FORMED PART OF THE SUBSTANTIVE MOTION

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 020321

Moved Cr Ross / Seconded Cr Osborn

That Council

A: Pursuant to Part 6, Division 1, Subdivision 2, 6.5 (1) of the Shire of Chittering’s *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law*, APPROVES the application for an annual Traders Permit to trade from Bindoon and John Glenn Park, Muchea for a period of one year, and subject to the following conditions:

1. The applicant is advised that this approval does not permit the applicant exclusive use of the sites;
2. A three month review of the approval is to be conducted by the Chief Executive Officer and is to assesses the economic impacts associated with the mobile food van use in context of surrounding local businesses;
3. All conduct shall be in the compliance with the Shire of Chittering ‘Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law’; the *Food Act 2008* and the Food Standards Code;
4. At conclusion of each trading day, the permit holder shall remove all waste generated from the event from the designated area;
5. Trading is permitted to occur on Thursdays in Bindoon and Tuesdays in Muchea between 5:00pm – 8:00pm only;
6. Approval permit is to be displayed at all times; and
7. Any issues/complaints arising from the operations of permit holders are to be submitted the Chief Executive Officer. Any unresolved complaints may result in a revocation of the permit.

B: Specific locations be identified in Bindoon and Muchea where the van would be permitted to operate from.

C: That Council deems the location of the Chinkabee Complex as an inappropriate site due to the inability of seat patrons, and provide sufficient traffic management in the instance of a conflict of events. Council none the less recognises that after hours trading in the Bindoon townsite currently is lacking, and accordingly invites the applicant to investigate Clune Park as a possible alternative location.

The Council Decision differed from the Officer Recommendation as Council preferred that when food trucks operate within the Bindoon Townsite, that Clune Park be utilised instead of Chinkabee Complex

TECHNICAL SERVICES

Nil

CORPORATE SERVICES

CS01-03/21 List of Accounts Paid for the Period Ending 28 February 2021

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 28 February 2021

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 28 February 2021.

Background

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

Consultation/Communication Implications

Local

Executive Manager Corporate Services, whom has subsequently endorsed the list.

State

Nil

Legislative Implications

State

Local Government Act 1995

Local Government (Financial Management) Regulations, 1996

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

All expenditure has been approved via adoption of the 2020/21 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 28 February 2021" is presented to Council for endorsement.

COUNCIL RESOLUTION 030321

Moved Cr Osborn / Seconded Cr Curtis

That Council endorses the following List of Accounts Paid as per Attachment 1 totalling \$868,710.09 for the period ending 28 February 2021:

- 1. Payroll PR5715 & PR5732 \$210,982.70**
- 2. EFT21239 to EFT21404 \$571,547.81**
- 3. Direct Debits \$86,179.58**

CARRIED 6 / 0

TIME 19.37pm

CS02-03/21 Monthly Financial Reports for period ending 28 February 2021

File ref	12/03/4
Author	Senior Finance Coordinator
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for period ending 28 February 2021

Executive Summary

Council is requested to consider the financial statement for the period ending 28 February 2021.

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 2020/21 financial year on 29 July 2020 (Resolution 280720). The figures in this report are compared to the Adopted Budget.

COUNCIL RESOLUTION 040321

Moved Cr Angus/ Seconded Cr Osborn

That Council receives the Monthly Financial Reports for period ending 28 February 2021, as per Attachment 1.

CARRIED 6 / 0

TIME 19.38pm

CS03-03/21 Write Off Rates Following Sale of Property for Non-Payment of Rates

File ref	A10823
Author	Rates Officer
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	Nil

Executive Summary

Council is requested, pursuant to Section 6.12(1) c, to resolve to write off the balance of unpaid rates and service charges following the sale of Lot 218 Hereford Way, Lower Chittering in July 2020. In this instance, the price realized at sale was less than the balance of the unpaid rates and charges and accordingly requires writing off.

Background

In July 2020 Lot 218 Hereford Way, Lower Chittering, was sold by Auction to recover outstanding rates and charges as per Section 6.64 *Local Government Act 1995*.

The price realized at sale was less than the balance of the unpaid rates and charges. Under these circumstances; where the price realised at sale is less than the balance of the unpaid rates and charges, the Shire is to transfer ownership to the incoming owner pursuant to Schedule 6.3, clause 4(1) of the Local Government Act 1995 (Act) which states:

'A local government exercising the power of sale of any land has power —

*(a) by transfer, where the land is under the Transfer of Land Act 1893; and
(b) by deed or transfer, where the land is not under that Act,*

to transfer or convey to the purchaser an indefeasible estate in fee simple subject only to the encumbrances specified in section 6.75(1)(c), (d) or (e).'

The residual unpaid rates and service charges owed are not captured by the encumbrances specified under section 6.75(1)(c), (d) or (e) of the Act.

Accordingly, the property has been transferred to the new owner free of encumbrances, which includes any residual amounts owed in respect to unpaid rates and charges at the time of transfer. Therefore, the Shire's rate record must be updated to reflect the balance since the change in ownership.

Recovery of the unpaid rates and charges against the former owner, a company, is not possible due to the company being deregistered.

Consultation/Communication Implications

Local

McLeod's Barristers and Solicitors, whom provided legal advice on the outstanding monies.

State

Nil

Legislative Implications

State

- Local Government Act 1995

The *Local Government Act 1995* provides Council with the authority to authorise the Chief Executive Officer to write off any amount of money that is owed to the Local Government.

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

The sale of the property resulted in recovery of \$7,201.66 in rate revenue; however, an amount of \$20,735.80 in unpaid rates and charges was not cleared by the proceeds of the rates auction.

The outstanding rates debt has been offset by a doubtful debt provision to ensure there would be minimal cash impact on the current financial year.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Accountable Governance

Objective: S5.3 Accountable Governance

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

The outstanding rates are being publicly disclosed, as is the governing of this matter, to ensure correct and transparent decision making occurs.

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

Nil

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

Following the sale of Lot 218 Hereford Way Lower Chittering; a small block characterised by a dormant telecommunications aerial, for unpaid rates and charges in excess of three years, the property has been transferred to the new owner free of any continuing encumbrances. As the price realised at sale was less than the balance of unpaid rates and charges, it is recommended that Council, pursuant to Section 6.12(1) c of the Local Government Act 1995, write off the residual balance owed in respect to unpaid rates and charges at the time of the property transfer.

COUNCIL RESOLUTION 050321

Moved Cr Ross / Seconded Cr Osborn

That Council resolve, in accordance with Section 6.12(1) c of the Local Government Act 1995, to write off the residual amount of \$20,735.80 owed in respect to unpaid rates and charges at the time of transfer of Lot 218 Hereford Way Lower Chittering.

CARRIED 6 / 0

TIME 19.39pm

CS04-03/21 2020-2021 Budget Review

File ref	12/03/4
Author	Executive Manager Corporate Services
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	1. 2020-2021 Budget Review

Executive Summary

Council is requested to adopt the review of the 2020-2021 Budget.

Background

Section 33A of the *Local Government (Financial Management) Regulations 1996* requires that a local government carries out a review of its budget each year between January 1 and March 31. Council is required to consider the review and determine whether or not it should adopt the review and any recommendations made as part of the review.

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

- Section 33A Local Government (Financial Management) Regulations 1996.

Local

Nil

Policy Implications

Nil

Financial Implications

The adoption of the budget review will have an effect on the approved Council budget.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

This has been a particularly challenging financial year, however the Shire's budget is still within the overall budget allocated for the financial year.

Details of changes to each schedule and notes to the revised budget are included in Attachment 1. 2020-2021 Budget Review.

The nett-effect of this budget review, is a transfer of \$51,426 to our reserves.

The overall position of the budget has remained balanced due to the predicted surplus being allocated to reserves.

COUNCIL RESOLUTION 060321

Moved Cr Osborn / Seconded Cr Ross

That Council BY AN ABSOLUTE MAJORITY adopts the 2020-2021 Budget Review as presented in Attachment 1. 2020-2021 Budget Review and amend the 2020-2021 Budget accordingly.

CARRIED 6 / 0

TIME 19.41pm

CHIEF EXECUTIVE OFFICER

CEO01-03/21 Register of Policies: Amendments

File ref	04/03/1
Prepared by	Support Officer Governance
Supervised by	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. Staff Policy 3.26 – Public Service Holidays In-Lieu

Executive Summary

Council is requested to endorse the amendments to the Policy register as per the attachment.

Background

Local Governments previously operated under two State Government Awards, Local Government Officers (WA) Award 1999 and Municipal Employees (WA) Award. The Local Government Industry Award 2010 (LGIA) is a national modern Award that was drafted by the Australian Industrial Relations Commission and registered with Fair Work Australia as part of the award modernisation process.

From 1 July 2012, the Shire commenced operating under the Local Government Industry Award 2010 and all new employees received two additional days of annual leave to compensate for the removal of the two additional public holidays.

A precedent has been set over the past eight years, which has never been formally documented; subsequently, this policy formalises the arrangements that are already occurring (**Attachment 1**).

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

Nil

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 previous Awards allowed for two extra public holidays (which Council used between the Christmas & New Year period). So as not to negatively impact employees with the change, these two extra annual leave days arrangements need to be formalised.

Approving this policy has no impact on budget or operations; it is merely the formalisation of an eight-year-old practice.

COUNCIL RESOLUTION 070321

Moved Cr Angus/ Seconded Cr Campbell

That Council endorse "Staff Policy 3.26 – Public Service Holidays In-Lieu" as per Attachment 1.

CARRIED 6 / 0

TIME 19.42pm

CEO02-03/21 Muchea Clubroom and Change room Upgrade

File ref	GRT.CSRFF.MUCHEA HALL
Author	Principal Building Surveyor/Project Manager
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	1. S3.59 Business Case

Executive Summary

Council is requested to consider three requirements for the Muchea Clubrooms and Change room Upgrade to proceed.

- The first is to consider the release of funds in the 2010/2021 budget for services necessary to get the project to a shovel ready stage so that it can commence when funding becomes available on 1 July 2021, or as soon as possible following that date.
- The second is to increase the amount of the Shire of Chittering funding to make up for the proposed Building Better Regions Fund reallocation of funding not be accepted and the full funding request to the Community Sport and Recreation Facilities Fund not being received, and to include the necessary ancillary infrastructure around the building.
- The third is to approve the advertisement of a Business Plan for a period of six weeks as is required under Section 3.59 of the *Local Government Act 1995*.

Background

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

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

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

Stage 1:

- Construction of sporting club and change rooms.

Stage 2:

- Construction of carpark (and overflow carpark if required)
- Relocation/construction of playground

Stage 3:

- Construction of Community Centre
- Demolition of existing Muchea Hall
- Landscaping
- Cricket net lighting
- Oval lighting

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

Further to the design and costing, a project of this nature needs to be advertised to the public for comment, according to Section 3.59 of the *Local Government Act of 1995*, therefore the council resolution will include this compliance item.

Consultation/Communication Implications

Local

Council has been previously consulted regarding this process and the shire has been successful in securing grant funding. The community groups are also intimately involved, and has set aside funding which has been secured through fund-raisers for this project.

State

Not Applicable

Legislative Implications

State

Compliance with the Local Government Act 1995

Policy Implications

Nil

Financial Implications

This decision will lead to a commitment of \$2,676,308 capital expenditure. This will be funded through a loan of \$1,846,595.

Strategic Implications

The proposed development accords with the vision and aspirations of the community and the strategies of the Shire of Chittering's plans for the future and the project is incorporated in the Shire's strategic planning documents, as follows:

- Strategic Community Plan 2017-2027
 - Focus area: S1 Our Community: An Active and supportive Community
 - Strategy: S3.1.1 Develop and enhance existing recreation and social facilities for local communities
 - Action: Recreational and sporting facilities to service the growing population in Lower Chittering/Muchea

- The Corporate Business Plan 2017-2021 contained the following proposed initiatives:
 - Continued upgrade/enhancement of existing recreational facilities. This included \$98,000 for a pavilion & change room extension.
 - Community Gymnasiums in Bindoon and Muchea

The development of this facility will achieve the implementation of a key element of these plans.

Site Inspection

Site inspection undertaken: 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 option presented to Council was for the construction of an additional building which will host the Clubroom and Change room, currently located within the Muchea Hall Facility. The cost of construction of this new building is estimated to be \$2,707,964 when constructed with only the ancillary infrastructure required to ensure compliance with *Western Australia Building Act 2011*, *Western Australia Building Regulations 2012* and *the National Construction Code 2019*. A further \$30,000 could be saved by utilising the current disabled car bays.

A second option that would provide some savings in the short term but much greater savings in the long term would be to demolish the current Muchea Hall Facility and replace it with a multi-purpose facility that would provide the Clubroom and Change rooms facilities that are currently sought, but also provide a facility for community use. The estimated cost of this project is \$2,676,308. Savings are provided by utilising current existing ancillary infrastructure and services.

The greater saving would be in the reduction of longer term operating, maintenance and replacement costs which would only be required for one facility. The current Muchea Hall is estimated to require replacement in 2030, with an estimated cost of \$2,000,000, has been described as an embarrassment to the community and has recently been publicly criticised for failing to meet disability standards.

For a major refurbishment of the Mucnea Hall, required to build a gym, the building would need to be brought up to current standards, including disability access and toilet facilities. Investigations would need to be undertaken to determine the cost of this, but it would likely be significant.

The proposed Clubroom and Change rooms has an overall size of 706m² and 326m² of clubroom space. The current Mucnea Hall is around 500m² and the overall multipurpose space is 237m². This indicates that with the correct design, a multipurpose facility could be built that would accommodate current hall activities but not interfere with the size of the new change rooms.

An election promise of \$150,000 has been made, but this is contingent on the result of the election.

OFFICER RECOMMENDATION

That Council:

1. Allocate funding of \$2,707,964 for the construction of a multi-purpose community facility at Mucnea Oval that incorporates Clubroom and Change room facilities.
2. Allocate funding of \$80,500 in the 2021-2022 Annual Financial Budget For the demolition of the Mucnea Hall, with the demolition to be carried out at the completion of the construction of the new facility.
3. Cease aesthetic maintenance of the Mucnea Hall due to the impending construction of the new facility. Maintenance is to be carried out only to ensure the safety of Mucnea Hall Users.
4. Approve a loan of \$1,878,251 for a period of 20 years as per Section 6.20(1)(a) of the *Local Government Act 1995*;
5. Instruct the Chief Executive Officer to commence public advertising of the loan as per Section 6.20(2)(b) of the *Local Government Act 1995*.
6. Instruct the Chief Executive Officer to commence public advertising of the Major Land Transaction Business Plan as per Section 3.59 of the *Local Government Act 1995*.

AMENDMENT

Moved Cr Angus / Seconded Cr Ross

That an item be added: "To incorporate the requested lighting upgrade to the plan as point 7 and to amend point 4 accordingly".

CARRIED 6/0

AND FORMED PART OF THE SUBSTANTIVE MOTION

AMENDMENT

Moved Cr Curtis / Seconded

That an item be added that "The amendment to the Mucnea Complex not be funded through a rates increase".

MOVE TO AMEND LAPSED DUE TO WANT OF A SECONDER

AMENDMENT

Moved Cr Ross / Seconded Cr Angus

That item 6 be amended to read:

“Instruct the Chief Executive Officer to commence public advertising of the Major Land Transaction Business Plan as per Section 3.59 of the *Local Government Act 1995* and ensure that the content of this document aligns with the Council resolution”.

CARRIED 6/0

AND FORMED PART OF THE SUBSTANTIVE MOTION

COUNCIL RESOLUTION 080321

Moved Cr Angus / Seconded Cr Curtis

That Council:

1. Allocate funding of \$2,707,964 for the construction of a multi-purpose community facility at Muechea Oval that incorporates Clubroom and Change room facilities.
2. Allocate funding of \$80,500 in the 2021-2022 Annual Financial Budget For the demolition of the Muechea Hall, with the demolition to be carried out at the completion of the construction of the new facility.
3. Cease aesthetic maintenance of the Muechea Hall due to the impending construction of the new facility. Maintenance is to be carried out only to ensure the safety of Muechea Hall Users.
4. Approve a loan of \$1,998,251 for a period of 20 years as per Section 6.20(1)(a) of the *Local Government Act 1995*;
5. Instruct the Chief Executive Officer to commence public advertising of the loan as per Section 6.20(2)(b) of the *Local Government Act 1995*.
6. Instruct the Chief Executive Officer to commence public advertising of the Major Land Transaction Business Plan as per Section 3.59 of the *Local Government Act 1995* and ensure that the content of this document aligns with the Council resolution.
7. Incorporate the requested lighting upgrade into the plan.

CARRIED 5 / 1

TIME 20.07pm

The Council Decision differed from the Officer Recommendation due to the incorporation of oval lighting upgrade into the project and subsequent increase in loan funds required

CEO03-03/21 Register of Policies: Amendments

File ref	04/03/1
Prepared by	Support Officer Governance
Supervised by	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Register of Policies Timeline2. Environment and Health Policy 10.2 – Bushfire Control3. Environment and Health Policy 10.7 – Multiple Dogs4. Environment and Health Policy 10.4 – Clearing of Land5. Environment and Health Policy 10.8 – Smoke Free Outdoor Areas

Executive Summary

Council is requested to endorse the amendments to the Policy register as per attachments.

Background

At the Ordinary Meeting of Council held on 21 August 2019, Council resolved to “*Requests the Chief Executive Officer to prepare a timeline for the review of Council Policies by the September Ordinary Meeting of Council.*”

Subsequently, at the Ordinary Meeting of Council held on 18 September 2019, Council resolved to “*Receive the timeline to review the Register of Policies*” (**Attachment 1**).

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

Nil

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

Environment and Health Policy 10.2 – Bushfire Control

The Policy has been updated in line with current jurisdictions (**Attachment 2**).

Environment and Health Policy 10.4 – Clearing of Land

The Policy is recommended to be deleted, as the clearing of land falls under the jurisdiction of the Department of Water and Environmental Regulation.

Environment and Health Policy 10.7 – Multiple Dogs

The Policy has been updated in line with Shire of Chittering Dog Local Law 2011. (**Attachment 3**).

Environment and Health Policy 10.8 – Smoke-Free Outdoor Areas

The present Policy is not enforceable, so it is recommended that the policy be deleted.

COUNCIL RESOLUTION 090321

Moved Cr Angus / Seconded Cr Ross

That Council:

- 1. Endorse the following amended policies and ensure that the numbering is updated accordingly:**
 - a. Environment and Health Policy 10.2 – Bushfire Control
 - b. Environment and Health Policy 10.7 – Multiple Dogs
- 2. Delete the following policies and ensure that the numbering is updated accordingly:**
 - a. Environment and Health Policy 10.4 – Clearing of Land
 - b. Environment and Health Policy 10.8 – Smoke-Free Outdoor Areas

CARRIED 6 / 0

TIME 20.08pm

CEO04-03/21 Facility Management Update

Applicant	Shire of Chittering
File ref	05/04/1
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 or relevant details
Voting requirements	Simple Majority
Attachments	1. DRAFT Licence Agreement – South Midlands Polocrosse Club Incorporated

Executive Summary

Council is requested:

1. To note the progress made towards the review of current community group leases for Shire owned and vested management orders of community facilities;
2. Receive the Draft Licence agreement for the South Midlands Polocrosse Club Incorporated and approve its implementation.
3. Note that the draft licence will be utilised as a template for future licence agreements for Community Facilities where multiple users share a facility and do not have exclusive possession of the area they use and occupy.

Background

A review of current lease agreements for Community Organisations utilising Council facilities commenced in June 2020 as an outcome of the Facility Review undertaken by consultant, John Ravlic of Ravim RMC and as a result of Council resolution 170620:

9.4.6 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 170620
Moved Cr Ross / Seconded Cr Angus
That Council note the Service Level Agreement (SLA) Template and Facility Data Sheet Template for lessee and annual user agreements within the Shire of Chittering.

- 1. The implementation of these will occur as an administrative action as part of lease renewals, establishment of new leases or the with the approval from the relevant community group;**
- 2. Will underpin a review of Administration Policy 1.13 Asset Management – Infrastructure Assets; and**
- 3. All Council facility lease proposals to be approved by Council.**

CARRIED 5/2
Cr Hughes, Cr Angus, Cr Gibson, Cr Davis and Cr Curtis voted for
Cr Ross and Cr Osborn voted against
9:09PM

A total of ten lease arrangements are currently in place for the following community groups:

Community Group	Property leased	Assessment No.	Terms of current lease
Bindoon Theatre Group Inc.	Bindoon Hall	Portion of A9508	15/07/2009 – 14/07/2029
Chittering Tourist Association	Bindoon Post Office	Portion of A9508	Refer to OCM resolution 090520 Council tender for lease
South Midlands Polocrosse Club Inc.	Sandown Park	Portion of A10059 (under Management Order)	06/07/2009 – 30/06 2020
Wannamal Community Centre Inc.	Wannamal Community Centre	A10049 (under Management Order)	20/08/2009 – 19/08/2029

CWA Chittering Bindoon Branch	Annexure to Bindoon Town Hall	Portion of A9508	15/05/2012 – 14/05/2032
Bindoon Arts & Crafts Association	Old Road Board Building Residents and Old Depot Sheds	Portion of A1395	01/07/2012 – 30/06/2022
Bindoon Men’s Shed Inc.	Bindoon Men’s Shed	Portion of A1395	01/01/2015 - 31/12/2034
Bindoon Sport & Recreation Association	Chinkabee complex	A9507	25/06/2014 – 30/06/2029
Bindoon & Districts Historical Society Inc.	Bindoon Museum	Portion of A1395	01/07/2010 – 30/06/2030
Bindoon & Districts Agricultural Society	Bindoon Ag Office & Shed	Portion of A9508	Non-current

A priority ranking was attached to each of the above leases and as the South Midlands lease agreement had expired it was deemed that this would be the first lease renewal undertaken.

Civic Legal were engaged in June 2020 to assist with the preparation of appropriate lease documents.

Civic Legal advised that there were a number of options available to the Shire to formalise current facility arrangements as outlined below:

Option 1: Head Lease (whole of reserve) + Subleases / Licences

In keeping with the previous arrangement, the Shire can enter into a new lease agreement with the Club which grants the Club **exclusive possession** of the **whole** of the reserve.

The Club can then enter into a sublease / licence agreement with other users and the South Midlands Pony Club which gives these other occupants the right to use certain parts of the reserve.

If they are to have exclusive use of their respective parts then a sublease will be appropriate. If they are to have shared use (i.e. non-exclusive possession) of their respective parts either with the Club or another tenant then a licence would be more appropriate.

This option may not be workable if either the Shire or the Club would prefer that the Muchea Bush Fire Brigade and/or the South Midlands Pony Club have a lease / licence agreement directly with the Shire as opposed to an arrangement with the Club. In that case, it is worth considering the other three options outlined below.

Option 2: Head Lease (part of reserve) + Licences

The Shire can enter into a new lease agreement with the Club which grants the Club **exclusive possession** of only **part** of the reserve.

The Shire may grant licences to the Muchea Bush Fire Brigade and the South Midlands Pony Club to use and occupy other parts of the reserve.

Option 3: Three Leases

If the Club, the Muchea Bush Fire Brigade and the South Midlands Pony Club are each using and occupying a **separate** identifiable portion of the reserve and they each have **exclusive possession** of their own identifiable portion, the Shire may wish to consider entering into a new lease agreement with each tenant.

Each lease agreement would need to attach a sketch plan which:

- (a) identifies the portion of land that is used by that tenant;
- (b) identifies any common areas that would be shared by the tenants (e.g. access ways, toilets); and
- (c) meets the current requirements of Landgate.

This option will not be workable if the Club, the Muchea Bush Fire Brigade and the South Midlands Pony Club have shared use of the land (with each other and/or the Shire) rather than each one having exclusive possession of a separate identifiable portion. It might also be more in keeping with the Shire's current policies regarding the management of community facilities (or at least the Shire's objectives) to grant licences to these community groups rather than leases. In either case, it may be better to proceed with the fourth option outlined below.

Option 4: Three Licences

The Shire may decide instead that it will only grant a licence to the Club, the Muchea Bush Fire Brigade and the South Midlands Pony Club either because:

- (a) they are sharing the areas of the reserve and none of them has exclusive possession of the area they use and occupy; and/or
- (b) it is more consistent with the Shire's current policies regarding the management of community facilities (or if not the current policies, then the Shire's current objectives) to grant licences to these community groups rather than leases.

I have read the draft policy document that you provided. You stated that this document has not been adopted by Council, but that it outlines the Shire's intent with regard to facility use. The section headed "Leasing and Licensing" on page 5 contains the following statements:

- *Community groups/clubs will only be granted leases for exclusive use of Council's community facility after undertaking community consultation in accordance with the respective Local Government Act provisions.*
- *Leases will only be considered in exceptional circumstances that could include the following situations –*
 - *The proposed use of the facility has the potential to provide the best value to the community;*
 - *The lease will return a market rental to the Council;*
 - *The lessee will significantly upgrade the facility at their expense where it would otherwise remain in the same condition; community consultation has been undertaken; and*
 - *The lease is awarded through a contestable process.*

If the intent is that all of the above criteria must be met in order to grant a lease, the Shire may decide to grant licences to the existing occupants rather than leases if all of the criteria will not be met. This is a matter for the Shire to decide.

1. All dealings (e.g. leases and licences) over Crown land require an approval in writing from the Minister for Lands (s. 18 *Land Administration Act 1997*).
2. All dealings over Crown Land must also be registered on the Crown land title in order to become effective (s. 19 *Land Administration Act 1997*). Therefore the Shire will need to prepare any documents in registerable form and include sketch plans that meet the requirements of Landgate.

Based on this advice it was deemed appropriate that a licence agreement be entered into with South Midlands Polocrosse Club.

Civic Legal have consulted with the Shire CEO, Community Development Coordinator and the Coordinator Regulatory and Legal Services for the development of this licence agreement.

Part three of Council Resolution 100719 has been observed in the preparation of this licence with particular attention given to the Service Level Agreement requirements and; the licence has been set for a five year term.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100719

Moved Cr Osborn / Seconded Cr Gibson

Council is requested to:

1. accept the *Management of Community Facilities Review Report* and *Case Studies Report* prepared by John Ravlic of Ravim RMC;
2. receive for further Council workshopping the following frameworks and related templates:
 - a. Management of Community Facilities Policy and Corporate Framework - Draft Policy;
 - b. Management of Community Facilities Policy and Corporate Framework - Draft Corporate Framework;
 - c. Service Level Agreement (SLA) Template; and
 - d. Facility Data Sheet; and
3. support the progression of the following recommendations:
 - a. provide its facility managers with sufficient guidance on operating its community facilities and delivering various services and programs;
 - b. establish sufficient controls, such as regular reporting, to monitor facility managers' performance and compliance;
 - c. adopt an open and transparent approach to its dealings with facility managers, where their agreements, financial transactions and ongoing returns are on the public record and accessible by all;
 - d. calculate and compare the value of its forgone rental income and the value of the community benefit created by facility managers and the various services and programs they deliver;
 - e. adopt service level agreements with facility managers as part of its policy and corporate framework;
 - f. adopt tighter conditions around the use of leases for exclusive occupancy as part of its corporate framework;
 - g. review lease terms back to five years; and
 - h. continue to gather costing/financial data and review the employee charge/oncost.

CARRIED 7/0
8:19PM

Consultation/Communication Implications

Local

South Midlands Polocrosse Club- liaison with Shire CEO, CESM, CDO re co-location of Muchea Fire Station on the Crown Reserve.

State

Nil

Legislative Implications

State

- Land Administration Act 1997

Local

- Local Planning Scheme No.6.

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

Strategy: S1.1.2 Develop and enhance existing recreation and social facilities for local communities;

Objective: S1.2 Strong sense of community

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

S1.2.3 Activate our local centres and towns

Focus area: Our built environment

Objective: S3.1 Development of local hubs

Strategy: S3.1.1 Plan for new and enhanced community facilities and;

Objective: S3.3 Improved infrastructure and amenities

Strategy: S3.3.1 Improved asset management across all asset classes

Focus area: Strong leadership

Objective: S5.1 An engaged community

Strategy: S5.1.1 Encouraged and promote community engagement and;

Objective S5.2 Strong partnerships and relationships

Strategy: S5.2.1 Encouraged and promote community engagement

- Shire of Chittering Community Development Plan 2014 – 2024

Our communities have expressed a desire to have a sustainable built environment that continues to meet its needs and reflects our lifestyles and values.

- Shire of Chittering Youth Strategy 2015-2018

Priority Area 2: Things to do and places to go

State

- Active Living for All 2017–2019 Department of Local Government, Sport and Cultural Industries

Key Priority 2. Providing appropriate environments and programs (active places and active people)

Key Priority 4. Promoting partnerships

Site Inspection

Not applicable.

Triple Bottom Line Assessment

Economic implications

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

Social implications

As has been previously noted by Council, community facilities within the Shire of Chittering provide an avenue for local people to come together for social interaction, civic engagement and volunteering for the benefit of the broader community.

As reported at the Ordinary Council Meeting, 12 December 2018 there is a strong sense of community ownership and pride in many of the existing facilities within the Shire of Chittering. Most of these facilities have been built through the determination and hard work of community volunteers who have continued to maintain and grow these facilities through the investment of thousands of hours of club volunteer time.

Environmental implications

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

Officer Comment/Details

The engagement of Civic Legal in the preparation of the licence was deemed necessary as the current lease templates utilised by the Shire are several years old and did not align with the outcomes of the Facility Management Review.

It is the intention of Shire officers, that the final document presented to the South Midlands Polocrosse Club will be utilised as a template for the drafting of new license agreements for the remaining Community Facility Lease holders who share use of a community facility, outlined in the table above.

Council are requested to note for budget considerations each year, the need to determine the Annual User Fee of each Licence Agreement established for community facilities, as specified in item 5 of the Schedule and payable pursuant to clause 3 of the Licence.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100321

Moved Cr Ross / Seconded Cr Angus

Council is requested:

- 1. To note the progress made towards the review of current community group leases for Shire owned or vested management orders of community facilities;**
- 2. Receive the Draft Licence agreement for the South Midlands Polocrosse Club Incorporated and approve its implementation.**
- 3. Note that the draft licence will be utilised as a template for future licence agreements for Community Facilities where there are multiple users sharing a facility and who do not have exclusive possession of the area they use and occupy.**
- 4. Note for budget considerations each year, the need to determine the Annual User Fee of each Licence Agreement established for community facilities, as specified in item 5 of the Schedule and payable pursuant to clause 3 of the Licence.**

CARRIED 6/0

20.09 PM

CEO05-03/21 Amendment Act Reforms

Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Support Officer Governance
Supervised by	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	1. Complaint about Alleged Breach Form – Code of Conduct for Council members, Committee Members and Candidates”

Executive Summary

Council is requested:-

- to authorise at least one person to receive complaints regarding members and candidates; and
- adopt the “Complaint About Alleged Breach Form – Code of conduct for council members, committee members and candidates” form (**Attachment 1**).

Background

A review of the Local Government Act 1995 (Act), including consultation with community and sector stakeholders, led to the implementation of priority reforms under the Local Government Amendment Act 2019 (Amendment Act).

The Amendment Act was developed in response to stakeholder feedback that there was a need for governance reforms, including a Code of Conduct for council members, committee members and candidates that clearly reflects community expectations of behaviour and supports consistency between local governments in relation to the overall process for managing alleged breaches of that Code.

As a result, key reforms under the Amendment Act include the introduction of a Model Code of Conduct (Model Code) that must be adopted by local governments and applied to council members, committee members and candidates; as well as a separate Code of Conduct for Employees.

Section 5.104 of the Act requires that local governments adopt the Model Code as their Code of Conduct within three months of the Regulations coming into operation (by 3 May 2021); and the operational requirements of Division 3 require local governments to take certain initial actions within three weeks (by 24 February 2021).

To account for any breaches occurring on the first day that the Regulations take effect, local governments must authorise at least one person within three weeks of the Regulations taking effect (by 24 February 2021) and determine a specific template for complaints (**Attachment 1**).

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

Local Government Act 1995 (Act)
Local Government Amendment Act 2019 (Amendment Act).
Model Code of Conduct Regulations 2021

Local

Nil

Policy Implications

State

Nil

Local

4.1 – Code of Conduct – Elected Members

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

Section 5.104 of the Act requires that local governments adopt the Model Code as their Code of Conduct within three months of the Regulations coming into operation (by 3 May 2021); and the operational requirements of Division 3 require local governments to authorise at least one person and determine a specific template for complaints within three weeks (by 24 February 2021).

If the CEO is deemed to be authorised as a person to receive complaints, it will need to be done through a delegation (from Council to the CEO).

Accordingly, the President and the Deputy President would be the obvious people to nominate. In the event that either, or both, of these were involved in the complaint an external consultant could be a consideration.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110321

Moved Cr Angus / Seconded Cr Ross

That Council:

- 1. Authorise, as “Complaints Officers” to receive complaints regarding members and candidates -
 - a) President**
 - b) Deputy President****
- 2. Adopt the “Complaint About Alleged Breach Form – Code of conduct for council members, committee members and candidates” form as per Attachment 1.**

CARRIED 6 / 0
TIME 20.11pm

CEO06-03/21 Compliance Audit Return 2020

File ref 04/02/0002
Prepared by Support Officer Governance
Supervised by 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. Compliance Audit Return 2020

Executive Summary

Council is requested to adopt the Compliance Audit Return for 2020, which was presented to the Audit Committee on 17 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.

Consultation/Communication Implications

Local

Nil

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

4.1 – Code of Conduct – Elected Members

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 2020 calendar year has been completed by the Support Officer Governance.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120321

Moved Cr Ross/ Seconded Cr Hughes

That Council adopts the Local Government Compliance Audit Return for the period 1 January 2020 to 31 December 2020.

CARRIED 6 / 0

TIME 20.13pm

ITEM 10. REPORTS OF COMMITTEES

Nil

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

Nil

ITEM 12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

ITEM 14. MEETING CLOSED TO THE PUBLIC

Matters for which the meeting may be closed

Nil

Public reading of resolution that may be made public

Nil

ITEM 15. CLOSURE

Cr Hughes declared the meeting closed at 8:15PM