

**MINUTES FOR  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY, 21 NOVEMBER 2012**

**Council Chambers  
6177 Great Northern Highway  
Bindoon**

**Commencement: 7.00 pm  
Closure: 7.58 pm**

**These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 19 December 2012.**

**SIGNED BY**

\_\_\_\_\_  
Person presiding at meeting which minutes were confirmed

**DATE**

\_\_\_\_\_

**Disclaimer**

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

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

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

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

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## **1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS**

The presiding member declared the meeting open at 7.00pm

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

### **2.1 Attendance**

The following members were in attendance:

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

The following staff were in attendance:

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

There were 10 members of the general public in attendance

### **2.2 Apologies**

Jean Sutherland	Executive Manager Corporate Services
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### **2.3 Approved leave of absence**

Nil

## **3. DISCLOSURE OF INTEREST**

Nil

#### 4. PUBLIC QUESTION TIME

##### 4.1 Response to previous public questions taken on notice

Nil

##### 4.2 Public question time

###### 4.1.1 Lot 2929 Brand Highway, Muchea

*Steve Vallance, Archibald Street, Muchea*

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

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

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

The preliminary Environmental Management Plan for this proposal is superficial, almost childish and gives cause for great concern. It acknowledges there will be a problem with visual amenity (3000m<sup>2</sup> plus shed, no mention of the height) and the only solution it offers is to plant a few trees.

Question: Do you think the operation can be hidden by a few trees and how long would it take to get them big enough to have any effect at all?

It also acknowledges there will be a noise problem (heavy haulage trucks dumping rock, others loading it, bagging operations) and again the only proposed solution is to plant a few trees.

Question: How big a forest would have to be planted to stop the noise of this sort of industry?

It dismisses dust by saying there won't be any because the rock is screened. Anyone who has had load of screened metal or gravel rock delivered knows there is a large amount of dust. The hard stand areas are limestone and with big trucks on it that will create dust problems too.

Question: Will the proponents be told to come up with a dust management plan?

It dismisses the property to the west as just another farm. It is in fact one of WAs largest organic vegetable farms and also has organic a Dexter beef herd. It has been run on this site for many years by a local family. It is certified organic and supplies many of the top end restaurants in Perth in a sustainable and environmentally friendly manner. The cavalier fashion in which the proponents went ahead and sprayed an enormous area adjoining their neighbour gives for great concern and has in fact already threatened their accreditation.

Question: Is the Council aware of the case of Kojonup organic farmer Steve Marsh, currently before the courts as his neighbours activities cause the loss of his organic status?

Question: Will the Shire take this potential problem and their potential involvement and liability into consideration when considering this proposal?

DEC has a system 6 classifications on the property and some people bought adjacent land taking this fact into account. The environmental study says it will seek to remove this management policy. Of course it will, it was paid for by the proponent.

Question: Will the Shire protect our environment and oppose such an attempt?

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

There are many reasons to object to this opportunistic attempt to bring industry to the Muchea townsite.

It will cause extra vehicle movements on already overloaded roads. Are councillors aware that there has been a large subdivision to the west of the Muchea townsite in recent years with a huge increase in traffic as there are still only two roads in and out of the town as there were before the subdivision and this proposal wants to access the site for some vehicles from one of these two roads?

It is bad planning, it is adhoc, it will greatly constrain future growth of the townsite. There is orderly planning that puts industrial development in a particular area.

Question: Will the Shire stick to its plans and protect its ratepayers.

*The Shire President advised that these questions will be taken on notice and responded to by the appropriate Shire officer.*

## 5. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Ordinary meeting of Council – Wednesday, 17 October 2012**

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 011112**

Moved Cr Mackie / seconded Cr Gibson

That the minutes of the Ordinary meeting of Council held on Wednesday, 17 October 2012 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

**7. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION**

Nil

**8. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

## 9. OFFICER'S REPORT

### 9.1 DEVELOPMENT SERVICES

#### 9.1.1 Lot 3 and 4 Maddern Road, Chittering – Deed of Covenant for POS and Grant of Easement documents\*

<b>Applicant</b>	G Cugley
<b>File ref</b>	18/03/16; 04/10/20
<b>Prepared by</b>	Brendan Jeans, Senior Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Locality plan</li><li>2. Deed of Covenant</li><li>3. Grant of Easement</li><li>4. Development Plan</li><li>5. Deposited Plan</li></ol>

#### **Background**

Council's consideration is requested for the authorisation of the signing and affixing the Common Seal to the *Deed of Covenant* for the Public Open Space (POS) and *Grant of Easement* for the Fire Access Easement for the subdivision of Lots 3 and 4 Maddern Road, Chittering.

The Applicant has submitted the *Deed of Covenant* for the ceding of POS land to satisfy condition 10 of the subdivision approval granted by the Western Australian Planning Commission on 6 October 2009.

The Deposited Plan has been recently amended to include the easement for access for fire management purposes. The easement is required to satisfy the *Planning for Bush Fire Protection Guidelines 2010 Edition* 2 requirements for the stage of subdivision.

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

#### **Consultation**

Not applicable

#### **Statutory Environment**

*Land Administration Act 1997*

*Local Government Act 1995, section 9.49A 'Use of Common Seal'*

#### **Policy Implications**

*Execution of documents*

#### **Financial Implications**

Nil



### Strategic Implications

Nil

### Site Inspection

Not applicable

### Triple Bottom Line Assessment

#### Economic implications

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

#### Social implications

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

#### Environmental implications

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

### Comment

As mentioned in the Background section of this report, the subject documents require authorisation from Council for signing and affixing the Common Seal. Should Council support the Officer's Recommendation to authorise these documents, the documents can be executed and registered on the property subject to Deposited Plan 67898 and allow for clearance of subdivision to occur.

As this is a formality, it is recommended that Council supports the authorisation of the Chief Executive Officer and the Shire President to affix the Common Seal as a requirement of the subdivision clearance.

### OFFICER RECOMMENDATION – COUNCIL RESOLUTION 021112

Moved Cr Gibson / seconded Cr Clarke

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal on the following:

1. ***Deed of Covenant*** for ceding of the Public Open Space land for Lots 3 and 4 Maddern Road, Chittering.
2. ***Grant of Easement*** under Section 195 of the *Land Administration Act 1997* (as amended) relating to the provision of an access easement for the purposes of fire management on Deposited Plan 67898.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

On 19 November 2012 the Shire received an email from Steve Pandevski at Urban and Rural Perspectives requesting that this item be withdrawn from the Agenda.

### 9.1.2 Lot 9501 Windemere Way, Bindoon – Parkwood Springs Estate – Proposed Water Bore for Domestic Purposes\*

<b>Applicant</b>	Urban and Rural Perspectives
<b>File ref</b>	A11286; 18/07/0024; 18/03/0032
<b>Prepared by</b>	Scott Penfold, Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Locality Plan 2. Applicant Submission 3. Schedule of Submissions

#### Background

An Application for Planning Approval has been lodged for the installation of a proposed water bore for domestic water use. The proposed water bore is located on proposed Lot 48 Windemere Way, Bindoon. This lot is yet to be formally created with Certificates of Title having not been issued and forms part of the 'balance' or 'project lot' for Parkwood Springs Estate, being Lot 9501 Windemere Way, Bindoon.

The proposed water bore is for domestic purposes only. It has not been proposed for the bore to be used for water supplies during the construction of the estate and other uses outside of the definition of domestic use.

#### Consultation

The application was referred to the Department of Water and Chittering Landcare Centre for comments.

Public consultation was not undertaken for the proposed water bore.

The Schedule of Submissions is included as attachment 3.

#### Statutory Environment

*Planning and Development Act 2005*

#### Rights in Water and Irrigation (Exemption) Order 2010

During the preparation of this item, the Department of Water was contacted regarding additional information for the approval of domestic water bores. The proposed water bore may be exempt from approval, subject to meeting the below criteria:

*"Under the Rights in Water and Irrigation Exemption (Section 26C) Order 2010 licensing (5C and 26B(3) to (6)) of construction of the well and the water drawn from the **water table** aquifer is not required for the following uses, where these are the sole uses of water drawn from a well.*

#### **4. Exemptions from sections 5C and 26B(3) to (6) – other areas**

- (1) *Section 5C and 26B(3) to (6) do not apply in relation to a non-artesian well situated, or to be situated, in a proclaimed area, or part of a proclaimed area, specified in Schedule 2 if –*
  - (a) *the only water that can be taken from the well is from the water table aquifer; and*
  - (b) *water taken from the well is used only for any, or all, of the following –*

- (i) *fire fighting;*
  - (ii) *watering cattle or other stock, other than those being raised under the intensive conditions as defined in the Act section 21(4);*
  - (iii) *watering an area of lawn or garden that does not exceed 0.2 hectare, subject to subclauses (2) and (3);*
  - (iv) *other ordinary domestic purposes.*
- (2) *A lawn or garden is not to be watered by use of a sprinkler at any time during the hours of 9am to 6pm.*

*Subclause (2) does not apply in retrospect of a lawn for a period of 28 days from when the lawn was planted."*

Based on further assessment, it is considered that the above criteria has been satisfactory as the water usage is for domestic purposes only.

#### Shire of Chittering Town Planning Scheme No 6

The zoning of the land is currently 'Rural Residential'. The objectives of the 'Rural Residential' zone are:

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

#### Parkwood Springs Estate Development Plan

The approved Development Plan for Lot 19 Tea Tree Road, Bindoon is applicable to the Parkwood Springs Estate. It has the following provision relating to water bores:

**"10. Bores, Dams and Water Courses:** *The sinking of bores, construction of dams and the extraction of surface water is not permitted without the approval of the Council and relevant State Government Department."*

On this basis it is a requirement for the Applicant to make a formal planning application for Council's consideration.

#### **Policy Implications**

##### Shire of Chittering Local Planning Policy No 6 – Water Supply and Drainage

Section 5.2 Application Requirements (d) states that details to be provided with a bore or well application are:

- i. *Any existing bores and wells within 100m, with size and depth, where known;*
- ii. *Size and structure of the bore, in the case of an exploratory bore;*
- iii. *The purpose of the bore and area to be serve, in the case of a production bore; and*
- iv. *Associated bores or wells to be sunk concurrently or sequentially.*

Section 5.4 General Requirements (d) states the following conditions are to apply to water supply and drainage works, specifically relating to bores:

- i. *Are to be located as required by LPP No.18 – Setbacks.*

Section 5.5 Specific Requirements (c) states the follow conditions apply to specific water supply and drainage works:

- i. *In reserves private bores, wells and associated pipelines are not permitted; and*

- ii. *In Rural Zones where a planning approval is required there is to be a s.70A notification on title and submission of details to the Council, as per Schedule 2.*

The *Parkwood Springs Estate Development Plan* has building envelopes allocated for each of the respective lots. It is reasonable to assume that *Local Planning Policy No 6* requires that water bores are located within the building envelope, as these designate the setbacks of development on each lot from its respective boundaries.

#### **Financial Implications**

Nil

#### **Strategic Implications**

##### *Shire of Chittering Local Planning Strategy 2001-2015*

The subject lots have been identified in the Local Planning Strategy as "Rural Residential" with a Priority Development Area designation. This application is consistent with the intent of the Local Planning Strategy.

#### **Site Inspection**

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*

As outlined by Chittering Landcare Centre, the use of domestic bores can cause drawdown from the local aquifer, causing flow on effects for local wetlands and the like.

#### **Comment**

The requirement for the approval of the proposed water bore for domestic use is required by the Development Plan applicable to Parkwood Springs Estate. Water bores for domestic use may be excluded from approval under the *Rights in Water and Irrigation (Exemption) Order 2010*, provided they meet certain criteria.

Although the proposed water bore may be exempt from approval by the Department of Water, the Development Plan gives Council the opportunity to consider whether a bore would be appropriate in this circumstance, given the details submitted with the Application for Planning Approval. In assessing this application, consideration needs to be given to the flow on impacts on the development of the Parkwood Springs Estate:

- i) The application has been made prior to the lot being formally subdivided and a Certificate of Title being issued for proposed Lot 48. The approval would therefore be for a domestic bore on Lot 9501, which is a 'project' lot for further subdivision and development. Should Council choose to issue approval for a water bore, it may result in additional applications for other 'proposed' lots in Parkwood Springs Estate;
- ii) The proposed bore is located within the 50m Development Exclusion Zone on the Development Plan. The intent is to ensure the creek line is sufficiently protected from development; and

- iii) Allowing development within the Development Exclusion Zone sets a precedent for future development in this area and for other lots in the Parkwood Springs Estate to have water bores in the Development Exclusion Zone.

The officer is of the view that the proposal is not considered appropriate given the above considerations.

It is recommended that Council refuse to issue its Planning Approval for the proposed water bore based on the following grounds:

- i) The bore is located outside of the designated building envelope and within the 50m Development Exclusion Zone of the creek line for the property;
- ii) The proposed lot on which the bore will be installed is yet to be formally created, with Certificates of Title not being issued. The application for a bore is pre-emptive and may not necessarily reflect the intent of future landowners of the property, who may not wish to use a bore and may only require water supply from rainwater.

There is no valid reason as to the specific location of the bore for domestic purposes.

**OFFICER RECOMMENDATION**

That Council refuse to issue planning approval for the proposed bore at Lot 9501 Windemere Way, Bindoon on the following grounds:

- a) The proposed water bore is for a proposed lot, which is yet to be formally subdivided and no Certificates of Titles have yet been issued;
- b) The proposed water bore is located within the 50m Development Exclusion Zone of the Parkwood Springs Estate Development Plan;
- c) There is no valid reason as to the specific location of the bore for domestic purposes;
- d) The subject lot falls within the new water scheme license area;
- e) The approval of this application may result in a proliferation of future bore on the subject estate which council adversely affect the draw down to the underground water table.

Advice notes:

- 1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
- 2. Council is supportive of bores for domestic purposes on rural residential properties. However, these should be appropriately located outside of Development Exclusion Zones and take into account all site constraints.

On 19 November 2012 the Shire received an email from Steve Pandevski at Urban and Rural Perspectives requesting that this item be withdrawn from the Agenda.

### 9.1.3 Lot 19 Tea Tree Road, Bindoon – Parkwood Springs Estate – Revised Development Plan\*

<b>Applicant</b>	Urban and Rural Perspectives
<b>File ref</b>	A1429; 18/07/0024; 18/03/0032
<b>Prepared by</b>	Scott Penfold, Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Locality Plan</li><li>2. Applicant Submission</li><li>3. Current Development Plan</li><li>4. Revised Development Plan</li><li>5. Lot 20 Gray Road, Bindoon Development Plan (Rawson Springs)</li></ol>

#### Background

An application has been lodged for the revision of the *Parkwood Springs Estate Development Plan* relating to Lot 19 Tea Tree Road, Bindoon. The purpose of the revision is to:

- 1) Remove the northern road connection to Lot 20 (RN 541) Gray Road, Bindoon;
- 2) Move the Community Fire Fighting Water Source three lots to the north on the western north-south road; and
- 3) Realign the western north-south access road intersecting with Tea Tree Road.

The Applicant has justified this based on the following:

- a) Remove the northern road connection:
  - This connection is no longer required as the development to the north on Lot 20 (RN 541) Gray Road does not provide a connecting access road on the approved Development Plan. Lot 20 is proposed to be subdivided and developed on the principles of conservation subdivision; hence cluster lots are concentrated close to Gray Road, with the remainder of the property to be secured within one large conservation lot.
- b) Move the Community Fire Fighting Water Source:
  - The movement of the Community Fire Fighting Water Source is to provide improved access to groundwater and secure a better land fall, hence resulting in an increased flow rate for a standpipe.
- c) Realign the intersection on Tea Tree Road:
  - The purpose of moving this road approximately 30m to the west is to ensure an existing soak and water course have a greater separation distance to the road. It is noted by the Applicant that although the intersection is located closer to the corner of Tea Tree Road, there is still a sufficient road distance to comply with relevant road safety standards. The realignment of this road will not result in the lot sizes reducing below 4ha in area, as per the requirement of the Development Plan.

Council resolved to adopt the current Development Plan at its Ordinary Council meeting dated 18 July 2007.

### Consultation

Public consultation was not undertaken for the revised Development Plan. Given there is no change in the proposed lot yield, deviations from the minimum lot size of 4ha and minimal impacts on surrounding development, it was not deemed to merit public consultation in this instance.

The proposal was referred internally to the Technical Services Department (TSD) and the Community Emergency Services Manager (CESM) for comments. The following points were raised:

- Removal of northern road connection:
  - Given there is no adjacent road connection to be provided on Lot 20 (RN 541) Gray Road, Bindoon, the road is not needed for connection. Sufficient through routes have been provided with the development plan for connectivity with surrounding development. If the road is kept, it will result in additional ongoing maintenance responsibilities for the Shire of Chittering (TSD); and
  - The Fire Management Plan will require modification prior to the subdivision of the land (CESM).
- Movement of the Community Fire Fighting Water Source:
  - The Fire Management Plan will require modification prior to the subdivision of the land (CESM); and
  - The movement of the water source to the north will ensure better coverage and response times within Parkwood Spring Estate (CESM).
- Realignment of intersection on Tea Tree Road:
  - The movement of the road intersection provides greater separation of intersections on Tea Tree Road, particularly the proposed western access of Lot 4 Tea Tree Road, Bindoon, should development eventuate on this lot. There is sufficient separation distance to the corner of Tea Tree Road (TSD); and
  - The Fire Management Plan will require modification prior to the subdivision of the land (CESM).

### Statutory Environment

*Planning and Development Act 2005*

#### Shire of Chittering Town Planning Scheme No 6

The zoning of the land is currently 'Rural Residential'. The objectives of the Rural Residential land are:

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

#### *5.8 - Development Provisions – Rural Residential Zone, Rural Retreat Zone, Rural Smallholdings Zone and Rural Conservation zone*

*"Subdivision and development of rural land for rural residential, rural retreat small rural holding or rural conservation purposes will require an amendment to the town planning scheme."*

##### *5.8.1 - Requirement for a Development Plan*

*"Subdivision shall be generally in accordance with a Outline Development Plan prepared in accordance with Council policy or any subsequent variation approved by the Council and the Western Australian Planning Commission."*



*An application for subdivision of land in these zones is to be accompanied by a Outline Development Plan prepared in accordance with Council Policy which indicates and addresses the following but is not limited to:*

- (a) Lot sizes, dimensions and identification of building envelopes or building exclusion areas;*
- (b) Areas to be set aside for public open space, pedestrian access ways, horse trails, community facilities, etc, as may be considered appropriate;*
- (c) Strategic firebreaks;*
- (d) Any Catchment Management Plan recommendations;*
- (e) Any part of the natural environment which is required to be protected from degradation or required for landscape protection;*
- (f) An assessment of the presence and impacts of Dieback in consultation with Council and the appropriate State government environmental agency and the ability of the subdivision design and works to mitigate against the spread and effect of Dieback;*
- (g) Any facilities which the purchasers of the lots will be required to provide (e.g. their own potable water supply, liquid or solid waste disposal, etc);*
- (h) Areas where conventional septic tanks may not be suitable;*
- (i) The description of adjoining land(s) and their uses;*
- (j) Remnant vegetation and any land affected by rare and endangered flora and fauna;*
- (k) Location of watercourses, drainage lines and areas of inundation and the distance of any infrastructure from these.*
- (l) Identify any area/s that need to comply with an approved Environmental Management Plan"*

#### **Policy Implications**

##### Local Planning Policy No 32 – Development Plans

###### *"5.4 Approval*

- a) A Development Plan is to be forwarded to relevant servicing authorities for comment and is to be publicly advertised where it affects land in more than one ownership or where required by the Local Government;*
- b) Following assessment of any submissions, the Plan is to be endorsed by both the Council and the Western Australian Planning Commission;*
- c) Following endorsements, the Plan is to be adopted by the Council, signed and sealed as follows:"*

#### **Financial Implications**

The removal of the proposed road will reduce the ongoing maintenance costs of the Shire of Chittering.

#### **Strategic Implications**

##### Shire of Chittering Local Planning Strategy 2001-2015

The subject lots have been identified in the Local Planning Strategy as "Rural Residential" with a Priority Development Area designation. This revision is consistent with the intent of the Local Planning Strategy.

#### **Site Inspection**

No

#### **Triple Bottom Line Assessment**

##### Economic implications

The removal of the road connection will result in a reduced road maintenance burden.

##### Social implications

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



Environmental implications

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

**Comment**

All of the proposed modifications to the Development Plan are justified and logical, based on the comments received from the Community Emergency Services Manager and the Technical Services Department.

Two inconsistencies between the approved and revised Development Plan have been sited, being the:

- 1) Modification of Provision 2, which states the minimum lot size to be two (2) hectares, whereas the approved Development Plan states a minimum lot size of four (4) hectares shall be applicable; and
- 2) Omission of Provision 18, which secures an easement benefit to the local government on either side of the proposed creek line for maintenance and access to vegetation.

It is recommended the above inconsistencies are modified prior to the plans being executed by the Chief Executive Officer and Shire President, should Council choose to approve the revised Development Plan.

It is recommended that an up to date and approved Fire Management Plan for the estate be submitted to Council prior to further land being subdivided and developed in accordance with the revised Development Plan. This was recommended by the Community Emergency Services Manager.

It is recommended that Council approve the revised Development Plan, subject to modifications being undertaken prior to the execution of the plan.

**OFFICER RECOMMENDATION**

1. That Council advises the Applicant that it supports the Revised Development Plan of Lot 19 Tea Tree Road, Bindoon, subject to the following conditions:
  - a) The Applicant to modify the Revised Development Plan by modifying the following Land Management Condition:

*"2. Development Requirements and Lot Sizes: In considering development and subdivision of the land, the requirements of the Shire of Chittering Town Planning Scheme No.6 for the "Rural Residential" zone apply. The minimum lot size is 4 hectares as recommended by the Shire of Chittering Local Planning Strategy."*
  - b) The Applicant to modify the revised Development Plan to insert the following Land Management Condition:

*"18. Easements: The 30m revegetation corridor on either side of the water course and determined during survey at subdivision stage to be included in an easement in favour of the Local Government for management purposes."*
2. That Council authorises the President and the Chief Executive Officer to execute three (3) copies of the Revised Development Plan and affix the Common Seal.
3. That the approved Revised Development Plan be forwarded to the Western Australian Planning Commission for its endorsement.
4. That the previous Development Plan is superseded.
5. That Council advises the Applicant that it will not be supportive of the subdivision of the land prior to the Fire Management Plan being modified and approved by the Shire of Chittering.

**9.1.4 Lot 6 (RN 285) Gray Road, Bindoon – proposed horses\***

<b>Applicant</b>	A Fleming
<b>File ref</b>	A2194; P165/12
<b>Prepared by</b>	Scott Penfold, Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Locality Plan</li><li>2. Property Management Plan and Site Plan</li><li>3. Site Photographs</li><li>4. Property Management Plan from Chittering Landcare</li></ol>

**Background**

An application was received for up to twelve (12) horses to be kept on Lot 6 (RN 285) Gray Road, Bindoon. Once advised that this was a significant variation to *Local Planning Policy No 24 – Stocking Rates and Keeping of Animals*, the Applicant revised the number of horses to be kept on the property down to six (6).

The details of the application are as follows:

- It is proposed to keep six (6) horses on the property;
- The Property Management Plan specifies that paddock rotation occurs and suitable grasses have been developed on the property to ensure that summer padding and erosion is not an issue;
- All paddocks are serviced by a bore water source;
- Internal fencing has been erected to ensure that horses do not occupy land directly adjacent to neighbouring properties;
- Manure is collected and incorporated with soil to naturally decompose. Storage is away from runoff to ensure nutrient loadings in the creek line are not detrimental by the keeping of horses on the property;
- Temporary keeping of extra horses on the property may be required due to breeding with the stallion, as well as directed by a vet;
- A sketch has been provided detailing the areas to be used for the keeping of horses, with the total area measuring approximately 2.2ha, with the property being 3.7ha in area; and
- Paddocks are rotated to prevent erosion, with the property being used in conjunction with 'Morden Downs' on Flat Rocks Road, Bindoon.

A Property Management Plan was also compiled by Chittering Landcare to support the application for the keeping of a **maximum** of four (4) horses on the property. A summary of the Property Management Plan is outlined in the consultation section below.

**Consultation**

The application was referred to Chittering Landcare only, who provided advice and an alternative Property Management Plan for the keeping of up to four (4) horses on the property:

- The pastures need to be replaced with perennial varieties. The current pastures are annual, which are depleted during summer months, leading to dust and erosion issues;
- Supplementary feeding needs to be undertaken at morning and night to prevent overgrazing;
- Fences should be constructed along the contour of the land, to prevent erosion resulting from padding;
- There should be paddock rotation to prevent bare paddocks developing;

- Proper hygiene should be used when collecting and storing/disposing of manures. Manures should be stored in a location not prone to run-off to prevent pollution of the neighbouring creek;
- During foaling on the property, a foal with mare should be considered as a single horse. Excess horses should be removed as soon as possible to alternative accommodation; and
- Horses should be removed from paddocks that become bare and blow dust. As perennial pastures will require a winter season to become established, the owner should take particular care during the upcoming summer months to ensure dust and erosion do not become significant issues on the property.

Council is advised that complaints have been previously received regarding the overstocking of horses on the property.

### **Statutory Environment**

#### *Shire of Chittering Town Planning Scheme No 6*

This application for Planning Approval is required to be assessed under *Local Planning Policy No 24 – Stocking Rates and Keeping of Animals*. The relationship of Local Planning Policies to the Scheme is outlined in Part 2, more specifically in clause 2.3.2, which states that:

*“A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for Planning Approval but the Local Government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination.”*

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

The land use of the property can be identified in two ways within the Scheme, which are ‘Animal Establishment’ or ‘Stable’, which are defined as follows:

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

*“Stable – means any land or buildings used for the stabling, agistment and training of horses, ponies, asses and mules and associated incidental land uses”*

An ‘Animal Establishment’ is identified as an ‘X’ use within the ‘Rural Residential’ zone within Schedule 2 – Zoning Table of the Scheme, meaning *“a use not permitted by the Scheme”*. A ‘Stable’ is identified as a ‘D’ use within the ‘Rural Residential’ zone within Schedule 2 – Zoning Table of the Scheme, meaning a use that requires the assessment of the application by Council.

### **Policy Implications**

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

The purpose of a report being prepared to Council is the need for a variation to LPP24. The policy permits one (1) horse per two hectares where no management plan is adopted and up to one (1) horse per one (1) hectare where a Property Management Plan has been approved by the Shire of Chittering.

Schedule 1 of the Policy outlines the requirements of the Property Management Plan.

Clauses 2.3.2 and 10.2(f) of the *Shire of Chittering Town Planning Scheme No 6* outlined previously give the ability of the Local Government to grant planning approval to applications which propose variations to Local Planning Policies made under the Scheme.

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

Yes

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

There have been complaints received from adjoining owners from excess stocking on the property in the past.

Environmental implications

The overstocking of the property may have environmental impacts on the creek line running through the property.

**Comment**

Shire of Chittering Town Planning Scheme No 6

As the Applicant has detailed in the application, the property is currently used for the purposes of breeding horses, having a stallion and mares and operating under the name 'Majestic Downs'. Based upon the definition of the Scheme, this is considered an 'Animal Establishment', as the property is used for the breeding and training of horses for commercial purposes. This is a use not permitted within the 'Rural Residential' zone, hence it is recommended that Council require that the Applicant cease commercial operations on the property.

Should commercial operations cease, the land use would then be defined as a 'Stable' by the Scheme, used for the stabling, agistment and training of horses and related animals. This use requires the discretionary approval of Council.

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

As previously mentioned, the property has approximately 2.2 hectares of land area available for the keeping and agistment of horses. Based upon the stocking rates required by LPP24:

- One (1) horse would be permitted to be kept every two (2) hectares without the approval of Council; or
- One (1) horse would be permitted to be kept for every one (1) hectare of available land, this would permit a maximum of two (2) horses being kept on the property based on the available land and subject to the approval of a Property Management Plan by the Shire of Chittering.

As per the requirements of LPP24, a Property Management Plan was prepared and lodged by the Applicant, as requested. The Property Management Plan requests that six (6) horses be kept on the property, as it is claimed that a verbal agreement was made with an officer at the Shire of Chittering prior to purchasing the land.

The Property Management Plan meets the requirements of the LPP24 regarding the format.

However, it should be noted that there is inconsistency between the Property Management Plan provided by the Applicant and that provided by Chittering Landcare. Anomalies include:

- Chittering Landcare recommends a maximum of four (4) horses being kept on the property, whilst the Applicant wishes for six (6) horses to be kept on the property;
- The Applicant claims that grasses on the property are perennial. This statement is contradicted by Chittering Landcare, which outlines that the existing grasses are annual and will need to be replaced with perennial varieties that remain through summer months;
- Chittering Landcare recommends that soil containing manures is not a location prone to run-off, but this is not specified in the Property Management Plan; and
- Chittering Landcare has suggested that fences be provided across the contour of the land. The Applicant has not expressed any intent to change the existing fencing layout, with the exception of introducing an outside mare paddock to be constructed for safe feeding of mares coming to the property to breed with the stallion.

The proposal seeks for six (6) horses to be approved to be kept on Lot 6 (RN 285) Gray Road, Bindoon, with the commercial breeding as part of the 'Majestic Downs' commercial use. Commercial breeding of animals is classed as an 'Animal Establishment' by the Shire of Chittering Town Planning Scheme, which is identified as an 'X' use in Schedule 2 – Zoning Table, being a use that is not permitted. It is advised that commercial operations cease immediately, given this is not permitted within the scheme.

The other issue at hand is the variation to *LPP24*, being the proposal is for six (6) horses to be kept on the property. This is the equivalent of three (3) horses per hectare, when the policy outlines a maximum of one (1) horse per hectare with a Property Management Plan is approved by Council.

In favour of the Applicant is that Chittering Landcare has inspected the property and are supportive of a maximum of four (4) horses to be kept on the property. However, this is subject to a number of modifications being made to the Property Management Plan, particularly in regard to the pastures on the property, and manures being kept in an area not prone to run-off. If padding does become an issue, fencing layout may have to be addressed to prevent run-off and erosion, but the Applicant has stated that suitable measures are incorporated to prevent this occurring.

It is recommended that Council grant planning approval to the Applicant for the keeping of four (4) horses on the property, based on the recommendation of Chittering Landcare. Furthermore, inconsistencies are to be addressed in the Property Management Plan to the satisfaction of the Chief Executive Officer.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 031112**

Moved Cr Rossouw / seconded Cr Gibson

1. That prior to issuing planning approval, the Property Management Plan is to be amended as follows:
  - i) The first paragraphs of the 'Introduction' and 'The Proposal' sections being removed, referring to a verbal agreement with the Shire of Chittering regarding stocking rates;
  - ii) The second paragraph of 'The Proposal' section is modified to remove reference to the performance horse stud 'Majestic Downs';
  - iii) The second paragraph of 'The Proposal' section being modified to remove reference to overnight horse accommodation or additional horses being kept on the property in excess of four (4) horses permitted;
  - iv) The second paragraph of the 'Summary' section is modified for a maximum of four (4) horses to be kept on the property and reference to the horse stud business is removed;
  - v) Any other modifications considered appropriate by the Chief Executive Officer.
2. Commercial operations for an 'Animal Establishment', as defined by the *Shire of Chittering Town Planning Scheme No 6*, are ceased at the property with twenty-one (21) days of the approval being issued.
3. That upon satisfaction of conditions 1 and 2 above, the Chief Executive Officer be authorised to grant planning approval for a 'Stable' for the keeping of four (4) horses at Lot 6 (RN 285) Gray Road, Bindoon subject to the following conditions:
  - a) Keeping of horses is to be in accordance with the approved Property Management Plan.
  - b) Pastures are replaced to the satisfaction of the Chief Executive Officer, in consultation with Chittering Landcare within 12 months from the date of the planning approval.
  - c) Any further developments on the site shall be the subject of subsequent planning applications/approvals.
  - d) If the development the subject of this approval is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.
  - e) Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

**Advice notes:**

1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
2. Council also advises that: after 12 months of the approval; once the applicant has demonstrated all planning conditions; and the management plan did not result in degradation of the property, the applicant may apply for the additional horses to be kept on site for Council's further consideration.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

### 9.1.5 Lot 80 (RN 3383) Chittering Road, Chittering Application for retrospective approval of dam\*

<b>Applicant</b>	Jolee Corporation Pty Ltd
<b>File ref</b>	A3171
<b>Prepared by</b>	Brendan Jeans, Senior Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Locality Plan</li><li>2. Application details</li><li>3. Site Inspection photos</li><li>4. Schedule of Submissions</li><li>5. Attachment information from Chittering Landcare</li><li>6. Applicant's response to submissions</li><li>7. Contour Site Plan obtained from Landgate</li></ol>

#### Background

Council's consideration is requested for an application for retrospective approval of a dam at Lot 80 (RN 3383) Chittering Road, Chittering.

Council was made aware in June 2011 of the construction of a dam at Lot 80 Chittering Road, Chittering. A letter was sent to the owner regarding the construction of the dam and advised the owner of the planning requirements. The owner responded to Council advising the dam was existing and the works was to increase the capacity.

Council later advised the owner that the current dam exceeded the requirements of *Local Planning Policy No. 6 - Water Supply and Drainage* and required the approval of Council.

Prior to the owner submitting a planning application for the dam, the owner undertook work to reduce the dam capacity to approximately 4,000 square metres by installing a culvert to release flow.

#### Consultation

The application was advertised in accordance with Clause 9.4 of the *Shire of Chittering Town Planning Scheme No 6*. The application was advertised for a period of twenty-one (21) days to affected landowners and relevant agencies.

Within the advertising period a total of four (4) submissions were received, which are included as attachment 4.

#### Statutory Environment

*Planning and Development Act 2005*

#### Shire of Chittering Town Planning Scheme No 6

The subject property is an 'Agricultural Resource' zone. The objectives of this zone are:

1. To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;
2. To protect the landform and landscape values of the district against despoliation and land degradation;



3. *To encourage intensive agriculture and associated tourist facilities, where appropriate;*
4. *To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.*

The subject property is located within the 'Landscape Protection' Special Control Area.

A 'dam' is not listed in the Zoning Table of the Scheme. Clause 5.8.7 stipulates dams require Council approval:

*The construction of dams and/or the extraction of surface water are not permitted without the approval of Council and the appropriate State government water agency.*

The guidance of whether a dam is exempt from planning approval is provided in Council's *Local Planning Policy No. 6 - Water Supply and Drainage*.

### **Policy Implications**

#### *Local Planning Policy No 6 - Water Supply and Drainage*

#### **4. OBJECTIVES**

*The objectives of this policy are:*

- *To ensure safe and healthy water supplies and drainage;*
- *To minimise environmental impact on water resources and associated vegetation;*
- *To avoid visual or aesthetic impact on landscape values from water works/development;*
- *To prevent future land and water use conflicts;*
- *To place minimal restrictions on farmers;*
- *To clearly identify responsibilities for construction and use of water infrastructure.*

The proposed dam is not considered to be exempt from planning consent as it does not meet the following under Section 5.1 of the Policy, as the total holding capacity of the dam exceeds 4,000 cubic metres and the dam does not meet setback requirements under *Local Planning Policy No 18 - Setbacks*.

The proposed dam is not considered to meet the general requirements for dams under Section 5.4 of the Policy as the dam is located across a streamline and the outer walls are not stabilised by planting or other means.

Section 5.3 of the Policy requires Council to advertise an application in accordance with Clause 9.4 of the *Town Planning Scheme No 6* in the following circumstances:

1. *There is a risk to health and safety;*
2. *There is potential environmental impact on water resources and associated vegetation;*
3. *There may be visual or aesthetic impact on landscape values; or*
4. *Future land use conflicts may occur.*

### **Financial Implications**

Nil

### **Strategic Implications**

#### *Shire of Chittering Local Planning Strategy 2001-2015*

The subject property is located within the Chittering Valley identified in section 6.2 of the Strategy.

The Chittering Valley is subject to Landscape Protection, consistent with the Landscape Protection Special Control Area in the Scheme. This is outlined in section 7.3 of the Strategy.



It is considered the broad issues outlined in section 7.0 of the Strategy apply to this proposal being the protection of watercourses and catchments.

### **Site Inspection**

Site inspection undertaken: Yes

Site photos have been attached to this report (attachment 3). Photos have been taken from Lot 80 and neighbouring Lot 81. Photos from Lot 80 were taken 19 September 2012. Photos from Lot 81 were taken 24 June 2011.

### **Triple Bottom Line Assessment**

#### Economic implications

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

#### Social implications

The development of the dam has caused concerns for one neighbour. The neighbour has made this clear by stating the impact on the livelihood of the property and themselves.

#### Environmental implications

Based on the submissions received by the relevant agencies, it has been made evident that the dam should not be supported in its current form as it intersects a watercourse and does not allow for continued natural flow. The submissions advise that by not allowing for natural flow, the water supply at normal periods downstream are not obtained at all or until the dam would reach its capacity and overflow.

### **Comment**

#### Retrospective

It should be noted that the application is for retrospective approval for the dam. The Applicant has expressed in the application that the development of the dam was for renovation purposes. The existing dam was located alongside the winter stream. The renovated dam encompasses the entire gully (as shown in Attachment 7) and does not allow for continual natural flow of water.

#### Town Planning Scheme No 6

It is considered that the proposed dam does not meet the requirements of the Landscape Protection Special Control Area. The intent of the Special Control Area for the Chittering Valley Landform System in clause 6.2.3(a) of the Scheme is to protect the Brockman River Catchment and the drainage pattern. It is considered the dam obstructs the natural drainage line by preventing natural winter flow downstream. This is further established by comments from the Chittering Landcare.

Clause 6.2.5 of the Scheme requires the Local Government to have regard to the conservation and enhancement of the landscape values. It is considered that the proposed dam does not conserve or enhance the landscape values as it obstructs the natural flow of water and proposes environmental concerns, as made evident by the Chittering Landcare.

#### Local Planning Strategy

It is considered that the alterations to the existing dam do not meet the aims of the Chittering Valley area of which the property is located in. It is considered that the dam may negatively impact on the river catchment of the locality in the Chittering Valley and does not 'protect' or 'enhance' the rivers or tributaries of the Brockman River catchment:

Local Planning Policy No 6 - Water Supply and Drainage (LPP6)

The application does not meet all of the requirements of LPP6. The proposed dam does not meet the setback requirements of *Local Planning Policy No 18 – Setbacks* required in 5.4a(i) of LPP6 and is located across a gully, which is not permitted under 5.4a(ii) LPP6.

Submissions

Of the four (4) submissions received, three (3) were agency submissions. All of the three (3) agencies provided submissions which were not supportive of the dam as developed.

The Department of Water advised in their submission that they did not support on-stream dams and may provide approval for such a dam, subject to the Applicant providing justification with a hydro-geological assessment.

Chittering Landcare commented that the Applicant has not provided information stating how the natural flow of water is not diminished and provided additional information (attached) relating to gully dams.

**OFFICER RECOMMENDATION**

Moved Cr Clarke / seconded Cr Rossouw

That Council:

1. refuses the retrospective approval of the dam at Lot 80 (RN 3383) Chittering Road, Chittering for the following reasons:
  - a) Does not comply with 5.4a(i) of *Local Planning Policy No 6 - Water Supply and Drainage* as well as the requirements of Department of Water as the application proposes a gully dam;
  - b) Does not comply with 5.4a(ii) of *Local Planning Policy No 6 - Water Supply and Drainage* as the dam does not meet setback requirements required by *Local Planning Policy No 18 - Setbacks*;
  - c) Does not meet the objectives of *Local Planning Policy No 6 - Water Supply and Drainage* as it impedes on the natural flow of the watercourse which does not “*minimise environmental impact on water resources...*”.
  - d) Does not meet Clause 6.2.3(a) of the *Shire of Chittering Town Planning Scheme No 6 “the Chittering Valley Landform System: for the protection of the Brockman River Catchment its biodiversity and the drainage pattern and land degradation problems”* as the dam obstructs natural flow of the drainage pattern of the Chittering Valley Landform System;
  - e) Does not meet Clause 6.2.5(b) of the *Shire of Chittering Town Planning Scheme No 6 “the conservation and enhancement of the landscape values”* whereby the landscape values are not conserved or enhanced as a result of the dam;
  - f) Does not meet the aims of the Chittering Valley Local Geographical Unit in Section 6.2.2 of the *Shire of Chittering Local Planning Strategy “To protect the Brockman River and its tributaries”* as it impacts on a tributary of the Brockman River by obstructing natural flow of water.
2. requests the Applicant to restore the land developed for the dam to its original state within three (3) months of the date of Council decisions to the satisfaction of the Chief Executive Officer.

Advice note:

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

THE MOTION WAS PUT AND DECLARED LOST 2/5

**COUNCIL RESOLUTION 041112**

Moved Cr Norton / seconded Cr Clarke

That Council approve the proposed dam at Lot 80 (RN3383) Chittering Road, Chittering subject to the following conditions:

1. The Applicant to provide details demonstrating that the spillway / overflow pipe is constructed to engineering specifications of industry standards within twenty eight (28) days.
2. Planting of native species and / or equivalent means to be undertaken to stabilise the dam and spillway / overflow pipe to the satisfaction of the Chief Executive Officer.
3. The spillway / overflow pipe must at all times:
  - a) remain open to allow the flow of water to continue downstream; and
  - b) be maintained free of debris and any other obstruction.
4. A notification pursuant to section 70A of the *Transfer of Lands Act 1893* (as amended) is to be placed on the Certificate of Title to Lot 80 Chittering Road, Chittering advising proprietors and prospective proprietors of the requirements of condition 3.
5. The spillway / overflow pipe structure and erosion control measures are to be maintained by the Applicant to the satisfaction of the Chief Executive Officer.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

**Reason**

The majority of Council inspected the site and were of the view that the impact on the water ways was minimal. Furthermore, the general consensus of Council was that the *Local Planning Policy No 6 - Water Supply and Drainage* is needed to be reviewed.

### 9.1.6 Lot 5D67144 (RN 3571) Great Northern Highway, Muchea - proposed Scheme Amendment No 50 for Additional Uses\*

<b>Applicant</b>	Planning Solutions on behalf of Karratha Enterprises Pty Ltd
<b>File ref</b>	18/02/18; SA50
<b>Prepared by</b>	Brendan Jeans, Senior Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Locality Plan 2. Scheme Amendment documents

#### Background

Council's consideration is requested for a proposed scheme amendment for additional uses at Lot 5D67144 (RN 3571) Great Northern Highway, Muchea. The additional uses applied for are:

- Industry-General
- Builders Storage Yard
- Two (2) Grouped Dwellings

The Scheme Amendment application is a result of Council's previous determination at its 15 August 2012 Ordinary Council meeting (resolution 140812):

*"That Council:*

- 1. approve the shed extension at Lot 5D67144 (RN 3571) Great Northern Highway, Muchea subject to the following conditions:*
  - (a) The Applicant submit a Scheme Amendment for rezoning for the development and operations on the property within three (3) months of the date of this approval;*
  - (b) The shed shall be setback a minimum 30m as per Local Planning Policy No 18 in accordance with the approved plan;*
  - (c) The roofing of the shed shall match existing materials;*
  - (d) That a Stormwater Management Plan be submitted to Council to the satisfaction of the Chief Executive Officer;*
  - (e) The shed shall not be used for residential habitation;*
  - (f) The existing screening trees on the northern side boundary shall not be removed unless required so under Clause 5.8.8 of Town Planning Scheme No 6.*
- 2. refuse the expansion to the laydown area at Lot 5D67144 (RN 3571) Great Northern Highway, Muchea until such time as a Scheme Amendment to rezone the subject property is granted final adoption."*

#### Consultation

Formal advertising will be undertaken once consent is granted from the Environmental Protection Agency in accordance with *Town Planning Regulations 1967*.

#### Statutory Environment

*Planning and Development Act 2005*  
*Town Planning Regulations 1967*

#### Shire of Chittering Town Planning Scheme No 6

The subject property is zoned 'Agricultural Resource'. The objectives of this zone are:

- To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;
- To protect the landform and landscape values of the district against despoliation and land degradation;
- To encourage intensive agriculture and associated tourist facilities, where appropriate;
- To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.

The property is shown on the Scheme Map to be situated within the 'Water Prone ' and partially within the 'Military Considerations' Special Control Areas.

As mentioned earlier, the scheme amendment proposes three (3) additional uses. The definition of these uses is listed below.

**Industry – General** means an industry other than a cottage, extractive, light, mining, rural or service industry.

**Builders Storage Yard** means premises used for the storage of building material, pipes or similar items related to any trade, and may include the manufacture, assembly and dismantling processes incidental to the predominant use.

**Grouped Dwelling** The Grouped Dwelling development is defined in the Residential Design Codes of WA.

#### **Policy Implications**

##### Residential Design Codes of Western Australia

A 'Grouped Dwelling' is defined as:

*"A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property."*

##### Local Planning Policy No 12 - Additional Accommodation

Part 5.1 of the Policy advises Council may permit additional accommodation for the purposes of accommodation of an employee of the landowner or transient workforce; however the subject property is located within two (2) Special Control Areas of the Town Planning Scheme and therefore should not be permitted.

#### **Financial Implications**

The proposal is not considered to create any financial implications on Council.

#### **Strategic Implications**

##### Mucnea Employment Node Structure Plan 2011

The front portion of the subject property is located within Precinct 3 of the *Mucnea Employment Node Structure Plan (MENSP)*. It is considered that the requirements of the *MENSP* relate to the subdivision and rezoning of the land for Future Industry.

The *MENSP* shows the Perth to Darwin Highway dissecting the property. The Applicant is aware of this and use of the site allows for future use without being impacted by the development of the highway.

Shire of Chittering Local Planning Strategy 2001-2015

The property is located within the 'Ellen Brook Palusplain' Geographical Unit, identified in the Strategy.

The property is zoned 'Agricultural Resource' and therefore Section 8.8 of the Strategy applies to this application.

The property is located within the Muchea Employment Node area identified in the Strategy. At the time of adoption of the Strategy, the Muchea Employment Node area was considered as an 'investigation area' only.

As mentioned earlier, the property is situated within the 'Water Prone' and 'Military Considerations' Special Control Areas of the Town Planning Scheme. This is reflected in the Strategy.

**Site Inspection**

Site inspection undertaken: Yes

**Triple Bottom Line Assessment**

Economic implications

It is considered the proposal will likely increase economic activity for the property and provide opportunity for local employment.

Social implications

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

Environmental implications

It is considered that the consultation process would provide opportunity for the relevant agencies, such as the Department of Environment and Conservation, Department of Water and the Chittering Landcare to make submissions on any environmental matters.

**Comment**

Town Planning Scheme No 6

It is considered that the proposed additional uses meet the requirements of the Scheme. Council's previous determination at the 15 August 2012 Ordinary Council meeting has given the Applicant the opportunity to formalise the existing use of the land. The current and future use of the land exceeds the limitations of the existing planning approval for 'Industry-Rural'.

The Applicant has proposed Grouped Dwelling developments in the Scheme Amendment. It is understood the Grouped Dwellings would be for the purpose of onsite accommodation for employees. There is currently a single dwelling on the property. It is considered that the Scheme Amendment should be modified to permit two (2) single dwellings. The modification from 'grouped dwellings' to 'single dwellings' is considered to be appropriate for the following reasons:

- (i) A Dwelling, by definition in the Residential Design Codes, allows for the permanent occupancy of no more than six (6) persons who do not comprise a single family;
- (ii) Permitting two (2) dwellings on the property will achieve the same outcome as permitting a grouped dwelling;
- (iii) A Single House (dwelling) is a 'P' use on Agricultural Resource zoned land in the Scheme;
- (iv) A Grouped Dwelling is an 'X' use on Agricultural Resource zoned land in the Scheme.

Further to the above, whilst the property would not meet the requirements of Clause 5.7 of the Scheme to permit two dwellings on the lot, Council would generally not permit a Grouped Dwelling on an Agricultural Resource zoned property. In addition to this, the property is located within the Muchea Employment Node and supporting a Grouped Dwelling may cause implications in the locality.

It is further considered appropriate that the Scheme Amendment be modified to include a list of more specific uses which fall under the 'Industry-General' classification. The proposed Scheme Amendment for 'Industry-General' does not adequately specify what type of industry operations are being undertaken and are to be undertaken. It would be considered appropriate to list these specific uses/operations which fall under the 'Industry-General' use class in the Conditions column of Schedule 3 of the Scheme. The 'Industry-General' additional use shall consist of:

- (i) The manufacture of transportable buildings;
- (ii) The assembly of transportable buildings;
- (iii) The storage of transportable buildings; and
- (iv) The transportation of transportable buildings.

The purpose of specifying what uses may be permitted under the 'Industry-General' use class is to ensure that the intent of Council to formalise the operations on the property, as per Council's determination at the 15 August 2012 Ordinary Council meeting, is achieved without compromise.

Local Planning Policy No 12 - Additional Accommodation

Under Section 5 of the Policy Council may permit additional accommodation, in particular accommodation for the transient workforce. Lot 5D67144 is located within the Water Prone and Military Considerations Special Control Area, which under 5.1 of the Policy does not permit additional accommodation:

**"5. POLICY STATEMENT**

*Council may permit the construction and occupation of:*

**5.1 additional accommodation for an employee of the landowner or transient workforce or for tourists in the **Agricultural Resource Zone**, except where:**

- a) *the lot is less than 4ha;*
- b) *the accommodation falls within a Water Prone, Basic Raw Materials, Military Considerations or Land Refuse Special Control Area;*
- c) *the accommodation will detract from the landscape values of the locality as seen from any public road or from any dwelling on adjacent land;"*

As outlined earlier, permitting two (2) Single Dwellings is considered to be more appropriate than 'Grouped Dwellings' for the following reasons:

- (i) Will not set a precedence to permit additional accommodation for employees on Agricultural Resource land and within the Muchea Employment Node;
- (ii) Two (2) Single Dwellings can be permitted on Agricultural Resource land in the Scheme, subject to the use of the land being for agricultural, education, religious or tourist purposes. Whilst the use of the land may not be consistent with Clause 5.7 of the Scheme, two (2) dwellings on Agricultural Resource land can be accommodated and has been applied;
- (iii) It is considered two dwellings would limit on site accommodation to a maximum of 12 persons who do not comprise a single family, in comparison to additional accommodation which would be difficult to permit a specific number and a number which could substantially exceed two dwellings.



Local Planning Strategy 2001-2015

The property is identified in the Strategy as being located on the Ellen Brook Palusplain Geographic Unit and situated within the Water Prone Areas. The proposed development is consistent with the objectives and requirements of the 'Water Prone – Ellen Brook Palusplain Special Control Area' in the Scheme through the types of effluent disposal system used and setback from natural water bodies. It is considered the additional uses proposed in the Scheme Amendment meet the aims and objectives set out in the Strategy. It is considered the future uses and developments on the property will not impact on the objectives

Muchea Employment Node

As mentioned earlier, the *Muchea Employment Node Structure Plan (MENSP)* outlines the requirements for Applicant's seeking approval to rezone land to Future Industry and subdivide. It designates precincts within the Muchea Employment Node area, with each precinct having different requirements specific to the area i.e. ecological factors, buffer impacts etc. It is considered the proposed Scheme Amendment to formalise the existing uses and permit additional uses is not relevant to the requirements of the *MENSP* until such time as the property is subdivided and/or rezoned.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 051112**

Moved Cr Gibson / seconded Cr Mackie

That Council:

1. In pursuance of Section 75 of the *Planning and Development Act 2005*, supports the initiation of amending the *Shire of Chittering Town Planning Scheme No 6* subject to the following modifications:
  - a) modify 'Two (2) Grouped Dwellings' in Additional Use column to 'Two (2) Single Dwellings';
  - b) insert new text into the Conditions column to read:
    - "1. *Industry-General use shall consist of:*
      - *The manufacture of transportable buildings;*
      - *The assembly of transportable buildings;*
      - *The storage of transportable buildings; and*
      - *The transportation of transportable buildings.*
    2. *Single Dwelling subject to planning approval."*
2. upon completion of condition 1 above:
  - a) modifies Schedule Three (3) – Additional Uses by inserting:

No.	Description of Land	Additional Use	Conditions
A17	Lot 5D67144 (RN 3571) Great Northern Highway, Muchea	Industry – General Builders Storage Yard Two (2) Single Dwellings	<ol style="list-style-type: none"> <li>1. Industry- General use shall consist of:               <ul style="list-style-type: none"> <li>• <i>The manufacture of transportable buildings;</i></li> <li>• <i>The assembly of transportable buildings;</i></li> <li>• <i>The storage of transportable buildings; and</i></li> <li>• <i>The transportation of transportable buildings.</i></li> </ul> </li> <li>2. Single Dwelling subject to planning approval.</li> </ol>



b) amends the Scheme Map accordingly.

3. numbers the proposed amendment as 'Amendment No 50' of the Shire of Chittering *Town Planning Scheme No 6* and forward to the Environmental Protection Authority for assessment in accordance with Section 81 of the *Planning and Development Act 2005*, prior to advertising in accordance with the *Town Planning Regulations 1967*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

### 9.1.7 Temporary Road Traffic Suspension – Chittering Road, Chittering Valley Road and Muchea East Road for Public Event – Time Trials (Cycling)\*

<b>Applicant</b>	Australian Time Trials Association
<b>File ref</b>	26/01/0004
<b>Prepared by</b>	Scott Penfold, Planning Officer
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Cycling Route Plan</li><li>2. Certificate of Insurance</li><li>3. Traffic Management Plan</li></ol>

#### Background

Council's consideration is requested for a proposed public event, being the Australian Time Trials Association individual time trials event, which proposes cycling time trials to pass through the Shire of Chittering along the following route:

- Starting/Finishing at Bullsbrook in the City of Swan;
- Chittering Road;
- Chittering Valley Road;
- Muchea East Road; and
- Chittering Road to Bullsbrook for the finish.

The time trials are proposed to be held on Sunday, 13 January 2013. The race starts and finishes in Bullsbrook. It is not proposed for the time trials event to use Shire of Chittering facilities, with the exception being the need to traverse our local roads. Approximately 50-70 participants will be involved in the event, with a number of additional support staff. The event will run from 0700hrs to 1100hrs.

#### Consultation

The Applicant will be required to notify affected landowners in advance of the event should Council approve the application in accordance with the requirements of the *Road Traffic Act 1974*.

During the preparation of this item, liaison was undertaken with Lindsay Smith, Local Government Insurance Services - Regional Risk Coordinator. Given this is a time trial event only, it was advised that:

- The Applicant should provide a suitable Certificate of Insurance;
- All marshals should be dressed in Personal Protective Equipment (PPE) and have suitable accreditation;
- The Shire of Chittering should obtain a copy of the instructions to be given to marshals on the day of the event.

#### Statutory Environment

*Road Traffic Act 1974*

#### Policy Implications

*Policy for Concerts, Events and Organised Gatherings*

#### Financial Implications

Nil

#### 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

The traffic suspension will not close the road, which will still be open to traffic. It is not believed that the time trials event will cause significant nuisance to landowners and businesses in the area.

##### Environmental implications

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

#### Comment

The application for the temporary road traffic suspension has been assessed and cleared by the Shire's Executive Manager Technical Services. Cyclists will be riding individually and not as a group as this is a time trial event and not a race. The road will remain open and trafficable for normal road traffic during the event. Marshals will not direct road traffic for the duration of the event.

The Australian Time Trials Association has provided a Traffic Management Plan. A current certificate of insurance has also been provided with the application. However, this expires in 30 November 2012 and will require a new certificate of currency to be lodged with the Shire.

It is considered that the cycling race will have minimal impact on road users throughout the Shire and will be beneficial both socially and economically to the Shire of Chittering.

#### **OFFICER RECOMMENDATION – COUNCIL RESOLUTION 061112**

**Moved Cr Mackie / seconded Cr Gibson**

**That Council approves the Application for Temporary Suspension of the Road Traffic Act/Regulations under section 83 of the *Road Traffic Act 1974* subject to the following conditions be met:**

- 1. The Chief Executive Officer be authorised to sign and approve the event application.**
- 2. The event is to be held in accordance with the Traffic Management Plan.**
- 3. The Applicant to provide the following prior to the event:**
  - a) An updated copy of the Certificate of Currency of Public Liability Insurance;**
  - b) Instructions to be given to marshals for the operation of the event; and**
  - c) Submit a Risk Management Plan to the satisfaction of the Chief Executive Officer.**
- 4. The Applicant is to advise local police stations prior to the event.**

5. The Applicant is to advertise the details of the event prior to the date of the event in the following manner:
- a) Advertise the application in accordance with the *Road Traffic Act 1974*;
  - b) Send letters to all likely affected landowners notifying of the road traffic suspension and event details;
  - c) Send letters to relevant community groups, agencies and/or emergency departments;
  - d) Place signs at the intersections of the proposed route of the road suspension route; and
  - e) Place an advertisement on the Shire's website of notification of the road suspensions and event details.

**Advice note:**

The Applicant is advised that the race is to be conducted in accordance with the *Road Traffic Act 1974*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

**9.2 TECHNICAL SERVICES**

Nil

## 9.3 CORPORATE SERVICES

### 9.3.1 Financial statements for the period ending 31 October 2012\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	12/03/4
<b>Prepared by</b>	Jean Sutherland, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Statement of Financial Activity for period ending 31 October 2012</li><li>2. Financial Statements for period ending 31 October 2012</li><li>3. Bank reconciliation for period ending 31 October 2012</li><li>4. List of accounts paid for October 2012</li></ol>

#### Background

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

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

The statement of financial activity for the period ending 31 October 2012, financial statements, bank reconciliation and list of accounts paid for the period ending 31 October 2012 are hereby presented for council's information.

#### Consultation

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

#### Statutory Environment

*Local Government Act 1995*  
*Local Government (Financial Management) Regulations 1996*

#### Policy Implications

Nil

#### Financial Implications

Nil

#### Strategic Implications

Nil

### Site Inspection

Not applicable

### Triple Bottom Line Assessment

#### Economic implications

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

#### Social implications

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

#### Environmental implications

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

### Comment

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

### OFFICER RECOMMENDATION – COUNCIL RESOLUTION 071112

Moved Cr Hawes / seconded Cr Gibson

That Council:

1. endorses the list of payments:

- PR2927
- PR2933
- EFT 7305 - EFT 7415
- Municipal Fund Vouchers 13193 - 13213
- Direct Debits as listed
- BPV21 to BPV21
- Journal Transfers
- Trust Fund Vouchers 312-312

Totalling \$846,806.04 for the period ending 31 October 2012.

2. receives the bank reconciliation for the period ending 31 October 2012 as presented.

3. receives the financial statements for the period ending 31 October 2012.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

### 9.3.2 Community Bus Policy\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	04/03/1
<b>Prepared by</b>	Jean Sutherland, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Absolute majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Current Use of Community Bus Policy</li><li>2. Draft Use of Community Bus Policy</li></ol>

#### **Background**

Council has an existing Community Bus Policy which is very vague as to who can hire the Shire of Chittering Community Bus. In order to seek clarification Council is requested to consider the draft policy attached.

#### **Consultation**

Chief Executive Officer  
Councillors

#### **Statutory Environment**

*Local Government Act 1995, Section 6.19, 6.16(3)(a)*

#### **Policy Implications**

*Use of Chittering Community Bus*

#### **Financial Implications**

This proposal may result in increased fees associated with the hire of the community bus however this may be offset by the increased expenses relating to the day to day maintenance of the bus.

#### **Strategic Implications**

Nil

#### **Site Inspection**

Not applicable

#### **Triple Bottom Line Assessment**

##### Economic implications

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

##### Social implications

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

##### Environmental implications

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

#### **Comment**

Council's current policy states that the Community Bus is primarily for the use of community groups only. The draft policy allows the bus to be hired to individuals and organisations such as schools, church groups, professional associations, etc. subject to the approval of the Chief Executive Officer.



Currently there are concessions made to some community groups for the use of the bus. All groups that have been receiving this concession will be written to and will be requested to apply for a Financial Assistance Grant which is open to community groups on a yearly basis and granted during budget deliberations.

It is proposed that the fees associated with the hire of the community bus be:

Description	Rate per km	Bond	Note(s)
<b>Community Groups</b>	\$0.91 (as per current Fees and Charges)	\$300.00 (as per current Fees and Charges)	<i>No refuelling of bus on return required</i>
<b>Individuals / Business Organisations</b>	\$1.30 (proposed new fee)	\$500.00 (proposed new fee)	<i>Bus to be refuelled on return</i>

It should also be noted that the Fees and Charges already incorporates a 'minimum' fee for the hiring of the community bus, i.e. \$57.00 which includes GST.

Should Council adopt the draft policy the new fees will be effective from 1 December 2012.

#### OFFICER RECOMMENDATION

Moved Cr Rossouw / seconded Cr Clarke

That Council:

1. adopts the draft *Use of Chittering Community Bus* policy as presented.
2. adopts the following fees associated with the hire of the Community Bus:  
*Community Groups*  
Rate per Km \$ 0.91 (inc GST)  
Bond \$ 300.00 (GST free)  
*No refuelling of bus on return required*  
  
*Individuals / Business Organisations*  
Rate per Km \$ 1.30 (inc GST)  
Bond \$ 500.00 (GST free)  
*Bus to be returned with a full tank of fuel*
3. amends the current Fees and Charges Schedule to include the new fees adopted.
4. advertises that the new fees for the hiring of the Community Bus will come into effect on 1 December 2012.

#### AMENDMENT

Moved Cr Rossouw / seconded Cr Norton

That recommendation 2 be amended to read as follows:

2. adopts the following fees associated with the hire of the Community Bus:

*Community Groups*  
Rate per Km \$ 0.91 (inc GST)

*Bond* \$ 300.00 (GST free)  
*No refuelling of bus on return required*

*Individuals*  
*Rate per Km* \$ 0.91 (inc GST)  
*Bond* \$ 500.00 (GST free)  
*Bus to be returned with a full tank of fuel*

*Business Organisations*  
*Rate per Km* \$ 1.30 (inc GST)  
*Bond* \$ 500.00 (GST free)  
*Bus to be returned with a full tank of fuel*

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0  
AND FORMED PART OF THE SUBSTANTIVE MOTION

**SUBSTANTIVE MOTION - COUNCIL RESOLUTION 081112**

**That Council:**

1. **adopts the draft *Use of Chittering Community Bus* policy as presented.**
2. **adopts the following fees associated with the hire of the Community Bus:**  

***Community Groups***  
*Rate per Km* \$ 0.91 (inc GST)  
*Bond* \$ 300.00 (GST free)  
*No refuelling of bus on return required*

***Individuals***  
*Rate per Km* \$ 0.91 (inc GST)  
*Bond* \$ 500.00 (GST free)  
*Bus to be returned with a full tank of fuel*

***Business Organisations***  
*Rate per Km* \$ 1.30 (inc GST)  
*Bond* \$ 500.00 (GST free)  
*Bus to be returned with a full tank of fuel*
3. **amends the current Fees and Charges Schedule to include the new fees adopted.**
4. **advertises that the new fees for the hiring of the Community Bus will come into effect on 1 December 2012.**

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0

### 9.3.3 Community and Senior Housing Conditions Amendment\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	A9560; A9565
<b>Prepared by</b>	Jean Sutherland, Executive Manager Corporate Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Residential Tenancy Agreement Form 24B</li><li>2. Existing Shire of Chittering Additional Conditions</li><li>3. Amended Shire of Chittering Additional Conditions</li></ol>

#### Background

Council has a joint venture arrangement with Homeswest for the management of six (6) Community housing units and eight (8) Seniors housing units. When tenants are accepted for one of these units they are required to sign a *Residential Tenancy Agreement Form 24 B "Periodic Tenancy" (No Fixed Term)* along with the Shire of Chittering *Additional Conditions* form. At point 13 of the Shire of Chittering *Additional Conditions* form it states "*The keeping of pets is prohibited unless written application is made describing the pet/pets and approval is granted by the Shire of Chittering*".

In the past it appears that some tenants have been granted approval for pets - namely dogs.

This report is presented to Council to request that rather than stating that pets are prohibited unless a written application is received, that Council impose a limit of one (1) dog and one (1) cat per unit.

#### Consultation

Chief Executive Officer  
Acting Senior Ranger

#### Statutory Environment

Nil

#### Policy Implications

Nil

#### Financial Implications

Nil

#### Strategic Implications

Nil

#### Site Inspection

Not applicable

#### Triple Bottom Line Assessment

##### Economic implications

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

##### Social implications

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

Environmental implications

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

**Comment**

Currently tenants sign a tenancy agreement with *Additional Conditions* (attached) and one of the conditions is:

*"The keeping of pets is prohibited unless written application is made describing the pet/pets and approval is granted by the Shire of Chittering".*

Other than this point in the *Additional Conditions*, Council does not have any guidelines on the keeping of pets in the units.

As mentioned earlier in the report the *Additional Conditions* are proposed to be amended to allow tenants one (1) dog and one (1) cat per unit rather than not allowing pets unless approved by the Shire of Chittering. Should Council leave the existing *Additional Conditions* as is, there are no guidelines to assist the Officer responsible to process any application that could be received where a tenant is requesting an additional dog. The *Dog Act 1976* allows for the keeping of two dogs and any request received would be assessed under this legislation.

It is accepted that tenants keep pets but considering the small rear yards of these units, it is possibly not appropriate to house more than one dog in such small confines.

As these units are in close proximity to one another, should the number of dogs not be restricted, there could potentially be 28 dogs in the backyards which no doubt would create a noise and safety issue for neighbours (which include the elderly and young children). The allowance for one (1) cat and one (1) dog is more generous than rental properties in the private sector as these are becoming very rare and if a pet is allowed, generally a large pet bond is applicable.

It is proposed to amend the *Additional Conditions* to state that the dog must be registered with the Shire of Chittering at all times and commencing 1 November 2013 the cat is to be registered with the Shire of Chittering at all times.

It is proposed to also amend the *Additional Conditions* to state that a Pet Bond (per pet) is payable. It is recommended that this be equivalent to one (1) week's rent and is payable on acceptance of the tenancy. Should a bond not have been paid for existing pets it is not expected that this policy be retrospective, but all future tenants will be required to adhere to this condition.

Should Council accept the Officer's recommendation, the *2012-2013 Fees and Charges Schedule* will be required to be updated and a notice of the new bond to be imposed to be advertised in a local newspaper as per Engagement Level 1 in the Shire of Chittering *Community Engagement Plan*.

It is recommended that Council adopt the Officer's recommendation to provide clear guidelines as to the conditions relating to pets in Council's Community and Seniors housing units.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 091112**

Moved Cr Clarke / seconded Cr Mackie

That Council:

1. updates the Shire of Chittering *Additional Conditions* form for Community and Seniors Housing as detailed in the report.
2. adopts the Pet Bond of one week's rent.
3. amends the 2012-2013 Shire of Chittering *Fees and Charges Schedule* accordingly.
4. advertises that the Pet Bond for the Community and Seniors Housing Units will come into effect on 1 December 2012.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

## 9.4 CHIEF EXECUTIVE OFFICER

### 9.4.1 Bush Fire Brigades Local Law 2012\*

Applicant	Shire of Chittering
File ref	19/04/0007
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	<b>Absolute majority</b>
Documents tabled	Nil
Attachments	1. Bush Fire Brigades Local Law 2012 2. Submissions from the Department of Local Government

#### Background

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

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

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

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

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

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

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

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

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

#### Consultation

Steven Elliott, Department of Local Government

Mike Terraci, FESA

Executive Management Team

Councillors

Community Emergency Services Manager

## Statutory Environment

Section 3.12 of *Local Government Act 1995* states;

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

- (2) *At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to—*
  - (a) *give Statewide public notice stating that—*
    - (i) *the local government proposes to make a local law the purpose and effect of which is summarized in the notice;*
    - (ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
    - (iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;*
  - (b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
  - (c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submissions, the local government is to consider any submissions made and may make the local law\* as proposed or make a local law\* that is not significantly different from what was proposed.*

*\* Absolute majority required.*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice—*
  - (a) *stating the title of the local law;*
  - (b) *summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and*
  - (c) *advising that copies of the local law may be inspected or obtained from the local government's office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.*
- (8) *In this section—*

**making** *in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.*

Section 62 of the *Bush Fires Act 1954* states;

**62. Local government may make local laws**

- (1) *A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for and in relation to—*
  - (a) *the appointment, employment, payment, dismissal and duties of bush fire control officers;*
  - (b) *the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and*
  - (c) *any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.*
- (2) *Where a regulation made by the Governor under this Act is inconsistent with or repugnant to a local law previously made by a local government under subsection n(1) and still in force, the regulation prevails and the local law to the extent by which it is inconsistent with or repugnant to the regulation is deemed to be repealed.*

**Policy Implications**

Nil

**Financial Implications**

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

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

**Strategic Implications**

Nil

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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



## Comment

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

Name and address	Submission	Shire's response
<b>P Groves, Captain Bindoon Volunteer Bush Fire Brigade</b>	Reference to "Associate" member should be amended to "Auxiliary" member	As there is no "Associate" member the reference to "Associate" has been replaced with "Auxiliary".
<b>S Elliott, Senior Legislation Officer, Department of Local Government (attachment 2)</b>	General formatting and minor changes	Changes made accordingly
<b>Upper Chittering Bush Fire Brigade</b>	Include reference to Community Emergency Services Manager (CESM)	Not applicable
	Include definition of role of Chief Bush Fire Control Officer and role's relationship to the CESM	Not applicable
	Include clause on dissolution of a brigade	Not applicable
	Include "Training Officer" in section 1.3(2) and 2.2(1)(c)	Not applicable
	Schedule 1, Clause 3.5(3)(a) amend to reflect correct reference	Schedule 1, Clause 3.5(3)(a) amended
	Reference to "Associate" member should be amended to "Auxillary" member	Updated
	Reference to "Executive Committee" in Schedule 1, Part 1 – Preliminary should be deleted as there is no further reference to "Executive Committee"	Definition of "Executive Committee" states: <i>"Executive Committee (if appointed) consists of Office Bearers of the Brigade as provided for under section 6"</i> ; therefore the definition remains to cover for any appointment of an "Executive Committee" in the future.
<b>Chittering Bush Fire Advisory Committee</b>	Clause 8.2(3) needs to be updated to make reference to the Shire's Executive Manager Corporate Services can be used as Auditor	Clause has been amended to provide more flexibility. <i>"The Brigade in conjunction with the local government will appoint an auditor, not being a brigade member, for the ensuing financial year."</i>
<b>Fire and Emergency Services Authority</b>	Clause 2.1 insert the following <i>"activities in accordance with section 41 of the Bush Fires Act 1954:</i>	Clause 2.1 amended
	Clause 2.3(2) insert the following <i>"in accordance with section 13 of the Bush Fires Act 1954"</i>	Clause 2.3(2) amended

Name and address	Submission	Shire's response
	Clause 3.5(a) insert after "leadership" the following " <i>and direction</i> "	Clause 3.5(a) amended
	Schedule 1, part 2.1 "Objectives" replace " <i>quality</i> " with " <i>efficient</i> "	Schedule 1, part 2.1 amended
	Schedule 1, part 4.4 "Conditions of Membership", at point 3(b) insert " <i>(v) Westplan Bushfire</i> "	Schedule 1, part 4.4 amended

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

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

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

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

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 101112**

Moved Cr Gibson / seconded Cr Rossouw

1. That the submissions received from Mr P Groves (Captain - Bindoon Volunteer BFB), Department of Local Government, Upper Chittering Bush Fire Bridge, Chittering Bush Fire Advisory Committee and FESA be noted.
2. That Council adopts the proposed *Shire of Chittering Bush Fire Brigades Local Law 2012* incorporating the minor changes as recommended by the Department of Local Government and Regional Development and others as detailed in the table.
3. That the *Shire of Chittering Bush Fire Brigades Local Law 2012* be published in the Government Gazette.
4. That the Shire President and Chief Executive Officer be authorised to sign and affix the Common Seal to the *Shire of Chittering Bush Fire Brigades Local Law 2012*.

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

#### 9.4.2 Setting of 2013 Ordinary Council meeting dates

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	13/02/28
<b>Prepared by</b>	Natasha Mossman, Executive Support Officer
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

##### **Background**

The *Local Government (Administration) Regulations 1996* require that a local government is to give local public notice at least once each year of the proposed dates on which meetings are to be held and the times and venues at which they are to be held.

The purpose of this report is to set Ordinary Council meeting dates for the period February to December 2013, so that these can be advertised in accordance with that regulation.

##### **Consultation**

Chief Executive Officer  
Executive Manager Corporate Services

##### **Statutory Environment**

*Local Government (Administration) Regulations 1996*  
*Local Government Act 1995*

##### **Policy Implications**

Nil

##### **Financial Implications**

There will be costs involved in advertising for meeting dates in *The Advocate* and *Northern Valley News*. If there are any special council meetings called during the 2013 calendar year these will also incur advertising charges.

The advertising of the Committee dates will incur a charge as and when they are advertised. This has been allowed for in the 2012/13 Annual 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.

**Comment**

In determining meeting dates for 2013 consideration needs to be given to school and public holidays, and their impact on agenda distribution, meeting clashes, Councillors and the general public's ability to attend the scheduled meetings.

The following timetable shows the relationship between school and public holidays and the usual meeting cycle:

DATE	SCHOOL HOLIDAY	PUBLIC HOLIDAY
<b>20 February</b>		
<b>20 March</b>		Labour Day – 4 March Good Friday – 29 March
<b>17 April</b>	20 April – 5 May	Easter Monday – 1 April ANZAC Day – 25 April
<b>15 May</b>		
<b>19 June</b>		WA Day – 3 June
<b>17 July</b>	6 – 21 July	
<b>21 August</b>		
<b>18 September</b>	28 September – 13 October	Queen's Birthday – 30 September
<b>16 October</b>		
<b>20 November</b>		
<b>18 December</b>	20 December – 2 February 2014	Christmas Day – 25 December Boxing Day – 26 December

With the Local Government Elections taking place on 19 October and the swearing in of Elected Member's it is recommended that the 'scheduled' date of 16 October be changed to ensure the swearing in of elected members.

Therefore it is recommended that the October Ordinary Council meeting be held the week later on **Wednesday, 23 October 2012.**

The following Shire's committees:

- Chittering Bush Fire Advisory
- Chittering Community Planning Advisory
- Chittering Mining Advisory
- Chittering Health Advisory

will make recommendation to Council to approve their meeting dates for 2013, and following council's decision the dates will be advertised in accordance with the *Local Government (Administration) Regulations 1996*.

The following committees will meet on an "as required" basis and notice will be given to the general public when the meetings are to be held:

- Chittering Community Support Funding
- Australia Day Advisory
- Chittering Education Scholarship
- Audit

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 111112**

**Moved Cr Hawes / seconded Cr Rossouw**

**That Council:**

1. **endorses** the following schedule for the Ordinary Council meetings for the period February 2013 through to December 2013:
  - 20 February
  - 20 March
  - 17 April
  - 15 May
  - 19 June
  - 17 July
  - 21 August
  - 18 September
  - 23 October
  - 20 November
  - 18 December
2. **advertises** the 2013 Ordinary Council meeting dates in accordance with *Local Government (Administration) Regulations 1996*.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

#### 9.4.3 Proposed Shire of Chittering Community Engagement Plan\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	04/01/1
<b>Prepared by</b>	Karen Dore, Economic Development Officer
<b>Supervised by</b>	Jean Sutherland, Executive Manager Corporate Services
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Draft Shire of Chittering Community Engagement Plan

##### **Background**

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

The introduction and use of an endorsed Community Engagement Plan, with guidelines and checklists for use by Shire staff, will ensure that the community is informed, consulted, involved and / or collaborated with during the decision making process in relation to Council and Shire services, events, strategic plans, issues and projects. These may be proposed new or alterations to existing services, events, strategic plans, issues and projects.

##### **Consultation**

Chittering Residents and Ratepayers (through Strategic Community Plan consultation)  
Executive Management Team  
Councillors  
Administration staff

##### **Statutory Environment**

Community consultation and engagement is an ongoing process at the Shire of Chittering and serves to guide Council's decision-making. With the implementation of a Community Engagement Plan this process will be carried across all areas of consultation.

##### **Policy Implications**

Nil

##### **Financial Implications**

There are no direct budget implications in endorsing the Plan. Each engagement relating to proposed new or alterations to Council and Shire services, events, strategic plans, issues and projects will be factored into that project's individual 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

An engaged community adds value to the community planning process and is a key underlying resource for both community and economic development.

Environmental implications

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

**Comment**

The Shire of Chittering Community Engagement Plan will ensure that Council has the opportunity to consider input from a wide range of community members and key stakeholders before making decisions. Community members will always be informed and given the opportunity to contribute to the planning/development process.

The plan will establish a standard process for community engagement thereby ensuring that inclusive and efficient consultation is undertaken at all times. The community will be confident that it is kept informed of decisions emanating from community engagement and will become familiar with the methods/processes engaged.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 121112**

Moved Cr Mackie / seconded Cr Clarke

That Council adopts the *Shire of Chittering Community Engagement Plan*.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

#### 9.4.4 Multiple Dog – Policy and Delegated Authority\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	13/05/0001; 04/03/1
<b>Prepared by</b>	Grayson Hindmarsh, Principal Building Surveyor
<b>Supervised by</b>	Azhar Awang, Executive Manager Development Services
<b>Voting requirements</b>	<b>Absolute majority</b>
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Multiple Dog Policy and Application for Exemptions of Limitations of Number of Dogs</li><li>2. Delegated Authority - DA60 Multiple Dogs</li></ol>

#### Background

It is proposed that applications for the keeping of multiple dogs could be more efficiently and effectively processed by delegated authority to Council Officers.

This would reduce the need for Council to consider most applications while still providing the same level of protection to all stakeholders regarding offsite impacts. Potential off-site impacts can be assessed by utilising the same procedures, such as adjoining neighbour consultation. Due consideration to all affected parties could be metered out in a more evenly process driven by way of adherence to a "Multiple Dog Policy".

The *Shire of Chittering Dog Local Laws 2011* requires dog owners to apply for exemption to exceed dog numbers as follows:

*"Clause 3.2(2)*

- 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 town site, small rural holding, rural retreat or rural residential; or*
- b) 3 dogs over the age of three months and the young of those dogs under that age if the premises are situated outside a town site, small rural holding, rural retreat or rural residential."*

Council is hereby advised that the number of dogs pertaining to any exemption cannot exceed 6 dogs, pursuant to Section 26(3)(b) of the *Dog Act 1976*. Dog numbers in excess of 6 dogs are considered "Kennel Establishments" and proponents may make application through the normal rigour of the Shire's *Town Planning Scheme No 6*.

#### Consultation

Chief Executive Officer  
Executive Manager Development Services  
Senior Planning Officer  
Planning Officer  
Community Emergency Services Manager  
Rangers

#### Statutory Environment

*Dog Act 1976, Section 26(3) – Limitations as to Numbers*

*Dog Local Law 2011, Clause 3.2(2) – Limitation on the Number of Dogs*

*Local Government Act 1995, Sections 5.18, 5.42 and 5.46(1)*



### Policy Implications

The introduction of a new “Multiple Dog Policy” will be an additional policy to the *Shire of Chittering Policy Manual* as there was no existing policy. The proposed policy is attached as attachment 1.

### Financial Implications

Nil

### Strategic Implications

Nil

### Site Inspection

Not applicable

### Triple Bottom Line Assessment

#### Economic implications

The recent audit undertaken by Ranger Services for compliance of dog registrations on individual properties has resulted in an increase in additional income on dog registrations.

#### Social implications

There will not be any accentuation of offsite impacts from the keeping of additional dogs through the use of the proposed delegated authority.

#### Environmental implications

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

### Comment

The process for considering exemption applications will still consider the same issues as previously. Adopting this policy in conjunction with the application form will provide a consistent framework and consistency for Council Officer deliberations.

The application form will have reporting requirements and the need for applicants to obtain written consent from their immediate adjoining property owners prior to processing. The delegation still allows for complex applications to be presented to Council for consideration should the need arise.

### OFFICER RECOMMENDATION – COUNCIL RESOLUTION 131112

Moved Cr Gibson / seconded Cr Rossouw

That Council:

1. adopts the “Multiple Dog Policy” and “Application for Exemptions of Limitations of Number of Dogs”.
2. adopts the Delegated Authority - DA 60 “Multiple Dogs”.

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

#### 9.4.5 Loan Agreement\*

Applicant	Shire of Chittering
File ref	12/02/1
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	1. Loan Agreement for \$1,000,000 – Loan 79

#### Background

Council in its 2012/13 Annual Budget made provision for a \$1,000,000 loan for the purpose of constructing the Bindoon Multi-purpose Health Centre.

#### Consultation

Western Australian Treasury Corporation  
Executive Manager Corporate Services

#### Statutory Environment

Local Government Act 1995, Section 6.20 Power to borrow

- (1) Subject to this Act, a local government may—
  - (a) borrow or re-borrow money;
  - (b) obtain credit; or
  - (c) arrange for financial accommodation to be extended to the local government in ways additional to or other than borrowing money or obtaining credit,to enable the local government to perform the functions and exercise the powers conferred on it under this Act or any other written law.
- (2) Where, in any financial year, a local government proposes to exercise a power under subsection (1) (**power to borrow**) and details of that proposal have not been included in the annual budget for that financial year—
  - (a) unless the proposal is of a prescribed kind, the local government must give one month's local public notice of the proposal; and
  - (b) the resolution to exercise that power is to be by absolute majority.
- (3) Where a local government has exercised a power to borrow and—
  - (a) it does not wish to proceed with the performance of the function or the exercise of the power for which the power to borrow was exercised; or
  - (b) after having completed the performance of the function or the exercise of the power for which the power to borrow was exercised, any part of the money borrowed, credit obtained or financial accommodation arranged has not been expended or utilized,the local government may resolve\* to expend the money or utilize the credit or financial accommodation for another purpose if one month's local public notice is given of the proposed change of purpose.  
\* Absolute majority required.
- (4) A local government is not required to give local public notice under subsection(3)—
  - (a) where the change of purpose has been disclosed in the annual budget of the local government for the relevant financial year; or
  - (b) in such other circumstances as are prescribed.

- (5) *A change of purpose referred to in subsection (3) is to be disclosed in the annual financial report for the year in which the change occurs.*

### Policy Implications

There are no policy implications in considering this item.

### Financial Implications

Term of loan	20 years
Interest rate	4.41% fixed for the term
Loan amount	\$1,000,000.00
Repayments (pa)	\$76,349.68
Lending date	4 February 2013
Maturity date	4 February 2033

### Strategic Implications

*Strategy S3 – Pursue the establishment of a Multipurpose Health Centre in the southern area of the Bindoon Town site*

### Site Inspection

Not applicable

### Triple Bottom Line Assessment

#### Economic implications

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

#### Social implications

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

#### Environmental implications

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

### Comment

The loan will be used to part fund the Bindoon Multi-purpose Health Centre.

In accordance with the *Local Government Act 1995, section 9.49A* Council is now requested to give consideration to authorising the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Loan Agreement (Loan 79).

### OFFICER RECOMMENDATION – COUNCIL RESOLUTION 141112

Moved Cr Gibson / seconded Cr Clarke

That Council:

1. authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Loan Agreement (Loan 79).
2. returns the executed Loan Agreement (Loan 79) to Western Australian Treasury Corporation.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

#### 9.4.6 Chief Executive Officer Annual review\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	22/10/59
<b>Prepared by</b>	Gary Tuffin, Chief Executive Officer
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Salary &amp; Allowances Tribunal Report under section 7A of the <i>Salaries and Allowance Act 1975</i>, Local Government Chief Executive Officers</li><li>2. Key Result Areas (KRA)</li></ol>

#### Background

To consider the annual performance review and remuneration package of the Chief Executive Officer.

Contract commencement date 31 October 2011.

Anniversary date 31 October 2012.

#### Consultation

Shire President

#### Statutory Environment

*Local Government Act, Section 5.38 Annual review of certain employees' performances*

*"The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment."*

#### Policy Implications

Nil

#### Financial Implications

Nil

#### Strategic Implications

Nil

#### Site Inspection

Not applicable

#### Triple Bottom Line Assessment

##### Economic implications

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

##### Social implications

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

Environmental implications

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

**Comment**

The *Local Government Act 1995, Section 5.38* and the Chief Executive Officer's contract require that an annual review be undertaken in accordance with clause 4.

The Chief Executive Officer's contract provides further details on how the process should be conducted.

Section 4.3 states:

***"4.3 Selection of Reviewer***

- (1) The Council, in consultation with You, is to determine, in respect of each review under clause 4.2-*
  - (a) who the Reviewer is to be; and*
  - (b) whether the Reviewer is to be accompanied or assisted by any other person and, if so, the identity of that person.*
- (2) For example, the Reviewer may be –*
  - (a) the Shire President; and*
  - (b) a person who has been delegated or authorised by the Council to conduct the performance review."*

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 151112**

Moved Cr Norton / seconded Cr Clarke

1. That the following members of Council be appointed to the CEO Performance Assessment Group:
  - i) Cr Douglas
  - ii) Cr Gibson
  - iii) Cr Rossouw
2. That a further report be presented to Council for endorsement, at the next available meeting, after the assessment has been completed.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

#### 9.4.7 2012/2022 Strategic Community Plan\*

Applicant	Shire of Chittering
File ref	04/01/1
Prepared by	Karen Parker, Manager Human Resources
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	<b>Absolute majority</b>
Documents tabled	Nil
Attachments	1. Draft Strategic Community Plan

##### Background

The *Integrated Planning and Reporting Framework* was introduced in 2010 as part of the State Government's Local Government Reform Program. This framework aims to guide each local government to improve its strategic planning to be achieved through a more integrated approach that includes community input into the local government's strategic planning process.

The Shire of Chittering requires a Strategic Community Plan (SCP) to determine the Shire's future direction, to respond to its local community service needs by aligning the community's expectations and aspirations with the priorities of the Council and these are linked to the Shire's Corporate Business Plan.

The Strategic Community Plan is a legislative requirement that needs to be adopted by Council prior to 30 June 2013.

In February 2012 Helen Hardcastle from Learning Horizons was appointed to undertake the development of the Strategic Community Plan process. This process was done in three phases:

##### Phase 1:

Preparation and Analysis:

- Review of current plans and strategies.
- Understanding of key trends, risks, issues, demographics, research of State and Federal plans and drivers, financial, asset and workforce capability.

##### Phase 2:

Community Engagement

- Design of community input: survey and feedback processes, mail-out, invitations to community.
- Representative community workshops (two) developing a community vision, values, aspirations and priorities.

##### Phase 3:

Analysis and Review

##### Council Workshop

- Review and development of long term objectives and short term priorities, based on research and community feedback
- Development of the Shire Strategic Community Plan and four year priorities to input into the Corporate Business Plan.

Our community had the opportunity to be involved through a survey and written feedback and one hundred and seventy five (175) community members responded, providing extensive feedback.

Helen facilitated two workshops, one in Muchea on (3/04/12) and the other in Bindoon on (11/04/12), which were planned and designed to ensure diversity of representation and enabling active involvement.

Community members were encouraged to develop a long term vision and explore ways of achieving their vision in consideration of the research based on local demographics, challenges, State and Federal Policy and Plans.

Helen presented Council with the Community Plan on the 21 May 2012 to identify and prioritise the projects resulting from the Community consultation.

Staff worked with Helen to produce the final Draft Strategic Community Plan which was further workshopped by Council on 4 October 2012.

### **Consultation**

Shire of Chittering Community  
Helen Hardcastle, Learning Horizons  
Councillors  
Chief Executive Officer  
Executive Manager Corporate Services  
Executive Manager Development Services  
Executive Manager Technical Services

### **Statutory Environment**

Local Government Act 1995, Section 5.56

#### **5.56. Planning for the future**

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Section 19C & 19D of the Local Government Administration Regulations states;

#### **19C. Strategic community plans, requirements for (Act's. 5.56)**

- (1) *A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
- (2) *A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*
- (3) *A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*
- (4) *A local government is to review the current strategic community plan for its district at least once every 4 years.*
- (5) *In making or reviewing a strategic community plan, a local government is to have regard to—*
  - (a) *the capacity of its current resources and the anticipated capacity of its future resources; and*
  - (b) *strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*
  - (c) *demographic trends.*

- (6) *Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*
- (7) *A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine\* whether or not to adopt the plan or the modifications.*  
**\*Absolute majority required.**
- (8) *If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*
- (9) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*
- (10) *A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.*

**19D. Adoption of plan, public notice of to be given**

- (1) *After the adoption of a strategic community plan, or modifications of a strategic community plan, under regulation 19C, the local government is to give local public notice in accordance with subregulation (2).*
- (2) *The local public notice is to contain —*
  - (a) *notification that —*
    - (i) *a strategic community plan for the district has been adopted by the council and is to apply to the district for the period specified in the plan; and*
    - (ii) *details of where and when the plan may be inspected; or*
  - (b) *where a strategic community plan for the district has been modified—*
    - (i) *notification that the modifications to the plan have been adopted by the council and the plan as modified is to apply to the district for the period specified in the plan; and*
    - (ii) *details of where and when the modified plan may be inspected.*

**Policy Implications**

Nil

**Financial Implications**

There will be a cost for the design development and typeset of \$484.00. Printing of the document(s) will be in addition to this cost.

**Strategic Implications**

Strategic implications are significant as the projects and outcomes identified in the Strategic Community Plan provide direction for the development of the Long Term Financial Plan, Corporate Plan and Workforce Plan.

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

Economic implications

Economic implications have been identified in the Plan.



Social implications

Social implications have been identified in the Plan.

Environmental implications

Environmental implications have been identified in the Plan.

**Comment**

The Strategic Community Plan is critical for the development of the other Plans, such as the Corporate Business Plan, Long Term Financial Plan and Workforce Plan.

Council is requested to endorse the Strategic Community Plan 2012-2022 and advertise that it is available for public inspection.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 161112**

**Moved Cr Mackie / seconded Cr Gibson**

**That Council:**

1. **adopts the *Strategic Community Plan 2012 – 2022*.**
2. **advertises the adoption and availability of the *Strategic Community Plan 2012-2022* in accordance with Regulation 19D.**

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

## 10. REPORTS OF COMMITTEES

### 10.1 Minutes of the Chittering Mining Advisory Committee meeting held on Monday, 5 November 2012\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	02/08/3
<b>Prepared by</b>	Natasha Mossman, Executive Support Officer
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. "Unconfirmed" Chittering Mining Advisory Committee minutes of meeting held on Monday, 5 November 2012

#### Background

As the Shire does not have the necessary experienced staff to handle all environmental concerns in relation to mining proposals, the Committee would like Council to appoint consultants to act on an 'as required' basis.

At the meeting of the Chittering Mining Advisory Committee held on Monday, 5 November 2012 there were three formal recommendations moved at the meeting.

The first recommendation for Council's consideration is in relation to appointing an environmental consultant to act on behalf of the Shire. The Shire sent requests to seven consultants of which only three responses were received; with one advising that they act for BAJV, therefore would be a conflict of interest.

#### *"COMMITTEE RECOMMENDATION*

*Moved Clair Medhurst / seconded Ron Renton*

*That Council appoint Dallywater Consulting to act as the Shire's Independent Environmental Consultants on an as-required basis."*

The second recommendation for Council's consideration is in relation to the Shire's Town Planning Scheme and exploration licence. The Committee are concerned that applications for mining tenements are in opposition of the Shire's Town Planning Scheme and request that Council consider this matter urgently (refer to item 7.1 in attachment 1).

#### *"COMMITTEE RECOMMENDATION*

*Moved Clair Medhurst / seconded Ron Renton*

*The Council:*

- 1. objects to all applications for all tenements under the Mining Act 1978 on the grounds of the Town Planning Scheme No 6 prohibitions.*
- 2. advises adjoining landowners of all tenement applications as soon as possible.*
- 3. writes to the Department of Mines and Petroleum that the Shire is opposed to all tenement applications under the Mining Act 1978."*

The third recommendation for Council's consideration is in relation to exploration minerals to land owners. The Committee expressed concerns that exploration on minerals to land owner is in breach of the Shire's Town Planning Scheme No 6 (refer to item 7.2 in attachment 1).

**"COMMITTEE RECOMMENDATION**

*Moved Claire Medhurst / seconded Ron Renton*

*That Council writes to Alpha Bauxite and BAJV advising that undertaking exploration on 'minerals to owner land' is in breach of the Shire of Chittering Town Planning Scheme No 6."*

The CEO and EMDS were of the view that the exploration process consist of taking samples of materials and does not necessarily fall under the definition of industry mining in its strictest form. Exploration can be undertaken in the form of aerial imagery or through physical drilling of core samples. The exploration licence is the first step of many to determine the viability of undertaking mining activity. As such it was felt prudent that further advice be sort from council's solicitors, before council made a decision on this matter.

McLeod's provided the following response;

*In order for exploration activities to breach TPS6 requires that they constitute unapproved development'. TPS6 defines 'development' by adopting the definition in the Planning and Development Act.*

*I understand that exploration may involve drilling for samples using a drilling rig or 4-wheel drive mounted drilling equipment, workers manually digging for samples and aerial imagery.*

*These activities would not fall within the 'industry-mining' use class as they do not involve the commercial use of land to extract minerals. Any commercial use of land would be a subsequent process.*

*All development requires approval, except exempted development (cl8.1). The activities associated with exploration will only be development requiring approval if it is within the clear scope and purpose of TPS6 to regulate these activities, by requiring the submission of a development application and its assessment. There must be some clearly identifiable planning implication associated with the exploration activities before they could be considered to be development. By planning implication, I mean the activities have some impact of planning significance. For example, they disturb amenity or degrade landscape values. I cannot readily see that workers manually digging for samples and aerial imagery would have any such planning implications. This may also be the position with respect to drilling activities, but this would require closer consideration to see if there were any planning impacts.*

*As far as I can see, the committee's recommendation is unsupported by any planning analysis of the planning implications of the exploration activities. Without this, I can see no basis on which the committee could validly reach the conclusion that underpins the recommendation. The proposition that all exploration activity is development and in breach of the TPS6 without approval cannot be sustained. It requires a case by case planning assessment.*

Whilst the intent of the committee is understood and well intentioned, in light of the above opinion it is recommended that council not act on the third recommendation as requested by the committee.

**Consultation**

Chittering Mining Advisory Committee

**Statutory Environment**

Not applicable

### Policy Implications

Nil

### Financial Implications

In appointing an independent environmental consultant there will be charges for services provided.

The consultants fee will be charged at \$130.00 per hour, on an "as needs basis".

### Strategic Implications

The use of an independent expert will enable Council to receive an appropriate level of advice so that informed decisions can be made in relation to all mining matters within the Shire.

### Site Inspection

Not applicable

### Triple Bottom Line Assessment

#### Economic implications

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

#### Social implications

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

#### Environmental implications

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

### Comment

The unconfirmed minutes of the Chittering Mining Advisory Committee meeting held on Monday, 5 November 2012 are now presented to Council to be received.

### OFFICER RECOMMENDATION – COUNCIL RESOLUTION 171112

Moved Cr Hawes / seconded Cr Clarke

That Council:

1. receives the unconfirmed minutes of the Chittering Mining Advisory Committee meeting held on Monday, 5 November 2012.
2. appoints Dallywater Consulting to act as the Shire's Independent Environmental Consultants on an as-required basis.
3. objects to all applications for all tenements under the *Mining Act 1978* on the grounds of the *Town Planning Scheme No 6* prohibitions.
4. advises adjoining landowners of all tenement applications as soon as possible.
5. writes to the Department of Mines and Petroleum that the Shire is opposed to all tenement applications under the *Mining Act 1978*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

**10.2 Minutes of the Chittering Community Planning Advisory Committee meeting held on Thursday, 11 October 2012\***

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	02/08/2
<b>Prepared by</b>	Arlene Carter, Club and Community Development Officer
<b>Supervised by</b>	Karen Parker, Manager Human Resources
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Confirmed Minutes of the Chittering Community Planning Advisory Committee meeting held on 11 October 2012

**Background**

A meeting of the Chittering Community Planning Advisory Committee (CCPAC) was held on 11 October 2012.

**Consultation**

Nil

**Statutory Environment**

Nil

**Policy Implications**

Nil

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

The minutes of the CCPAC meeting are now presented to Council to be received.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 181112**

**Moved Cr Clarke / seconded Cr Rossouw**

**That Council receives the confirmed Minutes of the Chittering Community Planning Advisory Committee meeting held on 11 October 2012.**

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**

### 10.3 Minutes of the Chittering Education Scholarship Committee meeting held on 14 November 2012\*

<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	15/01/4
<b>Prepared by</b>	Arlene Carter, Club and Community Development Officer
<b>Supervised by</b>	Karen Parker, Manager Human Resources
<b>Voting requirements</b>	Simple majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Unconfirmed Minutes of the Chittering Education Scholarship Committee meeting held on 14 November 2012

#### **Background**

A meeting of the Chittering Education Scholarship Committee was held on 14 November 2012.

#### **Consultation**

Nil

#### **Statutory Environment**

Nil

#### **Policy Implications**

Nil

#### **Financial Implications**

Nil

#### **Strategic Implications**

Nil

#### **Site Inspection**

Not applicable

#### **Triple Bottom Line Assessment**

##### Economic implications

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

##### Social implications

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

##### Environmental implications

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

#### **Comment**

The minutes of the Chittering Education Scholarship Committee meeting are now presented to Council to be received.

**OFFICER RECOMMENDATION – COUNCIL RESOLUTION 191112**

**Moved Cr Mackie / seconded Cr Clarke**

**That Council receives the unconfirmed Minutes of the Chittering Education Scholarship Committee meeting held on 14 November 2012.**

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0**



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

Nil

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

Nil

**13. URGENT BUSINESS**

PROCEDURAL MOTION 201112  
Moved Cr Hawes / seconded Cr Mackie  
That Council considers an item of urgent business.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

**13.1 Avon Midland Country Zone funding**

Cr Hawes advised that the Avon Midland Country Zone has requested Council consider contributing \$2000 per member, per year to enable the officers of the group to travel to Canberra to lobby federal ministers on regional matters.

**COUNCILLOR MOTION**  
Moved Cr Hawes  
That Council supports funding for an Avon Midland Country Zone Advocacy Funding Program to the amount of \$2000 per member, per year.

The motion LAPSED for want of a seconder

**14. CONFIDENTIAL ITEMS**

Nil

**15. CLOSURE**

The presiding member declared the meeting closed at 7.58pm



6177 Great Northern Highway  
PO Box 70 Bindoon WA 6502  
T: 08 9576 4600 F: 08 9576 1250  
E: [chatter@chittering.wa.gov.au](mailto:chatter@chittering.wa.gov.au)  
[www.chittering.wa.gov.au](http://www.chittering.wa.gov.au)

Office hours: Monday to Friday  
8.30am - 4.30pm