



**DEVELOPMENT SERVICES ATTACHMENTS  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 21 OCTOBER 2020**

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
DS01-10/20	<b>Proposed Scheme Amendment No. 67: Rezoning from “Agricultural Resource” to “Light Industrial” – Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea</b> <b>Attachments</b> 1. Environmental Protection Agency Determination 2. Schedule of Submissions	1 – 12

**ADVICE UNDER SECTION 48A(1)(a)  
ENVIRONMENTAL PROTECTION ACT 1986**

**Shire of Chittering Local Planning Scheme 6 Amendment 67**

**Location: Lots 800-804, 192, 194 and 35 Great Northern Highway Muchea**

**Determination: Scheme Not Assessed – Advice Given (not appealable)**

**Determination Published: 4 May 2020**

**Summary**

The amendment proposes to rezone Lots 800-804, 192, 194 and 35 Great Northern Highway Muchea within the Muchea Employment Node Structure Plan from 'Agricultural Resource' zone to 'Light Industrial' zone, amend Schedule 11 – Muchea Employment Node Special Control Area to add Precinct 3, and introduces provisions relating to land use and development requirements.

The Environmental Protection Authority (EPA) has considered the scheme amendment in accordance with the requirements of the *Environmental Protection Act 1986* (EP Act). The EPA considers that the scheme amendment is unlikely to have a significant effect on the environment and does not warrant formal assessment under Part IV of the EP Act. The EPA has based its decision on the documentation provided by the Shire of Chittering. Having considered this matter the following advice is provided.

**Environmental Factors**

The EPA has identified the following preliminary environmental factors relevant to this scheme amendment:

- Inland Waters
- Flora and Vegetation
- Terrestrial Fauna.

**Advice and Recommendations regarding Environmental Factors**

Inland Waters and Flora and Vegetation

The amendment area is adjacent to the Ellen Brook. Development of the site for industrial land use has the potential to impact groundwater and surface water quality and pre-development hydrology, including through nutrient run off.

Potential impacts can be managed through retention of vegetation, buffers to Ellen Brook and implementation of water management planning. The provision of an appropriate vegetated buffer to Ellen Brook is supported. Water management planning should maintain or improve groundwater and surface water quality, and maintain pre-development hydrology. A Local Water Management Strategy should be finalised prior to the amendment being endorsed.

On-site effluent disposal is proposed for the amendment area. Development should be consistent with the *Government Sewerage Policy* (2019 Department of Health, Department of Planning, Lands and Heritage, Department of Water and Environmental Regulation).

Terrestrial Fauna and Flora and Vegetation

The site contains potential habitat for threatened species of black cockatoo, listed under both the *Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

A targeted survey for black cockatoo habitat is recommended prior to development of the site, and consideration should be given to retention of black cockatoo habitat. Proponents should consider their responsibilities under the EPBC Act to refer proposals to the Commonwealth Department of Agriculture, Water and the Environment should clearing of significant black cockatoo habitat be proposed.

#### Social Surroundings

Industrial development may impact surrounding existing residential development due to potential noise, dust and odour emissions. The EPA's Guidance Statement No. 3 *Separation Distances between Industrial and Sensitive Land Uses* should be considered to advise decision making on the potential impacts to surrounding land uses and separation distances.

#### **Conclusion**

The EPA concludes that the amendment can be managed to meet the EPA's environmental objectives through existing planning controls within the scheme. The EPA recommends its advice is implemented to mitigate potential impacts to Inland Waters and Terrestrial Fauna.



## Environmental Protection Authority

Mr Matthew Gilfellow  
 Chief Executive Officer  
 Shire of Chittering  
 PO Box 70  
**BINDOON WA 6502**

Our Ref: CMS 17796  
 Enquiries: Renee Blandin, 6364 6786  
 Email: [Renee.Blandin@dwer.wa.gov.au](mailto:Renee.Blandin@dwer.wa.gov.au)

Dear Mr Gilfellow

### DECISION UNDER SECTION 48A(1)(a) *Environmental Protection Act 1986*

<b>SCHEME</b>	<b>Shire of Chittering Local Planning Scheme 6 Amendment 67</b>
<b>LOCATION</b>	<b>Lots 800-804, 192, 194 and 35 Great Northern Highway Muchea</b>
<b>RESPONSIBLE AUTHORITY</b>	<b>Shire of Chittering</b>
<b>DECISION</b>	<b>Referred Examined, Preliminary Investigations and Inquires Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)</b>

Thank you for referring the above scheme to the Environmental Protection Authority (EPA).

After consideration of the information provided by you, the EPA considers that the proposed scheme should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986 (EP Act) but nevertheless provides the attached advice and recommendations. I have also attached a copy of the Chairman's determination of the scheme.

Please note the following:

- For the purposes of Part IV of the EP Act, the scheme is defined as an assessed scheme. In relation to the implementation of the scheme, please note the requirements of Part IV Division 4 of the EP Act.
- There is no appeal right in respect of the EPA's decision to not assess the scheme.

A copy of the Chairman's determination, this letter and the attached advice and recommendations will be made available to the public via the EPA website.

Yours sincerely



**Anthony Sutton**  
**Delegate of the Environmental Protection Authority**  
Executive Director  
EPA Services

30 April 2020

Encl. Chairman's Determination  
Scheme Advice and Recommendations



GOVERNMENT OF  
WESTERN AUSTRALIA

S48A Referrals

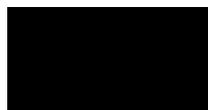
## Environmental Protection Authority

- Title:** Shire of Chittering Local Planning Scheme 6 Amendment 67.
- Location:** Lots 800-804, 192, 194 and 35 Great Northern Highway Muchea.
- Description:** The amendment proposes to rezone Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea within the Muchea Employment Node Structure Plan from 'Agricultural Resource' zone to 'Light Industrial' zone. It is proposed to amend the Zoning Table for the land uses 'Concrete Batching Plant', 'Workforce Accommodation' and 'Fast Food Outlet' in the Light Industrial and General Industrial zones; and add provisions for Precinct 3 of the Muchea Industrial Park to Schedule 11 – Muchea Employment Node Special Control Area.
- Ref ID:** CMS17796
- Date Received:** 24/03/2020      **Date Sufficient Information Received:** 6/04/2020
- Responsible Authority:** Shire of Chittering
- Contact:** Peter Stuart
- Preliminary Environmental Factors:** Inland Waters, Flora and Vegetation, Terrestrial Fauna, Social Surroundings
- Potential Significant Effects:** Potential impacts to groundwater quality and surface water quality of Ellen Brook, clearing of vegetation and fauna habitat, and potential noise, dust and odour impacts on sensitive land uses.
- Management:** Impacts can be managed through scheme provisions and development controls, and through site environmental and water management strategies required for structure planning. EPA advice is also provided regarding management of environmental impacts.
- Determination:** **Referral Examined, Preliminary Investigations and Inquiries Conducted. Scheme Amendment Not to be Assessed Under Part IV of EP Act. Advice Given. (Not Appealable)**

The EPA has carried out some investigations and inquiries before deciding not to assess this scheme. In deciding not to formally assess schemes, the EPA has determined that no further assessment is required by the EPA.

This Determination is not appealable.

Chairman's Initials:



Date: 29 April 2020

<p><b>CLE Town Planning + Design on behalf of Harvis Capital</b></p> <p><b>Attachments:</b></p> <p><b>Attachment 1 – Cossill &amp; Webley Technical Note</b></p> <p><b>Attachment 2 – JDSI Technical Note</b></p> <p><b>Attachment 3 – Emerge Technical Note</b></p> <p><b>Attachment 4 – WSP Technical Note</b></p>	<p>We have concerns regarding the process being implemented for Precinct 3, in particular the concurrent assessment of a local scheme amendment and a local structure plan.</p> <p>We also have concerns regarding the lack of content within the proposed scheme text and the proposal to allow discretion to consider inappropriate land uses in the ‘Light Industrial’ zone. Further, the proposed structure plan does not contain the necessary level of information to enable a thorough assessment and does not respond to the relevant site constraints as foreshadowed in the Western Australian Planning Commission’s (WAPC) Muchea Employment Node Structure Plan (MENSP).</p> <p>Our specific concerns and the associated reasons are outlined in detail below under the corresponding headings. We have structured our submission so that it is clear which comments relate to which process (scheme amendment or local structure plan) as well as an opening section outlining issues with the overall process.</p>	<p>The Planning Framework does not limit a Scheme Amendment and Structure Plan being lodged and advertised concurrently and this is a commonly applied process. It allows, in our view, stakeholders to gain a much improved understanding and holistic view of the project and the planning framework that guides it, and in turn allows more detailed and informed comments to be provided at the advertising stage.</p> <p>During the preparation of the proposals, discussions were held with DPLH and the Shire and it was agreed that the proposals would be advertised concurrently. It has always been acknowledged that in accordance with due process, the Structure Plan will not be determined until after the Scheme Amendment has been approved by the Minister.</p>	<p>Noted.</p>
	<p><b>PROCEDURAL ISSUES</b></p> <p>1. <u>Scheme amendment should precede structure plan</u></p> <p>In order to properly inform the preparation, advertising, assessment and determination of a local structure plan (LSP) within the MEN, there must first be a statutory framework which identifies matters that are required to be addressed as part of the LSP. An example of this is the existing Schedule 11 of LPS 6 which sets out a detailed list of requirements that are to be addressed at the LSP stage.</p> <p>Without the proposed scheme amendment being gazetted, it is impossible for the LSP to be properly advertised and assessed. This is because the final version of the scheme text that is needed to guide the preparation and assessment of an LSP is uncertain and may change significantly prior to it being approved by the Minister and gazetted. The proposed scheme amendment cannot even be considered as ‘seriously entertained’ at this stage, making advertising and assessment of the LSP premature.</p> <p>The proposed scheme amendment is only at the initial stages of the process for a standard amendment, with a number of subsequent processes required that are likely to alter the final form of the amendment. These subsequent processes include modifications in response to advertising, modifications recommended by resolution of the Shire of Chittering Council, modifications based on the outcomes of the Department of Planning, Lands and Heritage’s (DPLH) assessment and modifications required by the Minister. Given the likelihood that changes to the proposed scheme text will be required, it is not possible to assess the LSP as the framework under which the LSP is to be assessed does not have statutory effect and is not in final form. It is not reasonable to expect stakeholders to review and comment on an LSP where there is no guiding scheme provisions that clearly outline the matters the LSP is required to address. This uncertainty is not limited to the consultation process, but also applies to the Shire’s assessment of the LSP post-advertising.</p> <p>Should the LSP proceed through the assessment process and be referred to the DPLH for assessment and approval, it may prejudice the Ministers decision on the proposed scheme amendment. This is because the DPLH would have already considered the LSP based on proposed scheme text</p>	<p>Refer to response immediately above.</p> <p>The planning framework for Precinct 3 is guided at a broad level by the MENSP, with relevant provisions reflected in the proposed Scheme Amendment.</p> <p>In our view the existing Schedule 11 provisions contain unnecessarily detailed and verbose provisions. The provisions proposed within the Scheme Amendment are entirely appropriate to guide the future use and development of Precinct 3.</p> <p>The Scheme Provisions clearly set out what requirements apply at different stages of the planning process, and in accordance with the WAPC Structure Plan Framework, the Structure Plan will subsequently set out those requirements to be addressed at subsequent stages.</p> <p>It is unnecessary for the Scheme Amendment to be gazetted before the Structure Plan is advertised. Concurrent advertising provides an efficient, informative and streamlined approval to establishing the planning framework and there are sufficient checks and balances in the process to ensure that the Scheme Provisions and Structure Plan incorporate all of the necessary provisions.</p> <p>As stated above, the Structure Plan cannot and will not be considered and determined by the WAPC until after the Minister determines the Scheme Amendment, and due process is therefore being followed.</p>	<p>Schedule 2, Part 4, Clause. 15 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> identifies the circumstances where a Structure Plan should be prepared. Schedule. 2, Pt. 4, Cl. 15(c) of the Regulations lists an area ‘the Commission considers that a structure plan for the area is required for the purposes of orderly and proper planning’. It is evident within the Muchea Industrial Park/Employment Node Structure Plan that local structure planning within each of the identified precincts is required.</p> <p>Further to the above, Clause 5.7.2.4 a) of LPS6 stipulates the need for Structure Planning to occur within the Muchea Employment Node Special Control Area ‘in precincts where orderly and proper planning is needed to achieve a co-ordinated provision of services and infrastructure’.</p> <p>The ‘Loop Road’ within Precinct 3 is an important piece of infrastructure that requires co-ordination across multiple land ownership and as such, the existing provision within LPS6 gives the statutory requirement for a Structure Plan to be prepared independent of a further Scheme Amendment. It is therefore considered that the assessment of the Structure Plan concurrently with the Scheme Amendment is appropriate, in accordance with the current planning framework.</p> <p>Further to the above, the WAPC approved ‘Manner and Form’ of a Structure Plan indicates that a Structure Plan can provide the basis for the future zoning of the subject land. Endorsement of a Structure Plan that illustrates appropriate zones across the land can then be followed by a Basic Amendment to rezone land in accordance with that Structure Plan, as per Part 5 of the Regulations. This suggests that a Structure Plan can</p>

	<p>provisions that have no statutory effect. Should this occur, the Minister's consideration of the scheme amendment may be influenced due to the LSP being significantly progressed based on draft scheme text provisions.</p> <p>In light of the above, the LSP should be deferred pending gazettal of the proposed scheme amendment. Only once the scheme amendment has been finalised can a valid advertising and assessment process for the LSP occur.</p>		<p>precede the approval of a Scheme Amendment, and therefore is not reliant on a Scheme Amendment being approved first as contended by the submitter.</p>
	<p>2. <u>Inability to incorporate scheme advice from Environmental Protection Authority (EPA)</u></p> <p>The EPA has provided advice regarding the proposed scheme amendment which is likely to warrant additional scheme text in order to appropriately address the matters raised. This will in turn, require additional matters to be addressed as part of the LSP process, further emphasising the above point that until the scheme amendment has been finalised (and incorporates the EPA's advice), it is not possible to consider the LSP.</p>	<p>The EPA advised in correspondence to the Shire on 30 April 2020, that <i>'Impacts can be managed through scheme provisions and development controls, and through site environmental and water management strategies required for structure planning. EPA advice is also provided regarding management of environmental impacts.'</i> The EPA determined not to assess the Scheme Amendment under Part IV of the EPA Act, with advice given, and no further assessment was required.</p> <p>The advice and recommendations comprised the following (in summary):</p> <p><u><i>Inland Waters and Flora and Vegetation:</i></u>  <i>Potential impacts can be managed through retention of vegetation, buffers to Ellen Brook and implementation of water management planning. The provision of an appropriate vegetated buffer to Ellen Brook is supported. A LWMS should be finalised prior to the amendment being endorsed.</i></p> <p>Comment: The required Management Plans have been and are being progressed in accordance with the EPA's advice, and as set out in the proposed planning framework.</p> <p><u><i>Terrestrial Fauna and Flora and Vegetation:</i></u>  <i>The site contains potential habitat for threatened species of black cockatoo, listed under both the Biodiversity Conservation Act 2016 and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).</i></p> <p><i>A targeted survey for black cockatoo habitat is recommended prior to development of the site, and consideration should be given to retention of black cockatoo habitat. Proponents should consider their responsibilities under the EPBC Act to refer proposals to the Commonwealth Department of Agriculture, Water and the Environment should clearing of significant black cockatoo habitat be proposed.</i></p> <p>Comment: Since the preparation of the EAMS, a detailed site survey of potential black cockatoo habitat trees has been carried out. The survey entailed identifying, inspecting, locating by GPS and photographing each tree. The results, as detailed in Appendix A, show:</p> <ul style="list-style-type: none"> <li>• The site contains 35 native trees of 0.5m dbh or larger (8 Marri, 6 Wandoo, 20 Flooded Gum, 1 unknown dead stag).</li> <li>• No trees contained hollows.</li> <li>• One Marri tree showed evidence of recent feeding by Red-tailed Black Cockatoos, in the form of chewed nuts. No cockatoos were observed and no other trees showed evidence of feeding.</li> </ul>	<p>It is considered that the comments raised by the EPA already have or have recommended to be addressed in the technical documentation supporting the Structure Plan and Scheme Amendment.</p>

		<p>From this inspection it is concluded that there is no breeding habitat and no significant feeding habitat for black cockatoos in the project area. No further assessment of black cockatoo habitat is considered necessary.</p> <p><u>Social Surroundings</u>  <i>Industrial development may impact surrounding existing residential development due to potential noise, dust and odour emissions. The EPA’s Guidance Statement No. 3 Separation Distances between Industrial and Sensitive Land Uses should be considered to advise decision making on the potential impacts to surrounding land uses and separation distances.</i></p> <p>Comment: Noted and acknowledged within Scheme Amendment and Structure Plan and will be addressed at the development application stage.</p> <p>In response to the submission, therefore, the considerations of the EPA have already been incorporated into the documentation and will be addressed at the appropriate stage in the planning process.</p>	
	<p>3. <u>Clause 4.9 (g) of LPS 6</u>                  We understand that existing clause 4.9 (g) of LPS 6 enables the Shire to require preparation of an LSP to assist with its consideration of a rezoning proposal. Whilst this may be useful to assist in demonstrating the merits of a proposed rezoning i.e. that there are no fundamental flaws that would preclude the land from being rezoned, for the reasons outlined above, the LSP should not be progressed in the absence of the rezoning proposal first being gazetted.</p>	<p>Refer to previous comments.</p>	<p>Clause 4.9(g) of LPS6 supports the preparation and consideration of a local structure plan prior to a Scheme amendment proposal. Officers consider the process in which the subject Structure Plan and Scheme Amendment are following is appropriate and consistent with the relevant planning framework.</p>
	<p><b>PROPOSED AMENDMENT NO. 67 TO LPS 6</b>                  4. <u>Staging within the Muchea Employment Node</u>                  The first stage of subdivision and development within the MEN is currently occurring within LSP1 and immediately adjacent the main interchange with Tonkin Highway. This direct access to the regional road network in itself makes LSP1 the logical first stage of development, with other supporting factors being its closest proximity to a potable water supply (Reserve Road to the north), gas pipeline and electricity substation as well as its consolidated ownership. This consolidated ownership allows for the efficient delivery of infrastructure without the need for any cost-sharing arrangements. It would therefore stand to reason that development of the MEN would occur sequentially from this location, allowing for the incremental extension of service infrastructure that maximises the benefit of this up-front investment. It would also create a consolidated node whereby complimentary land uses can locate in close proximity, assisting with long-term business viability.</p> <p>Rezoning Precinct 3 would open a second development front that will require the extension of service infrastructure and further upgrades to / construction of new roads in order to accommodate RAV 10 vehicles. Significant investment has occurred in order to service LSP1 with the roads and utilities necessary to accommodate industrial development. With the first stages of development within LSP1 only recently having commenced and decades of land supply remaining, the zoning of additional industrial land will compromise this significant investment in infrastructure. Rezoning of Precinct 3 does not follow the sequential extension of the development</p>	<p>Development staging within Precinct 3 will be determined by a range of factors, particularly landowner intent, market demand and servicing considerations. The staging approach is set out in section 12.2.2 of the Structure Plan, and supported by Scheme Amendment provisions.</p> <p>The documentation provided demonstrates, and requires that the Precinct 3 area be able to be serviced with the necessary infrastructure prior to development occurring. The P3 area has a long frontage to GEH which already provides access and commercial exposure to land within this area, supplemented by access to Tonkin Highway to the north. Therefore, dependent upon those three important factors detailed above, there is no reason why, and no statutory impediment to, P3 being developed and marketed concurrently with P1.</p> <p>The rezoning, structure planning and subsequent development of Precinct 3 is entirely consistent with the strategic planning framework, being the MENSF, endorsed by the WAPC and supported and promoted by the Shire, and reflected in the Structure Plan and associated Scheme Amendment.</p> <p>Precinct 3 is demonstrated within the submitted documentation to be able to comply with the Strategic Planning Framework, to be serviced in its own capacity, and to address the various environmental and other considerations.</p>	<p>The planning framework (LPS6, MEN Structure Plan and Draft MIPSP) does not prohibit multiple industrial development fronts from occurring, with Precincts having the ability to be developed independently from one another, and not in any sequential order.</p> <p>The provision of servicing is one to be met by the landowners/developers, with infrastructure costs and market demand dictating whether it is feasible or not.</p>

	<p>front and generates the need to further extend service infrastructure that has already been delivered to service new industrial land at LSP1. Industrial development should be consolidated within LSP1 in order to minimise the need to extend service infrastructure and maximise the potential for complimentary land uses to occur within a defined precinct, providing the greatest opportunity for long-term commercial viability and investment certainty.</p>	<p>Commercial competition, as CLE would be aware is not a valid planning consideration.</p>	
	<p><b>5. Proposed 'Light Industrial' zoning</b>                  There are a number of environmental and drainage features within Precinct 3 that warrant protection within local reserves however, the amendment proposes to rezone the entire precinct to 'Light Industrial', making no provision for local reserves. Once rezoned, there will be no further opportunity to accommodate environmental and drainage features, meaning that all features and associated buffers need to be quantified and defined up-front at the scheme amendment stage.</p> <p>In our view, it would be more appropriate to rezone the land 'Industrial Development' so that reserve boundaries do not have to be confirmed and finalised at scheme amendment stage. This would then allow for the LSP to designate zoning and reserve boundaries and for these to be refined through the detailed subdivision design process. As proposed, the scheme amendment does not set aside any land for local reserves and does not spatially respond to the interface with Ellen Brook. It effectively 'locks in' the industrial zoning with no ability to respond to more detailed planning at the LSP stage. Were a direct industrial rezoning progressed as proposed, then technically all reserve boundaries (including roads) would need to be identified up-front and incorporated into the scheme map. It should also be noted that in this regard, the proposed scheme map is inconsistent with the proposed LSP Map in terms of the identification of local reserves.</p>	<p>Following detailed discussions with DPLH and the Shire, DPLH advised its preference for the land to be zoned 'Light Industrial' rather than 'Industrial Development'. In either case, at the subdivision stage, the provision of reserves and other environmental considerations, as established in the Scheme Amendment and Structure Plan, can be identified and provided.</p> <p>Whilst we would have no objection to the land being zoned Industrial Development rather than Light Industrial, in our view the necessary provisions to appropriately guide the planning and development process have already been incorporated into the documentation and there is little, if any, benefit to be derived from a change to 'Industrial Development' at this stage.</p> <p>We disagree that at the scheme amendment stage for an industrial zoning, the reserve boundaries should be identified up front. This is not the case and there are many examples as to where an industrial zone extends over road reserve and drainage reserve areas. As CLE would be aware, the zoning map is not a subdivision plan, and there is a process in place for these reserves to be provided and refined at the Structure Plan and subdivision stages.</p> <p>The LWMS, Foreshore Management Plan and other documentation supporting the Scheme Amendment and Structure Plan appropriately sets out the requirements for reserves which will be refined and provided at the subdivision stage.</p> <p>The comment on consistency of mapping is unclear. The Scheme Amendment proposes to rezone the entire land area to Light Industrial and the Structure Plan, subsequently determined, will identify Public Open Space and Drainage Reserve, with this area being created and ceded to the Shire at the subdivision stage.</p>	<p>The submitters comment is supported in that the 'Reserves' identified within the Structure Plan, should be spatially defined and appropriately rezoned within the Scheme Amendment. At present, the areas to be ceded as 'Foreshore Reserve' are to be zoned as 'Light Industrial' which is inconsistent with their intended purpose and considered inappropriate.</p> <p>It is recommended that the Scheme Amendment Map be modified to include the required 'Reserve' areas as a new zone of 'Environmental Conservation'. The Environmental Conservation Local Scheme Reserve will need to be introduced into the Scheme as a replacement for the current 'Conservation' zone in order to maintain consistency with the Model Provisions of the <i>Regulations</i>.</p> <p>The initial Scheme Amendment documentation submitted in January 2019 proposed to rezone the subject land to 'Industrial Development', which was supported by the Shire. The Scheme Amendment was later modified following discussion held between the applicant and DPLH, to rezone the land directly to 'Light Industrial'. It is therefore understood that DPLH's preferred position is to rezone the land directly to 'Light Industrial'.</p> <p>Officers consider that a rezoning directly to 'Light Industrial' can be supported if the rezoning is accompanied by appropriate Scheme provisions that restrict development from occurring prior to a Structure Plan being endorsed. If the land is rezoned to 'Light Industrial' without any statutory provisions controlling development, fulfilment of a future Structure Plan could be compromised, which in turn could compromise the co-ordination of necessary infrastructure across land parcels with different ownership.</p>
	<p><b>6. Land uses within the 'Light Industrial' zone</b>  <i>Concrete Batching Plant</i>                  The proposal to allow discretion for a concrete batching plant to be approved within the 'Light Industrial' zone is inappropriate based on the principles of land use planning and in the context of Precinct 3's location.</p> <p>The ability to exercise discretion and approve concrete batching plants within the 'Light Industrial' zone is not appropriate based on the following land use planning considerations:</p>	<p>The objective of the Light Industrial Zone is:</p> <p><i>a) To provide for a range of industrial uses and service industries generally compatible with urban areas, that cannot be located in commercial zones.</i></p> <p><i>b) To ensure that where any development adjoins zoned or developed residential properties, the development is suitably set back, screened or otherwise treated so as to not detract from the residential amenity.</i></p>	<p>Officers agree with the submitter in that the potential offsite impacts of a concrete batching plant (dust, noise) are not considered to be generally compatible with urban areas.</p> <p>However, the proposal is to introduce this land use as a 'D' permissibility within the 'Light Industrial' zone. This means that discretion needs to be applied by the decision-maker in determining an application whereby</p>

	<p>The use is inconsistent with the objectives of the zone. As per clause 3.2.2 (a) of LPS 6, uses within the 'Light Industrial' zone are to be generally compatible with urban areas. Concrete batching plants are not compatible with urban areas and the use therefore could not be reasonably approved within the zone;</p> <p>Concrete batching activities should only be capable of occurring within the 'General Industry' zone. This is consistent with the objectives of the 'General Industry' zone as per clause 3.2.3 (b) which seeks to "apply environmental standards and practices that protect and maintain the amenity and water and air quality of adjoining areas..." By virtue of the scale of the 'General Industry' zone within LSP1, uses that have the potential to impact air quality such as concrete batching plants can be appropriately sited to achieve increased separation distances to any surrounding sensitive land uses.</p> <p>In our view, the location of Precinct 3 in closest proximity to the Muchea Townsite and the cluster of rural residential properties on the western side of Ellen Brook make it the least appropriate location for concrete batching plants within the MEN. Given that there is already designated land zoned for such uses within the MEN, there is no compelling reason as to why concrete batching plants should be capable of approval within Precinct 3.</p> <p><i>Fast Food Outlet</i> In the instance the Shire and WAPC agree that Fast Food Outlet's should be capable of approval within the 'Light Industrial' zone, then the use class should also be capable of approval within the 'General Industry' zone, noting that LSP1 has good exposure and access to Tonkin Highway.</p> <p>We therefore request that the zoning table also be updated to list 'Fast Food Outlet' as a 'D' use within the General Industry zone.</p> <p><i>Workforce Accommodation</i> The proposal to allow discretion to approve the use of 'Workforce Accommodation' within Precinct 3 contradicts existing clause 5.7.2.1 for the Muchea Employment Node (MEN) which precludes "residential land uses or caretakers dwellings" from being approved within the MEN Special Control Area. LPS 6 should therefore not be amended to introduce contradictory provisions, particularly where a clear position already exists.</p>	<p>Whilst it is agreed that a Concrete Batching Plant could not be considered to be consistent with an urban area, the objective states 'generally compatible with'. In this instance, the land is removed from any urban area, and is distant from the Muchea Town Centre. The operation of the use will still need to comply with EPA separation distances and will still be subject to requirements relating to noise and dust. Further the use is consistent with clause 4.9 of LPS6 for industrial zones.</p> <p>Noted no objection is raised regarding the inclusion of a Fast Food Outlet within the P3 area. Should CLE wish to apply for a Fast Food Outlet within their Client's land, they are able to lodge a Scheme Amendment request with the Shire accordingly.</p> <p>Extensive discussions were held with the Shire and DPLH regarding Workforce Accommodation. Its intent is to accommodate primarily transport workers who require, for Occupational Health and Safety Reasons, a location to rest and recuperate before either heading home or for additional work travel. This requirement is primarily to address the safety of drivers and other road users, and is entirely appropriate within a precinct where transport logistics are likely to be a key land user. The provisions included in the Scheme Amendment are considered to appropriately accommodate the land use intent and the use is appropriate within the Light Industrial Zone.</p>	<p>the scale of the development and the locational context (size of lot, proximity to sensitive land uses) will be taken into consideration. As a 'D' use, the decision maker has the ability to refuse an application for a concrete batching plant if proposed in an inappropriate location. From this perspective it is considered appropriate to introduce this new land use and give it a 'D' permissibility within the 'Light Industrial' and 'General Industry' zones.</p> <p>To further support the above, the only approved (2018) concrete batching plant within the Shire was categorised as an 'Industry' use class, which is a 'D' permissibility in the 'Light Industry' zone already. Therefore, under the current LPS6, a concrete batching plant could be considered in the 'Light Industry' zone. Introduction of this more specific land use category is simply clarifying and formalising the Shire's current position on concrete batching plants in the 'Light Industrial' zone.</p> <p>Officers consider that LPS6 adequately caters for providing an industrial area with the service of food (for the industrial workforce) through the definition of Lunch Bar which is defined as 'means premises of part of premises used for the sale of take away food (in a form ready to be consumed without further preparation) within an industrial or commercial areas.' The inclusion of a 'Fast Food Outlet' as a 'D' use within the Light and General Industry zones is considered inappropriate based on the above, and the level of amenity that is generally expected at a typical fast food outlet that is unlikely to be afforded in these zones. Furthermore, the land use of Fast Food Outlet is likely to attract non-industrial customers to the area which creates an undesirable interaction between industrial/commercial vehicles and passenger vehicles.</p> <p>Fast Food Outlet may be considered appropriate within the greater Muchea Industrial Park, but would need to be permitted within certain areas that have been strategically zoned (i.e. service commercial) to minimise land use conflict.</p> <p>It is recommended that the Scheme Amendment be modified to remove the 'D' permissibility change of a Fast Food Outlet within the Light Industrial zone, and it remain an 'X' within LPS6.</p> <p>The concern held by the submitter around permitting residential uses (workforce accommodation) in contradiction of Cl. 5.7.2.1 of LPS6 is acknowledged. The introduction of 'Workforce Accommodation' into the Light Industrial zone is supported by officers as a</p>
--	---	--	---

			<p>land use that can be considered. It is unclear whether workforce accommodation would be classified as a residential land use under Cl. 5.7.2.1 of LPS6 and whether this may create issues when a decision maker is considering an application for such.</p> <p>To eliminate any perceived ambiguity with this matter, it is recommended that the Scheme amendment appropriately modify Clause 5.7.2.1 to eliminate any potential for contradiction by specifically referencing workforce accommodation being a land use that can be considered within the MIP/MEN.</p> <p>'Workforce Accommodation' is also proposed to be a 'D' use within the 'Light Industrial' zone with additional restrictive requirements for such land use included within Cl. 4.9 of LPS6 to ensure a 'Workforce Accommodation' is incidental to another use. To allow flexibility in determining applications for workforce accommodation and to provide clarity in LPS6, it is recommended that the proposed Scheme amendment provisions relating to 'Workforce Accommodation' are removed, and the land use of 'Workforce Accommodation' is given an 'incidental' permissibility in the zoning table within the 'Light Industrial' zone. This will also require the introduction of 'incidental' permissibilities within the zoning table as provided for in the Model Scheme.</p>
	<p><b>7. Schedule 11 provisions</b>                  The proposed Schedule 11 provisions for Precinct 3 do not provide a comprehensive framework that clearly outlines the necessary reporting requirements at each subsequent stage of the planning process. Given the extensive list of requirements that currently apply to Precinct 1 under Schedule 11, it is unclear as to why the same provisions would not be applied to Precinct 3. The existing Schedule 11 provisions are all general in nature and are intended to ensure that necessary matters are appropriately addressed at each stage of the planning process. The amendment proposes an abridged version of the current Schedule 11 provisions which do not provide for the comprehensive planning of the land.</p> <p>The current Schedule 11 provisions were drafted and workshopped at length to secure high quality planning outcomes for the MEN. They should therefore apply to all subsequent precincts to ensure that consistent outcomes are secured that appropriately manage environmental constraints.</p> <p>Specific comments that outline the basis of our above comments include, but are not limited to:</p> <p>Both a Strategic Noise Assessment and Management Strategy and a Strategic Odour Assessment and Management Strategy are required for Precinct 1 at structure plan stage however, the proposed amendment would exempt Precinct 3 from this requirement. Given its closer proximity to the Mueha Townsite and the rural residential cluster on the western side of</p>	<p>The provisions proposed to be included in Schedule 11 – MENSCA address the development requirements of the P3 area and do provide a comprehensive planning framework. The provisions set out the requirements of each stage of the planning process, and this is supplemented by the implementation strategy containing within the Structure Plan, as set out in the WAPC Structure Planning Framework.</p> <p>In our view, the existing provisions for Precinct 1 contain superfluous direction that is unnecessary to list within the Scheme provisions. The requirements for management plans etc, are unnecessary to describe within the Scheme when their content and approval process is defined by other legislation and regulation.</p> <p>Further, the Structure Plan and Scheme Amendment documents lodged, provide a comprehensive approach to identifying and managing the environmental considerations associated with the subject land. The Scheme provisions ensure that all necessary management plans and other documentation is provided at the appropriate stage of the process.</p> <p>As set out in the WAPC Structure Planning Framework, Table 1 of Part 1 of the Structure Plan sets out requirements for each stage of the planning process. The requirement for a Noise Management Plan and Odour Management Plan, for instance are required, where appropriate, at the Development Application stage by the Shire of Chittering.</p>	<p>The concerns of the submitter are acknowledged and it is noted that the planning and reporting requirements proposed to be included into Schedule 11 for Precinct 3 are less onerous as opposed to those requirements for Precinct 1. One key difference between the two precincts is the proposed zoning of Light Industrial for Precinct 3, compared to Industrial Development of Precinct 1 (which incorporates General Industry within the Structure Plan). The Light Industrial zone does not lend itself to land uses that typically create externalities of nuisance (noise, dust, odour etc.) and as such, it is considered appropriate that any noise or odour assessment can be requested at the Development Application stage if considered necessary.</p> <p>With regard to the Foreshore Management Plan (FMP), the Environmental Assessment &amp; Management Strategy (EAMS) submitted with the Structure Plan indicates the need for an FMP to be provided at the subdivision stage. This is considered sufficient to enable a subdivision condition to be imposed on any subdivision application submitted. The absence of reference to a Foreshore Management Plan within the Scheme text does not preclude the local government from requesting such a condition, particularly as it will be</p>

	<p>Ellen Brook, these requirements are more relevant to Precinct 3 meaning there is no compelling reason why the existing Schedule 11 provisions should not apply;</p> <p>Existing Schedule 11 requires the preparation of a Flora, Vegetation, Wetland and Waterway Management Plan for subdivision applications that include waterways. Given Precinct 3 directly abuts the Ellen Brook and includes waterway reserves as depicted at Figure 8 of the WAPC’s MEN Structure Plan, the requirement to prepare a Foreshore / Waterway Management Plan should be embedded in the scheme text as currently applies to the MEN;</p> <p>Existing Schedule 11 sets out the requirement for the Environmental Assessment and Management Strategy to identify key cockatoo habitat trees and their means for retention and protection as part of the structure plan process. The proposed scheme text for Precinct 3 does not include this requirement yet advice from the EPA confirms that it is necessary.</p> <p>In summary, the current Schedule 11 provisions are general in nature making them capable of being applied to the broader MEN, including Precinct 3. This will ensure that all environmental matters are comprehensively addressed through the subsequent structure planning and subdivision stages. There are no compelling reasons why Precinct 3 should be subjected to a diluted set of scheme text provisions and the established framework under Schedule 11 should be applied.</p>	<p>Further, extensive research and reporting on environmental factors has already been undertaken within an EAMS contained within the Appendices of the Scheme Amendment and Structure Plan reports. Table 1 of Part 1 of the Structure Plan requires a Foreshore Management Plan to be submitted at the subdivision stage.</p> <p>The requirement for the respective environmental investigations and reporting has therefore been, and will be addressed, at the appropriate stages of the planning process, as set out in the respective documentation.</p> <p>The EAMS and approved LWMS commit to the preparation of a Foreshore Management Plan for Ellen Brook at the time of subdivision of the existing Lots 35 and 192, which are the only lots that adjoin the Ellen Brook foreshore reserve.</p> <p>There are no other waterway reserves proposed in the LSP, as all watercourses crossing the site are constructed drains. Management and protection of these drainages within living streams will be detailed in the UWMPs for each stage of subdivision.</p> <p>Refer to previous comments regarding potential black cockatoo habitat – in summary, there is no breeding habitat and no significant feeding habitat for black cockatoos in the project area. No further assessment of black cockatoo habitat is considered necessary.</p>	<p>addressed within the Structure Plan as a requirement to be met at the subdivision stage.</p> <p>The issue raised by the submitter regarding the cockatoo habitat trees has been identified within the Structure Plan. It is not considered necessary to replicate the requirement for a vegetation survey in the Scheme, as well as it being addressed within the Structure Plan. It is noted however that officers are recommending a modification to the Structure Plan that requires a detailed vegetation survey and assessment to be conducted as a condition of subdivision.</p> <p>Given the above, the current Schedule 11 provisions as proposed by the Scheme amendment as they relate to Environmental Management Plans are considered acceptable.</p>
--	---	--	--