



COUNCIL MINUTES

Ordinary Meeting of Council

7pm, Wednesday 21 October 2020

Council Chambers, 6177 Great Northern Highway, Bindoon

RECORDING AND ACCESS TO RECORDINGS OF COUNCIL MEETINGS POLICY

Objective

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

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

Recording of Proceedings

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

Access to Recordings

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

Retention of Recordings

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

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

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

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

Preface

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

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

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

Unconfirmed Minutes

These minutes were approved for distribution on 3 November 2020.



Matthew Gilfellon
Chief Executive Officer

Confirmed Minutes

These minutes were confirmed at a meeting held on 18 November 2020.

Signed 

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

Disclaimer

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

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

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

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

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

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

Cr Gibson declared the meeting open at 7:00PM

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

Attendance

The following Members are in attendance:

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

The following Shire staff are in attendance:

Matthew Gilfellon	Chief Executive Officer
Melinda Prinsloo	Executive Manager Corporate Services
Peter Stuart	Executive Manager Development Services
Jim Garrett	Executive Manager Technical Services
Jake Whistler	Principal Planning Officer
Natasha Mossman	Executive Assistant/Council Support

Members of the general public	20
Media	0

Apologies

Nil

Approved leave of absence

Nil

Announcements

Councillors to advise of their attendance in their role as an Elected Member at community activities and meetings. As the Chief Executive Officer's office looks after some (not all) appointments for the President and Deputy President; the Agenda includes only those meetings. Councillors are therefore requested to provide additional information at the Ordinary Meeting of Council for inclusion in the minutes.

Cr Don Gibson

22 September – President and CEO meeting (Bindoon)
30 September – Chittering Residents & Ratepayers Association meeting (Bindoon)
6 October – President and CEO meeting (Bindoon)
13 October – President and Cr Curtis meeting with CEO (Bindoon)
14 October – Information Session and Agenda Forum (Bindoon)
20 October – President, Cr Hughes and CEO meeting (Bindoon)

Cr Peter Osborn

14 October – Information Session and Agenda Forum (Bindoon)

Cr John Curtis

13 October – President and Cr Curtis meeting with CEO (Bindoon)
13 October – Bindoon & Districts Historical Society meeting (Bindoon)
13 October – Chittering Bushfire Advisory Committee meeting (Bindoon)
14 October – Information Session and Agenda Forum (Bindoon)

Cr Carmel Ross

17 September – Chittering Community Planning Advisory Group formal wrap-up (Bindoon)
17 September – Chittering Health Advisory Group meeting (Bindoon)
25 September – WALGA Breakfast and Annual General meeting (Perth)
7 October – Bindoon Masterplan meeting (Bindoon)
13 October – Chittering Bushfire Advisory Committee meeting (Bindoon)
14 October – Information Session and Agenda Forum (Bindoon)

Cr John Davis

17 September – Australian Citizenship Ceremony (Bindoon)
25 September – WALGA Political Forum (Perth)

Cr Mary Angus

17 September – Australian Citizenship Ceremony (Bindoon)
17 September – Chittering Health Advisory Group meeting (Bindoon)
25 September – WALGA Annual General meeting (Perth)
14 October – Information Session and Agenda Forum (Bindoon)
16 October – 7News Young Achiever Awards (Perth)

Cr Kylie Hughes

17 September – Australian Citizenship Ceremony (Bindoon)
17 September – Chittering Community Planning Advisory Group formal wrap-up (Bindoon)
17 September – Chittering Health Advisory Group meeting (Bindoon)
14 October – Information Session and Agenda Forum (Bindoon)
16 October – Wheatbelt Industry Network WA Hiking Strategy Launch (Wongan Hills)
19 October – Chittering Mining Advisory Group meeting (Bindoon)
20 October – President, Cr Hughes and CEO meeting (Bindoon)

ITEM 3. DISCLOSURE OF INTEREST**Declared before the meeting**

CON02-10/20 EOI Proposal: Lot 91 (RN 6138) Great Northern Highway, Bindoon ("Ferguson House")		
Councillor	Type of Interest	Nature / Extent of Interest
Cr Mary Angus	Impartiality	Nature: Works with the applicant. Extent: May be seem to make decisions in applicant's favour.

Declared prior to Item NOM09-10/20 Cr Don Gibson: Reimbursement of Travel Expenses for Cr John Davis

NOM09-10/20 Cr Don Gibson: Reimbursement of Travel Expenses for Cr John Davis		
Councillor	Type of Interest	Nature / Extent of Interest
Cr John Davis		Nature: Extent:

ITEM 4. PUBLIC QUESTION TIME**Response to previous public questions taken on notice**

Nil

Public question time**Questions submitted in writing****PQT01-10/20 Sue Metcalfe, Bindoon**

Question 1: What legal costs have been incurred by Council in obtaining advice in respect to the following issues – (this includes advice through WALGA):

- (a) The establishment of a telecommunications tower on Bell Hill in Bindoon (from the beginning)
- (b) The establishment of a telecommunications tower in Lower Chittering.
- (c) Legal opinion on allegations made during the last election campaign.

Answer 1: (a) \$40,398.67 comprising \$20,500.09 for the establishment and a further \$19,898.58 for the abatement notice and quia timet advice.

(b) \$7,322.11

(c) Nil. All election complaints were dealt with by the Returning Officer or Chief Executive Officer so no additional cost was incurred.

Advice received through WALGA is provided as part of an annual subscription so we cannot calculate the expense of staff time or the WALGA advice in this.

Question 2: Has the budget for Council been adjusted to allow for these expenditures?

Answer 2: Provision is made for legal fees in the Annual Budget. There will need to be an additional amount put into the legal fees during the 2020-21 Budget Review to cover the increased expense.

Question 3: Can the legal expenses for Council be shown as percentage of the budget?

Answer 3: Legal fees as a percentage of the total budget is approximately 0.002%. The query also relates to a number of financial years, therefore the appropriate percentage would be difficult to estimate.

Question 4: Has Council considered applying a survey similar to the current survey on recreational facilities as to the requirement for telecommunications. Other councils have discovered that the wish for better telecommunications is one of the highest priorities for rural people. I would be interested to discover if there was a similar need in this Council.

Answer 4: Council has not considered a similar survey. The matter has been dealt with and is concluded from Council's perspective.

PQT02-10/20 John O'Shea, Muchea

Question 1: With respect to the Proposed Muchea Industrial Park, what plans are being made in respect to an elevated risk of dangerous goods and heavy haulage interactions with the community etc., is there any plans in place to seek assistance from DFES to increase its presence in Chittering with more Fire and Rescue outfits that will be able to respond to most incidents (HAZMAT, vehicle rescue etc.), or are we to rely on just the Career firefighters from Wanneroo and volunteers from Bullsbrook/Bindoon (all of these are at least 15-20mins away at minimum) to respond.

Answer 1: The Shire has put in an application to have two Bush Fire Brigades enhanced to become a Volunteer Fire and Emergency Service unit. This enhancement would include better training and resources for structural fires and HAZMAT. The Shire has also had a conversation with DFES regarding a professional fire brigade. The most recent advice from DFES was that a professional fire brigade capable of fighting structural fires is currently not on their radar.

Part of the reason for this is likely because Ellenbrook's professional brigade is located less than 15 minutes' drive from Muchea.

Another point to consider is the planning/environmental framework. All development within the MIP is required to comply with EPA buffer distances, and seek relevant works approvals from DWER in addition to local government approval. To this end, appropriate distances between sensitive receptors (such as residential) can be achieved.

Question 2: With respect to the Shire of Chittering and the higher medium age and the associated requirements needed, there is currently a severe lack of medical response within the shire of Chittering, particularly when there are suspected life threatening symptoms present and ambulances being despatched from Gidgegannup, are there any plans to increase a presence of St John Volunteers, or lobby the State government for more medical support to be transported to a major hospital (Midland or Joondalup), or has this been noticed as an issue for the Shire?

Answer 2: This has been noticed as an issue as it has with most Wheatbelt shires. St John is an independent body so we can only assist to try and recruit volunteers, we cannot increase the presence. We have offered support over COVID through providing accommodation in an effort to entice volunteers from the metropolitan area. The issue of patient transfer has been followed for a number of years but it is quite complex and not easy to solve. The volunteer St John Ambulance are responsible for fundraising to purchase new ambulance's which they have to do every 10 years. Patient transfers lead to volunteer burnout, reducing the capacity to serve the community but as the sub-centre gets paid for the patient transport, it does provide a revenue stream to replace the ambulance.

Questions asked during the meeting

PQT03-10/20 Chris Waldie, Bindoon (Secretary, Chittering Tourist Association)

Mr Waldie expressed congratulations to the Shire staff on cleaning the Brockman Centre and wanted to pass on thanks to the team who did it.

Question 1: Statements made by the position of President must be true, factual and accountable. At last month's meeting Cr Gibson made a false and misleading statement on the post office tender motion *"This has been something in contention over the years that has cost the Council and ratepayers over the years with grants"*. Mr Waldie advised that the Shire has never at any time made contribution or grant to the operation of the post office. Mr Waldie asked the President if he would withdraw this statement.

Answer 1: *The President advised that Mr Waldie was incorrect, and advised him to do his homework before making accusations.*

For clarification Mr Waldie informed the President, that the post office had never received a grant; the grant was given to the Chittering Tourist Association not the post office.

PQT04-10/20 Lauren Dry, Chittering

Question 1: Is there was going to be a late item regarding wired services in Chittering?

Answer 1: *Cr Gibson confirmed that this was correct.*

Ms Dry then spoke on the item.

Question 2: Does Council have any questions in relation to nbn putting out a statement that if a community wishes for wired services, that they will accommodate for that; and putting a motion forward in support of that, do they have any questions for community members prior to considering that. Does Council have any comments or questions in relation to continuing to support the communities need for both advanced technology, technology that supports the community?

Answer 2: *Cr Gibson asked if there were any questions from Council, there were none.*

PQT05-10/20 Anne Elliott, Bindoon

Question 1: Have any of the Councillors are aware or have heard of the Environmental Health Trust?

Answer 1: *There was a response of no from Council.*

Ms Elliott then spoke on the item.

ITEM 5. PRESENTATIONS / PETITIONS / DEPUTATIONS

Petitions

Nil

Presentations

Nil

Deputations

Nil

ITEM 6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

ITEM 7. CONFIRMATION OF MINUTES

Ordinary Meeting of Council: 19 August 2020

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 011020

Moved Cr Ross / Seconded Cr Hughes

That the minutes of the Ordinary Meeting of Council held on Wednesday 19 August 2020 be confirmed subject the following amendments:

Page 54, Item 11 "Cr John Curtis: Waste and Recycling"

The vote for the AMENDMENT should state "5/1", as Cr Curtis voted AGAINST THE AMENDMENT.

CARRIED 7/0

7:24 PM

Special Meeting of Council: 14 September 2020

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 021020

Moved Cr Angus / Seconded Cr Hughes

That the minutes of the Special Meeting of Council held on Monday 14 September 2020 be confirmed as a true and correct record of proceedings.

CARRIED 7/0

7:24 PM

Ordinary Meeting of Council: 16 September 2020

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 031020

Moved Cr Ross / Seconded Cr Hughes

That the minutes of the Ordinary Meeting of Council held on Wednesday 16 September 2020 be confirmed subject the following amendments:

Page 20, Item "CS04-09/20 Revoke Council Resolution 241119"

Under the heading 'Consultation/Communication Implications' it should read:

"The three Councillors that advised the Administration of their support for the revocation recommendation prior to the report being included in the Agenda were: Cr Carmel Ross, Cr Peter Osborn and Cr Mary Angus".

CARRIED 7/0

7:27 PM

ITEM 8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Resignation of role as President

Cr Gibson announced his decision to stepdown from his position as President due to his chronic disability that makes it difficult to fulfil the duties of the office. Cr Gibson stated that he would not have been able to carry on the role due to the support of the Deputy President, Cr Davis, who has willingly attended regional meetings and ceremonies on his behalf. Cr Gibson thanked Cr Davis for his loyalty and persistence over the past year. Cr Gibson also thanked, for the ongoing support and encouragement from ratepayers, which has gotten him through a time when he has been struggling with loss of balance and sight problems. Cr Gibson stated that there is never a good time to step down with unresolved problems, such as Bell Hill and the proposed shire involvement in tourism business, but the position requires a level of fitness which he is unable to maintain at this time.

Cr Gibson stated that he would be asking the Chief Executive Officer to conduct a ballot for President later on during the meeting. Cr Gibson will endeavour to continue to serve the balance of his term on Council with a reduced workload. Cr Gibson also stated that he trusts that the elected Council will listen to ratepayers and act in their best interests at all times.

Cr Gibson invited Deputy President, Cr John Davis to preside over the meeting¹.

¹ Local Government Act 1995, s2.9 Role of deputy mayor or deputy president

ITEM 9. REPORTS

DEVELOPMENT SERVICES

DS01-10/20 **Proposed Scheme Amendment No. 67: Rezoning from “Agricultural Resource” to “Light Industrial” – Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea**

Applicant	Urbis
File ref	18/02/35
Author	Principal Planning Officer
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Environmental Protection Agency Determination 2. Schedule of Submissions

Executive Summary

Council is requested to consider supporting, with modifications, proposed Scheme Amendment 67 to *Local Planning Scheme No.6* (LPS6) for the rezoning of Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea (Precinct 3), following a completed period of advertising. Amendment 67 proposes to amend and insert provisions within LPS6 to support various types of industrial development and subdivision within Precinct 3.

IMAGE 1: Location Plan



Background

At the Ordinary Meeting of Council held on 18 March 2020, Council resolved:

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020320

Moved Cr Angus / Seconded Cr Osborn

That Council:

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

And amending the Scheme Maps accordingly.

- b. Amending clause 5.1.1 Operation of Special Control Areas to include 'Muchea Employment Node' as new dot point 6; and reflecting Precinct 3 of the Muchea Employment Node on the Scheme Maps accordingly.

- c. Introducing the following uses into Schedule 1 – Dictionary of Defined Words and Expressions of Local Planning Scheme 1 as follows:

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

'Workforce Accommodation' means premises, which may include modular or relocatable buildings, used –

- (a) Primarily for the accommodation of workers engaged in construction, resource, agricultural or other industries on a temporary basis; and
- (b) For any associated catering, sporting and recreation facilities for the occupants and authorised visitors'.

- d. Amending Schedule 2 – Zoning Table to identify the uses:

- i. 'Concrete Batching Plant' as a 'D' use in the Light Industrial and General Industrial zones, and an 'X' use otherwise
- ii. 'Workforce Accommodation' as a 'D' use in the Light Industrial zone, and an 'X' use otherwise
- iii. 'Fast Food Outlet' in the Light Industrial Zone as a 'D' use

- e. Amending clause 4.9: Requirements for Industrial Zones and Land Uses, of Local Planning Scheme 1 to introduce the following provisions:

where 'Workforce Accommodation' is a discretionary use –

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

And renumber the subsequent clauses accordingly.

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

NO.	DESCRIPTION OF LAND	CONDITIONS
	Precinct 3 (P3) of the Muchea Industrial Park	1. Hierarchy of Plans Structure planning, subdivision and development shall be undertaken in accordance with the Scheme.

			<p>2. <i>Structure Plan</i></p> <p>a. <i>Structure Plan Preparation</i> A Structure Plan shall be prepared in accordance with the provisions of the deemed provisions over the entire area of Precinct 3 of the Muchea Industrial Park.</p> <p>b. <i>Environmental Management Plans</i> The following Environmental Management Plans shall be prepared as part of the Structure Plan process and approved as required by the relevant agency:</p> <ul style="list-style-type: none"> i. <i>Local Water Management Strategy</i> ii. <i>Environmental Assessment and Management Strategy</i> iii. <i>Transport Impact Assessment</i> <p>Environmental Management Plans shall be implemented to the satisfaction of the local authority.</p> <p>3. <i>Subdivision</i></p> <ul style="list-style-type: none"> i. <i>An Urban Water Management Plan shall be Author the developer, consistent with the Local Water Management Strategy, for approval by the relevant agency, to satisfy a condition of subdivision approval.</i> ii. <i>A reticulated water supply provided by a licensed operator shall be provided at the first stage of subdivision.</i> iii. <i>Road Reservation and Construction</i> <ul style="list-style-type: none"> a. <i>An internal Loop Road, constructed to accommodate RAV10 vehicles, shall be constructed in accordance with Austroads and MRWA standards</i> b. <i>When a lot is subdivided, the totality of land required for all road reserves within that lot shall be ceded to the Crown</i> c. <i>The full length of roads within the subdivision area is to be constructed on the creation of all lots. A staging plan and triggers for road construction, to ensure construction of all roads within the subdivided area is to be outlined in an approved Structure Plan.</i> iv. <i>Subdivision applications shall demonstrate that a suitable temporary turning circle for the Loop Road can be provided within the boundaries of the subdivision area until the entire Loop Road is constructed to allow RAV10 vehicles access and egress onto Great Northern Highway. At that time, the temporary turning circle shall be removed and the land suitably remediated.</i> v. <i>Drainage</i> <ul style="list-style-type: none"> a. <i>The drainage approach for Precinct 3 is set out in the Structure Plan.</i> b. <i>When the first lot in a subdivision is created, any works or ceding of land associated with the drainage network is to be implemented.</i> c. <i>Where staging of drainage infrastructure is determined to be acceptable by the WAPC and relevant agencies including DWER and the local</i>
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			<p>authority, proposals are to make provision for connection to the overall drainage network, and the approach is to be outlined in an UWMP that accompanies the subdivision application.</p> <p>4. Development</p> <p>i. Development of land shall be generally in accordance with the Scheme and approved Structure Plan.</p> <p>ii. Land use permissibility within Precinct 3 shall be in accordance with the Light Industrial Zone of LPS6 (as amended).</p>
2.	Resolves to number the proposed amendment as 'Amendment No. 67' to the Shire of Chittering Local Planning Scheme No. 6.		
3.	Resolves that 'Amendment No. 67' is a 'standard' amendment under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, for the following reasons:		
	a. The amendment to the scheme map is consistent with the Muchea Employment Node Structure Plan (2011) and the Shire of Chittering Local Planning Strategy (2019); and		
	b. The amendment is not a complex or basic amendment.		
4.	Forwards the Scheme Amendment to the Environmental Protection Authority in accordance with Section 81 of the Planning and Development Act 2005 prior to advertising.		
5.	Pursuant to Regulation 47 of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to proceed to advertise the Scheme Amendment.		
			<p>CARRIED 7/0 7:09PM</p>

Pursuant to the above Resolution and the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), Scheme amendment 67 was advertised after receiving advice from the Environmental Protection Agency that the amendment did not require formal assessment under *Environmental Protection Act 1986* (**Attachment 1**).

In addition to Scheme Amendment 67, a Local Structure Plan over Precinct 3 was also advertised concurrently at the request of the applicant. Pursuant to the Regulations, the processing of a Scheme Amendment and Structure Plan follow two independent paths and are subjected to two different sets of statutory timeframes. It is only with the applicant's consent that the two applications can be advertised and processed together.

Consultation/Communication Implications

Advertising of Scheme amendment 67 and the associated Structure Plan was conducted concurrently for the statutory minimum of 42 days in the following ways:

- A notice of the amendment was published in the local newspaper on 5 June 2020.
- A notice was sent to landowners within a 700m radius of Precinct 3.
- A notice of the Scheme amendment and Structure Plan on the Shire's website.
- Notices sent to the following agencies inviting comment:
 - Chittering Landcare;
 - Department of Planning, Lands and Heritage;
 - Department of Fire and Emergency Services;
 - Department of Mines, Industry Regulations and Safety;
 - Department of Primary Industries and Regional Development;
 - Department of Biodiversity, Conservation and Attractions;
 - Department of Water and Environmental Regulation;

- Department of Health;
- Main Roads WA;
- Western Power;
- Department of Defence;
- Civil Aviation Safety Authority;

Responses to the advertising period for the Scheme Amendment are contained in a schedule of submissions appended to this report (**Attachment 2**). The responses are accompanied with the applicant's position of each response, and Shire officer's comment.

Many of the responses received raised issues with fundamental aspects of the Structure Plan. Officers considered that these issues were of a substantial nature and would render Shire officers not being able to support the approval of the Structure Plan. This was relayed to the applicant who agreed that the issues identified in the Structure Plan would require further investigation, and requested the delay of processing the Structure Plan.

The submissions also raised issues with particular provisions of the Scheme Amendment. Shire officers agree that there are some necessary changes required to these provisions but the fundamental change in zoning to 'Light Industrial' could be supported at this time. Therefore, officers are recommending that the rezoning proceed subject to modifications being made to the Scheme Amendment provisions. These recommended changes are within the Schedule of Submissions, but are also listed in the Officer Recommendation of this report.

Legislative Implications

State

- *Planning and Development (Local Planning Schemes) Regulations 2015*
As described above, the Scheme Amendment is to be processed in accordance with the Regulations. Part 5, Division 3, Regulation 50(3) directs local government to do one of the following three –
 - (a) to support the amendment without modification; or
 - (b) to support the amendment with proposed modifications to address issues raised in the submissions; or
 - (c) not to support the amendment.

The above three options are available to Council when making a resolution on this application.

Local

- *Shire of Chittering Local Planning Scheme No. 6*
While LPS6 does not guide the process of Scheme amendments, it is important for Council to recognise that Scheme Amendment No. 67 not only proposes to rezone land from 'Agricultural Resource' to 'Light Industrial', it proposes to introduce new provisions and land use permissibilities into LPS6, that will affect how development occurs in the industrial areas of the Shire.

Policy Implications

State

Nil

Local

Nil

Financial Implications

The rezoning to 'Light Industrial' and ultimate development of Precinct 3 is expected to provide increased revenue to the Shire through increased rates.

Strategic Implications

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

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

Site Inspection

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

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

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

The location of the Precinct 3 area requires significant environmental attention and protection. The precinct is located adjacent, in part, to the Ellen Brook, and therefore any stormwater or groundwater contamination may have significant impacts downstream. The Structure Plan application is accompanied by a Local Water Management Strategy along with many other environmental based technical reports to help mitigate any such issues. These will be addressed through continued assessment and discussion with the applicant during the Structure Planning process and will likely be presented to Council at a future date. As

this report is only to resolve on the Scheme amendment, the environmental risks associated with this application are considered low.

Officer Comment/Details

The advertising period raised some issues regarding the Scheme amendment which have been tabulated in the Schedule of Submissions. The issues raised have been listed below with a proposed response/modification to be included in the Scheme amendment. In addition, there are also some minor modifications proposed by officers below which were not raised in the submissions, but are considered necessary:

- The Foreshore Reserve and other environmental features identified in the Structure Plan (adjacent to the Ellen Brook) should be rezoned/reserved to a more appropriate zone/reserve instead of 'Light Industrial'. The majority of the Ellen Brook and its foreshore areas are currently identified as the Local Scheme Reserve of 'Parks and Recreation' within LPS6. In order to maintain consistency throughout the LPS6, it is recommended to identify the future Ellen Brook foreshore area within Precinct 3 as Local Scheme Reserve – 'Parks and Recreation'.
- The Scheme amendment proposes to introduce a 'Precinct 3' into the Scheme Maps. This would be inconsistent with the approach to the existing Precinct 1. Instead, it is recommended to include a description of the land within proposed 'No. 2 of the Schedule 11' under 'Precinct 3' to identify the land affected by the relevant provisions. Officers would also consider the introduction of a small diagram within this section of LPS6 to illustrate the land that is being referred to as Precinct 3.
- There are no provisions in the Scheme Amendment that prohibit development from occurring prior to a Structure Plan being endorsed. As such, the Scheme Amendment could be approved by the Minister, the Structure Plan could be held up and the Shire would have no statutory ability to refuse an industrial development on the land, which could compromise the future planning of the Precinct. Therefore, an additional provision should be included in the Scheme Amendment within Schedule 11 that states 'pursuant to Clause 5.7.2.4 of LPS6, no subdivision and/or development shall be approved by the relevant authority until such time that there is an endorsed structure plan over the land'.
- Similar to the above, there are no statutory provisions for the construction of the 'Loop Road' at the time of development. As such, industrial development could proceed (without subdivision) and the 'Loop Road' not constructed. A provision should be included in the Scheme amendment that requires the ceding and construction of the relevant portion of the 'Loop Road' at the development stage similar to that recommended by Clause 1.5.2(vi) of the Structure Plan and should state; 'The determining authority shall not approve a development application over those lots containing portion of the Loop Road unless the Loop Road has been constructed and ceded in accordance with the Structure Plan'.
- Additional Scheme provisions need to be included that requires the road reserve to be ceded to the local government and a legal agreement entered into dictating the developer's responsibility for loop road construction at later stages of the subdivision. At present, the Scheme amendment only requires that the land required for the 'Loop Road' be ceded to the local government. It is considered necessary to have a statutory provision that links the future construction of the road to the developer, ensuring the Shire is not liable for construction of the road.
- 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. Officer's 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. 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.

- 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. Clause 5.7.2.1 of LPS6 currently prohibits residential land uses within the Muchea Employment Node Special Control Area. Although it is not clear whether 'Workforce Accommodation' is a residential use or not, it is considered prudent to remove any potential ambiguity and explicitly state that 'Workforce Accommodation' can be considered for approval within this Special Control Area.
- Remove proposed provisions for 'Workforce Accommodation' and include 'Workforce Accommodation' as 'Incidental' in the zoning table within the 'Light Industrial' zone. This will require introduction of the 'Incidental' land use into the Scheme as provided for in the Model Provisions. All the provisions attached to 'Workforce Accommodation' within the Scheme amendment can be addressed at DA stage under the banner of 'incidental development'. The standard principles of planning will dictate whether a development is incidental or not, with each application being assessed on its merits in the context of the primary use, size of the lot and other relevant factors. If guidance is required in the future to assist the Shire in determining the incidental nature of a 'Workforce Accommodation', a local planning policy can be established to do such.

It is recommended that Council resolve to support Scheme amendment No. 67 with suitable modifications as listed above.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 041020

Moved Cr Angus / Seconded Cr Ross

That Council pursuant to Part 5, Division 3, Regulation 50(3)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations), advises the Western Australian Planning Commission that it supports proposed Scheme Amendment No. 67 to the Shire of Chittering Local Planning Scheme No. 6 (LPS6) subject to the following modifications:

- 1. Rewording Scheme Amendment Provision 1. to read:**
"Rezoning Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea from 'Agricultural Resource' zone to 'Light Industrial' zone and 'Parks and Recreation' Local Scheme Reserve, and amending the Scheme Maps accordingly".
- 2. Deleting the last part of Scheme Amendment Provision 2. to read:**
"Amending clause 5.1.1 Operation of Special Control Areas to include 'Muchea Employment Node' as new dot point 6".
- 3. Modifying (ii) of Scheme Amendment Provision 4. to read:**
"'Workforce Accommodation' as an 'i' use in the Light Industrial zone and an 'X' use otherwise".
- 4. Introducing the 'I' permissibility into Clause 3.3.2 of LPS6 as provided in the Model Provisions of the Regulations.**
- 5. Deleting (iii) of Scheme Amendment Provision 4.**
- 6. Deleting Scheme Amendment Provision 5.**
- 7. Modify Scheme Amendment Provision 6. to modify the description of the land of the Schedule 11 Table to read:**
"Precinct 3 (P3) of the Muchea Industrial Park – Lots 800-804, 192, 194 and 35 Great Northern Highway, Muchea" and include a diagram of the Precinct 3 land area.

8. Modify Scheme Amendment Provision 6. to modify Subdivision condition 3(iii)(b) of the Schedule 11 Table to read:
"When a lot is subdivided, the totality of land required for all road reserves within that lot shall be ceded to the Crown. The future construction of those roads will be the responsibility of the landowners, by agreement between landowners. The Shire of Chittering is not responsible for the construction of roads within any ceded road reserves within Precinct 3".
9. Modifying Scheme Amendment Provision 6. to add an additional Development Condition (iii) to the Schedule 11 Table, No. 4 to read:
"No development shall be approved by the relevant authority until such time that there is an endorsed structure plan over the land."
10. Modifying Scheme Amendment Provision 6. to add an additional Development Condition (iv) to the Schedule 11 Table, No. 4 to read:
"The determining authority shall not approve a development application over those lots containing portion of the Loop Road unless the Loop Road has been constructed and ceded in accordance with an approved Structure Plan."
11. Modify Clause 5.7.2.1 of LPS6 to read:
"Notwithstanding any other land use permissibility expressed in the Scheme, no residential land uses or caretakers dwellings will be approved in the Muchea Employment Node Special Control Area. For the purpose of this clause, 'Workforce Accommodation' is not regarded as a residential land use."

CARRIED 7/0
7:34PM

DS02-10/20 Application for Exemptions of Limitation of Number of Dogs: Lot 559 (RN 142) Dexter Chase, Lower Chittering

Applicant	Kim O'Driscoll
File ref	I20117919, A10748
Author	Ranger
Authorising Officer	Executive Manager Development Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council's consideration is requested to determine an *Application for Exemptions of Limitation of Number of Dogs* to allow the applicant to keep four dogs at Lot 559 (RN 142) Dexter Chase, Lower Chittering. As the application received objections during the advertising process, it is referred to Council for a decision.

Background

The applicant owns and resides at the subject property, which is 3.0723 hectares in area, and zoned 'Rural Residential'. The boundary fencing consists of standard rural fencing, all four dogs are kept in a fenced area around the house which consists of horse mesh and wooden posts at a height of 1.5m.

The applicant has no known history of offences in regards to the dogs and there has been no previous complaints made about the dogs.

The application is a result of two additional dogs being requested to be able to reside at the subject property from Eucla, joining two existing, albeit elderly, dogs.

Consultation/Communication ImplicationsLocal

The Shire has sent letters to five adjacent and adjoining land owners giving them the opportunity to comment on the application within 21 days of the date of the letter. Advertising was conducted on 17 July 2020, ceasing 7 August 2020. During this time, four submissions were received (refer Table 1 below):

TABLE 1: Outcome from consultation

Submitter	Summary of Submission	Officer's Comment
1	Oppose: Strongly oppose Council should strictly enforce its by-laws as it unfair to other residents and not in keeping with quiet enjoyment of rural lifestyle.	The Shire of Chittering's Dog Local Law 2011 allows the applicant to apply for up to 6 dogs.
2	Support	Noted
3	Support	Noted
4	Oppose: We object to noise that potentially already exceeds what we consider acceptable. They have a rooster that crows between 3am-6am most nights waking us. We have to sleep with ear buds!! We lost a horse years ago to	Noise made by a rooster is an issue under the Shire of Chittering Health Local Law 2017. On consultation with the opposing resident, the complainant's concerns were offered to be forwarded to the Principal Environmental Health Officer but this was

Submitter	Summary of Submission	Officer's Comment
	domestic dogs becoming a pack, 4 is too many (3) is more than enough dogs on one property.	declined. Further consultation was held with the opposing resident regarding the subject dogs barking. The complainant advised that the dogs do bark but didn't want to complete the prescribed Form 7 (Formal Complaint form and associated Barking dog diary). There is no history of the applicants dogs being involved in any offences against the Dog Act 1976, and therefore no action can be taken in regards to barking.

State

Nil

Legislative ImplicationsState

- Dog Act 1976

Part V — The keeping of dogs**26. Limitation as to numbers**

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

- (4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment—
- (a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under—
 - (i) a local law mentioned in subsection (1); or
 - (ii) an exemption granted under subsection (3);or
 - (b) more than—
 - (i) 2 dangerous dogs (declared); or
 - (ii) 2 dangerous dogs (restricted breed); or
 - (iii) one of each of those kinds of dangerous dogs, that have reached 3 months of age; or
 - (c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.

Penalty:

- (a) for an offence relating to a dangerous dog—
 - (i) a fine of \$10 000, but the minimum penalty is a fine of \$500;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$500;
 - (b) for an offence relating to a dog other than a dangerous dog—
 - (i) a fine of \$5 000;
 - (ii) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$100.
- (5) Any person who is aggrieved—
- (a) by the conditions imposed in relation to any exemption under subsection (3); or
 - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,
- may apply to the State Administrative Tribunal for a review of the decision.
- (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

Local

- Shire of Chittering Dogs Local Law 2011

3.2 Limitation on the number of dogs

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

Policy Implications

State

Nil

Local

Environmental and Health Policy 10.7 Multiple Dogs

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

A site inspection was conducted where the dogs' welfare, the property's fencing and considerations for neighbouring properties were inspected. All dogs subject of this application appeared to be in good health at the time of the inspection.

The dogs barked at the officer's arrival, but not excessively. The officer further checked the dogs' containment area, which was found to be situated around the house and 1.5m high and made from wooden posts and horse mesh. The fencing is of a high standard and more than suitable for the containment of four dogs.

Triple Bottom Line Assessment

Economic implications

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

Social implications

The increase in the number of dogs in the area may have the potential to create noise through barking if dog owners are not managing the situation. This has been made clear with the dog owner to address the situation of excessive barking at all times.

Environmental implications

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

Officer Comment/Details

The complaints made regarding the dogs at 142 Dexter Chase, Lower Chittering are considered unsubstantiated. The reason for this conclusion is that the owner of the dogs has not committed any offences under the *Dog Act 1976* or *Shire of Chittering Dog Local Law 2011*. While this is not to say that some barking may be occurring, without appropriate evidence, the animals cannot be prejudiced against as a result of this application. Accordingly, approval is recommended.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 051020

Moved Cr Hughes / Seconded Cr Angus

That Council, pursuant to Section 3.2(2) of the Shire of Chittering *Dogs Local Law 2011*, approves the application for four dogs at Lot 559 (RN 142) Dexter Chase, Lower Chittering, subject to the following conditions:

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

Breed	Name	Microchip Number
Huntaway X	Rain	978000001137459
Australian Kelpie X	Marle	981000300595744
Sharpei X	Freya	953010004572470
Maltese X	Ferghus	953010002522480

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

CARRIED 7/0

7:37PM

TECHNICAL SERVICES

Nil

CORPORATE SERVICES

CS01-10/20 List of Accounts Paid for the Period Ending 30 September 2020

Applicant	Shire of Chittering
File ref	12/03/4
Author	Finance Officer - Accounts
Authorising Officer	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 30 September 2020

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 30 September 2020.

Background

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

Consultation/Communication Implications

Local

Executive Manager Corporate Services

State

Nil

Legislative Implications

State

Local Government Act 1995

Local Government (Financial Management) Regulations

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

All expenditure has been approved via adoption of the 2020/21 Annual Budget, or resulting from a Council resolution for a budget amendment.

Strategic Implications

State

Nil

Local

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The attached "List of Accounts Paid as at 30 September 2020" is now presented to Council for endorsement.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 061020

Moved Cr Curtis / Seconded Cr Osborn

That Council endorses the following List of Accounts Paid as per Attachment 1 totalling \$966,438.27 for the period ending 30 September 2020:

- 1. PR5590, PR5607, PR5608;**
- 2. EFT20465 – EFT20617; and**
- 3. Direct Debits, Cheques as listed.**

CARRIED 7/0

7:39PM

CS02-10/20 Monthly Financial Reports for the Period Ending 30 September 2020

Applicant	Shire of Chittering
File ref	12/03/4
Author	Senior Finance Coordinator
Authorised by	Executive Manager Corporate Services
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1 Monthly Financial Report for period ending 30 September 2020

Executive Summary

Council is requested to consider the financial statement for the period ending 30 September 2020.

Background

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

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

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

Consultation/Communication Implications

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

Legislative Implications

State

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

Local

Nil

Policy Implications

Local

Finance Policy 2.1 Budget Preparation

Finance Policy 2.2 Investment of Funds

Finance Policy 2.7 Significant Accounting Policies

Financial Implications

Nil

Strategic Implications

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

Objective: S5.3 Accountable governance
Strategy: S5.3.1 Good governance which supports efficient and effective service delivery

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

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

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 071020

Moved Cr Gibson / Seconded Cr Hughes

That Council receives the Monthly Financial Reports for period ending 30 September 2020, as per Attachment 1.

CARRIED 7/0

7:42PM

CHIEF EXECUTIVE OFFICER

CEO01-10/20 Sport and Recreation Survey – Now and into the future

Applicant	Shire of Chittering
File ref	04/01/2
Author	Community Development Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Sample letter and newsletter to AEC mail out2. Sample survey3. Survey results - Sport and Recreation Survey, Now and into the future

Executive Summary

Council is requested to receive the outcomes of the “Sport and Recreation Survey – Now and into the future”. This survey was produced and circulated to the community at the request of Council to inform a decision related to the Chittering Community Complex, Muchea Club and Change Room Redevelopment and the Bindoon Mountain Bike Park.

Community feedback from the survey will also be utilised to inform future sport and recreational needs for the shire.

Background

The “Sport and Recreation Survey – Now and into the future” (the survey) opened on Friday 18 September 2020 and closed on Friday 9 October 2020.

The turnaround time for the dissemination and collation of the survey was constrained due to the necessity for Council to reach a decision on whether to:

1. proceed with the originally proposed Chittering Community Complex; or
2. submit a variation to a revised project deliverable; or
3. hand the funding back to AusIndustry.

Consultation/Communication Implications

Local

Residents and ratepayers registered on the Australian Electoral Commission (AEC) Certified District Roll for the Shire of Chittering were sent a hard copy of the survey, attached to a cover letter and community newsletter, seeking their input to the survey. A total of 3,583 surveys were mailed out to residents on the AEC District Roll. The Shire received:

- 551 responses
- 171 returned mail; and
- 8 surveys returned with non-identifiable details.

Based on these figures, the response rate was 16%.

State

Not applicable

Legislative Implications

State

All local governments are currently required to produce a plan for the future under S5.56(1) of the *Local Government Act 1995*. Regulations have been made under S5.56(2) of the Act to briefly outline the minimum requirements to achieve this.

The current Sport and Recreation Plan is overdue a review and is due to expire in 2022. Council have taken the opportunity to seek community feedback through the survey to inform future sport and recreational needs for the Shire.

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Due to previous and ongoing criticism that many residents and ratepayers are not aware of, or have limited input to shire projects and actions, the survey was sent via Australia Post to all residents and ratepayers registered with the Australian Electoral Commission for the Shire of Chittering District Roll.

This equated to a total cost of \$3,941 (\$1.10 per person) plus administration costs associated with printing, stationery and staff time in packaging the letters. This cost was not considered part of the 2020/21 Annual Budget.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

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

Objective: S1.2 Strong sense of community

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

S1.2.3 Activate our local centres and towns

Focus area: Our built environment

Objective: S3.1 Development of local hubs

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

Objective: S3.3 Improved infrastructure and amenities

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

Focus area:	Strong leadership
Objective:	S5.1 An engaged community
Strategy:	S5.1.1 Encouraged and promote community engagement and;
Objective	S5.2 Strong partnerships and relationships
Strategy:	S5.2.1 Encouraged and promote community engagement

State

- Active Living for All 2017–2019 Department of Local Government, Sport and Cultural Industries
Key Priority 2. Providing appropriate environments and programs (active places and active people)

More People More Active Outdoors - A Framework for Outdoor Recreation in Western Australia 2019

State Sporting Infrastructure Plan Review 2019

Two Year Action Plan for Local Government, Sport and Cultural Industries 2019-20

Western Australian Strategic Trails Blueprint 2017–2021

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with the survey however, each of the proposed projects requiring a Council decision have significant economic impacts that have been outlined at several community forums, within community newsletters and as outlined in the newsletter accompanying the survey.

Social implications

Council and Shire Officers repeatedly receive criticism over the lack of community engagement and input to Council projects and actions. This has been heard loud and clear and in an effort to address this, and improve community engagement with the community, Council undertook the above outlined process in an effort to understand the current community sentiment surrounding sport and recreation across the shire.

Residents were asked to prioritise the three large projects currently being considering by Council being:

1. Bindoon Mountain Bike Park,
2. Lower Chittering Community and/or Sporting Facility, and
3. Muchea Club and Change room Redevelopment.

The projects outlined in the newsletter have been strongly contested in local Facebook forums and community meetings over the past 18 months, but despite this, the Shire's attempt to directly engage with 3,583 residents and ratepayers only resulted in a 16 % response rate. It begs the question over the best way for Council to seek community feedback to inform strategic priorities.

Environmental implications

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

Officer Comment/Details

Results of this survey do not draw any clear conclusions on community sentiment for the three major projects, therefore the difficult decision is left to Council to determine the best way forward.

What did become evident through the survey responses is that some work needs to be done to inform the Shire of Chittering community on what current facilities exist, who owns them, who manages these and what sports and recreation activities already exist across the shire.

It would be recommended that this be undertaken as a precursor to the development of a new Sports and Recreation Plan for the shire, to enable the community to provide informed input to any further community consultation on this matter.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 081020

Moved Cr Ross / Seconded Cr Angus

That Council:

- 1. Receive the outcomes of the “Sport and Recreation Survey – Now and into the future”.**
- 2. Utilises the community feedback from the “Sport and Recreation Survey – Now and into the future” to inform their decisions related to the Chittering Community Complex, Muchea Club and Change room Redevelopment and the Bindoon Mountain Bike Park.**
- 3. Utilise the feedback received to inform future sport and recreational needs for the shire.**

CARRIED 6/1

7:49PM

CEO02-10/20 Chittering Community Complex

Applicant	Shire of Chittering
File ref	05/05/2; 15/01/16
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to consider how to proceed with the Chittering Community Centre Project following notification that the application to vary the funding was unsuccessful. It is recommended that a Community Survey be conducted of all residents in the shire to determine if pursuing the project should be ceased or continued in some form.

Background

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

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

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

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

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 211119

Moved Cr Hughes / Seconded Cr Gibson

That Council:

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

CARRIED 7/0

8.31PM

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

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030120

Moved Cr Angus / Seconded Cr Hughes

That Council:

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

CARRIED 7/0

6:18PM

At the March Ordinary Meeting of Council the following decision was then made:

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160320

Moved Cr Ross / Seconded Cr Angus

That Council:

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

CARRIED 4/3

8:04PM

Following the decision of Council, a Business Case and application for a grant agreement variation was prepared and sent to AusIndustry.

On 14 August 2020, the Shire was informed that the application to vary the grant was unsuccessful.

Following a decision of Council at the August 2020 Ordinary Meeting of Council, a survey was sent to all electors of the Shire of Chittering and hard copy and online surveys were made available to any ratepayers that were not already on the electoral roll.

Consultation/Communication Implications

Local

If the Officer Recommendation is followed, consultation will take place with all residents in the shire.

State

Department of Industry, Innovation and Science (Federal)

AusIndustry BBRF Team (Federal)

RDA Wheatbelt (Federal)

West Australian Treasury Corporation Department of Sport and Recreation

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

Strategy: S1.1.1 Develop and enhance existing recreation and social facilities for local communities (recreational and sporting facilities to service the growing population in the Lower Chittering/Muchea area)

Corporate Business Plan 2017-2021

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

A community centre and/or sporting facilities constructed in Chittering will help to develop greater community connectedness in the area by providing a focal point for community members to meet up. The programs that can be offered from the centre will foster an improvement in the health and well-being of the community including those that area aged.

Environmental implications

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

Officer Comment/Details

It is time for Council to make a final decision on whether to proceed with this project and in which form this will take or to choose to not proceed and hand back the \$4.7 million to the Department of Infrastructure. Unfortunately, there can be no definitive direction taken from the survey. There has been a considerable amount of information produced over a long process. This would be known to most Councillors so it will not be reproduced as part of this agenda item.

The officer recommendation is to pursue a grant variation to build the indoor sports centre and AFL-style oval for the following reasons:

- (1) There is currently funding already available to the Shire. There is no guarantee that funding like this will be available in the future, particularly if the Shire is viewed as an unstable grant recipient. While this project may be viewed as 'too early', there is also a need to take advantage of opportunities when presented and there is currently an already guaranteed opportunity;
- (2) It has been shown through financial analysis that the Shire can afford multiple long-term projects and that it is currently less expensive to utilise loans to build now. This is due to historically low interest rates and taking into account the time value of money;
- (3) Of the five options presented to residents, the indoor sports centre and AFL oval was the highest rated option;
- (4) Taking into account informal feedback provided by the Department of Infrastructure, the indoor sports centre was a highlight of the grant application. This is not to say that other options would result in an unsuccessful variation;
- (5) An indoor sports centre is not to be found elsewhere in the shire, while other options may be viewed as a duplication of already available recreation options; and
- (6) The opportunity costs presented by the project will be offset by the long project development timeframes of the Shire and potentially through the growth of the shire.

Cr Hughes FORESHADOWED the following Motion in the event that the Officer Recommendation was lost:
"That Council instruct the Chief Executive Officer to inform AusIndustry BBRF that they do not wish to proceed with the BBRF Grant BBRF74244."

Cr Hughes provided the following reasons:

That due to substantial changes which include one investor pulling out with $\frac{1}{3}$ of the funding, this has made the project no longer tenable in the current form, as previously agreed.

OFFICER RECOMMENDATION

Moved Cr Ross / Seconded Cr Osborn

That Council request the Chief Executive Officer to negotiate with the AusIndustry BBRF Program to make a variation to the Building Better Regions Grant (BBRF74244) that will allow for the changes to the project scope to allow for the construction of the Indoor Sports Centre, Kitchen and Playing field portion of the project with the playing field to be of an AFL Oval type field.

LOST 3/4

CR OSBORN, CR ROSS AND CR ANGUS VOTED IN FAVOUR
CR CURTIIS, CR DAVIS, CR GIBSON AND CR HUGHES VOTED AGAINST

8:09PM

FORESHADOWED MOTION / COUNCIL RESOLUTION 091020

Moved Cr Hughes / Seconded Cr Gibson

That Council instruct the Chief Executive Officer to inform AusIndustry BBRF that they do not wish to proceed with the BBRF Grant BBRF74244.

CARRIED 4/3

CR CURTIS, CR DAVIS, CR GIBSON AND CR HUGHES VOTED IN FAVOUR
CR OSBORN, CR ROSS AND CR ANGUS VOTED AGAINST

8:10PM

CEO03-10/20 Bindoon Mountain Bike and Adventure Park

Applicant	Shire of Chittering
File ref	ECDEV-PROJECT-MOUNTAIN BIKE
Author	Economic Development Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Survey Results Summary Data2. Bindoon Mountain Bike and Adventure Park Feasibility Study3. Survey Questionnaire4. Individual Responses **CONFIDENTIAL-NOT FOR PUBLIC DISCLOSURE**

Executive Summary

Council is requested to view the results from recent community engagement over a potential mountain bike and adventure park in Bindoon.

Background

At the Ordinary Meeting of Council held on 17 June 2020, Council requested the Chief Executive Officer perform a period of public consultation on the plans for the Bindoon Mountain Bike and Adventure Park proposal.

A feasibility study for a potential mountain biking facility on Lot 3874 Chinkabee Road, Bindoon was undertaken in 2019 by consultants Breakaway Tourism. The resulting report (**Attachment 2**) cited that such a facility would provide a long term economic stimulus for Chittering, in particular Bindoon.

During the requested period of public consultation following a motion from Ordinary Meeting of Council on 17 June 2020, the Shire presented information uncovered in the feasibility and presented the possible opportunities that a mountain bike facility could hold. This was achieved through Shire-hosted public information sessions, advertisements in the local newspaper, emails and letters to the community, radio interviews, and information on the proposed project in newsletters, on the Shire's website and across social media.

Following this, a survey was presented to the Chittering community to gauge the level of community support for the project. The survey was completed electronically and through hard copy submissions to the Shire. The survey asked a series of questions that can be found in **Attachment 3**. The complete overview of responses from this survey can be found in **Attachment 1**, and each individual response in **Attachment 4**. There have been 458 responses, with 332 from local residents and ratepayers.

Consultation/Communication Implications

Local

An extensive community consultation process was undertaken to maximise community engagement. The objective of the communication and consultation process was to inform the Chittering community of the development opportunity of a proposed Mountain Bike and Adventure Park in Bindoon, and to gauge the level of community support for the project.

The following communication methods were undertaken in distributing and collecting information from the community:

- Four information sessions:
 - Bindoon – Thursday 30 July (including pop up MTB track, food truck and presentation from DLGSC's Steve Bennett)
 - Wannamal – Tuesday 11 August
 - Muchea – Wednesday 26 August
 - Lower Chittering – Wednesday 2 September
- An advert with an accompanying feature article in the Northern Valleys News (August edition)
- Hard-copy letters and surveys mailed to those on the Shire's "Keep Me Posted" post mailing list
- Shire website:
 - Dedicated project page with information on the project and links to the survey
 - News articles on the home page relating to information sessions and the survey
 - A page with a link to the survey on the Shire's "Have Your Say" web page
- Poster distribution; in several locations in the shire to advertise information sessions
- Digital survey linked on the Shire website and distributed across social media
- Hard copy surveys delivered to community groups, including Bindoon Retirees and Men's Shed
- Email distribution:
 - 600+ emails in the Shire's email communication database
 - Business email list
 - Sporting and community groups
 - Schools in Chittering
- Facebook:
 - Several posts regarding the information sessions, project page and survey
 - Posts in the Shire's "Have Your Say" resident opinion group
 - Event page creation for information sessions
- Hard copy surveys available and/or on display at the Shire Administration Office, Bindoon Post Office, Muchea Post Office and Wannamal Post Office
- Radio interview inclusion in the Shire's "Around the Towns" segment on Triple M Avon Valley and feature interview with Chief Executive Officer on ABC Radio Midwest and Wheatbelt

State

The survey attracted interest from stakeholders outside of the Shire of Chittering. The survey was not intended for this stakeholder group, but did reach a large number of external stakeholders who showed a sizeable interest in the development of a facility in Bindoon. For this reason the survey diverted those non-residents to a separate survey where they were asked to complete questions on their potential use of two different facilities; a facility with a limited number of trails or a full-featured mountain bike and adventure park.

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.2 A Strong Sense of Community

Strategy: S1.2.3 Activate our local centres and towns

Focus area: Our natural environment

Objective: S2.1 Protective Environment

Strategy: S2.1.2 Develop an integrated network of walking and cycling trails

Focus area: Our built environment

Objective: S3.1 Development of local hubs

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

S3.1.2 Activate town centres to include a good mix of residential, commercial and social infrastructure

S3.1.4 Balance urban development with a focus on natural environment protection and open spaces

Focus area: Economic Growth

Objective: S4.2 Local business growth

Strategy: S4.1.2 Encourage and support local businesses and new investments for the future

Objective: S4.3 Economic growth

Strategy: S4.3.3 Facilitate, promote and support ecotourism

Mountain Bike Trails Master Plan (2016)

Chittering Economic Development Strategy (2015-2025)

Chittering Trails Network Plan (2013 -2023)

State

Northern Growth Alliance Tourism Strategy (2019)

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

An opportunity to create a major economic attraction for Chittering, and a chance to offset the expected negative impacts of diverted traffic from the impending Bindoon Heavy Haulage Route. The feasibility study suggests that the Bindoon Mountain Bike and Adventure Park could bring around;

- An extra 17,200 visitors to the region annually; and
- \$1,670,000 additional in spending in the region; and
- The creation of 11 new full time jobs.

Social implications

Increased community connectedness.

Environmental implications

There are no known significant environmental implications associated with this proposal. As highlighted in this report, an environmental study would be required before land purchase.

Officer Comment/Details

Survey Response Analysis

Results from 382 local respondents in Chittering (572 including those external to the shire) has shown that residents and ratepayers are fundamentally supportive of the Shire developing the project. This volume of local feedback is the highest the Shire has received in a Shire-led community engagement process, on any project, in recent years.

Around 93% of those who completed the survey from all age groups and locations around the shire expressed their support off a mountain bike project in Bindoon. This level of support is consistently reflected in the results collected from different community groups from retirees through to answers collected at community forums in places like Muchea.

IMAGE 1: Survey (Local Respondents): Do you support in principle the Shire of Chittering pursuing the development of a mountain bike project in Bindoon?

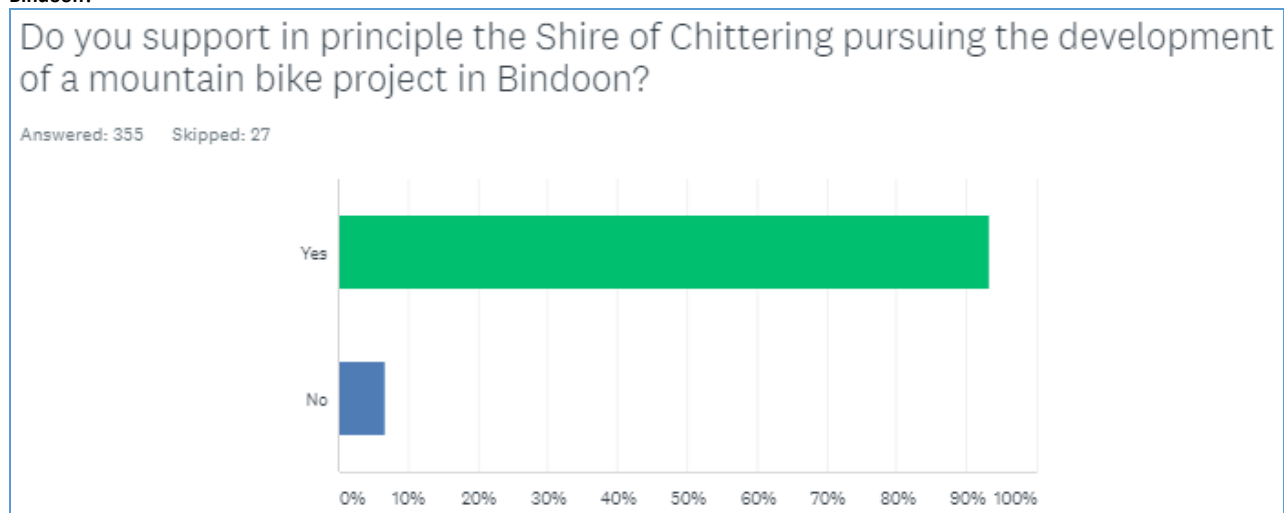
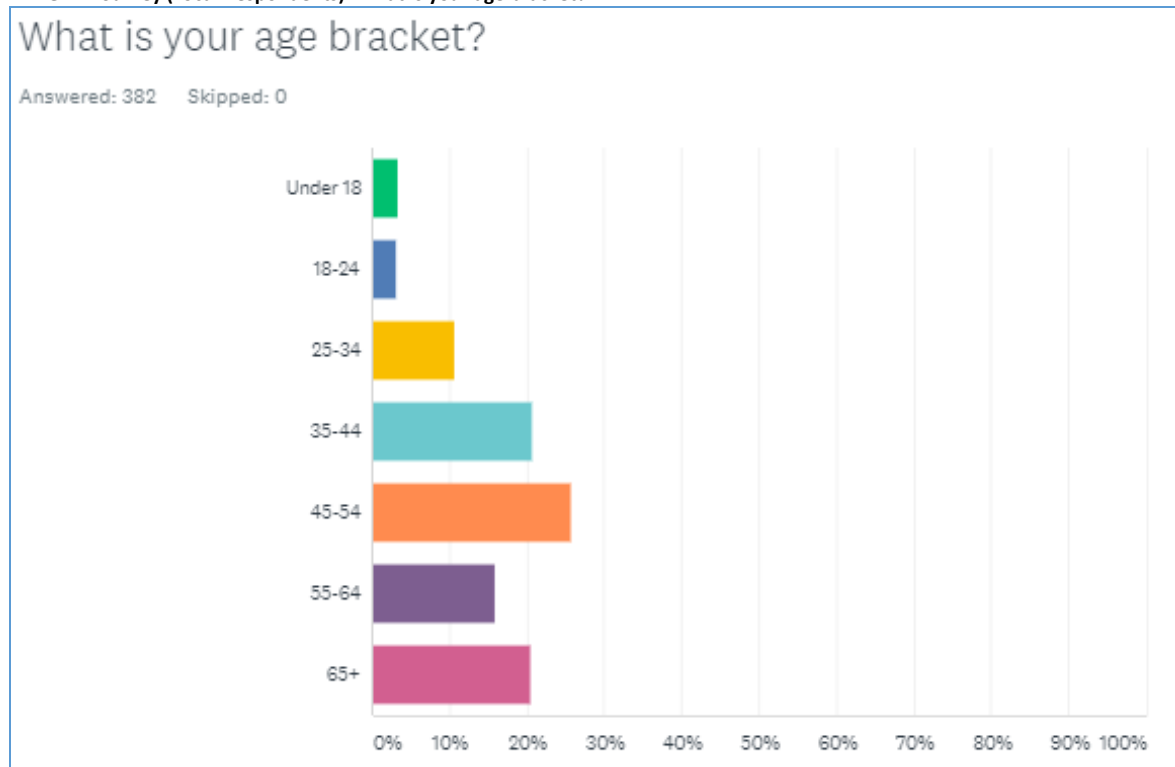
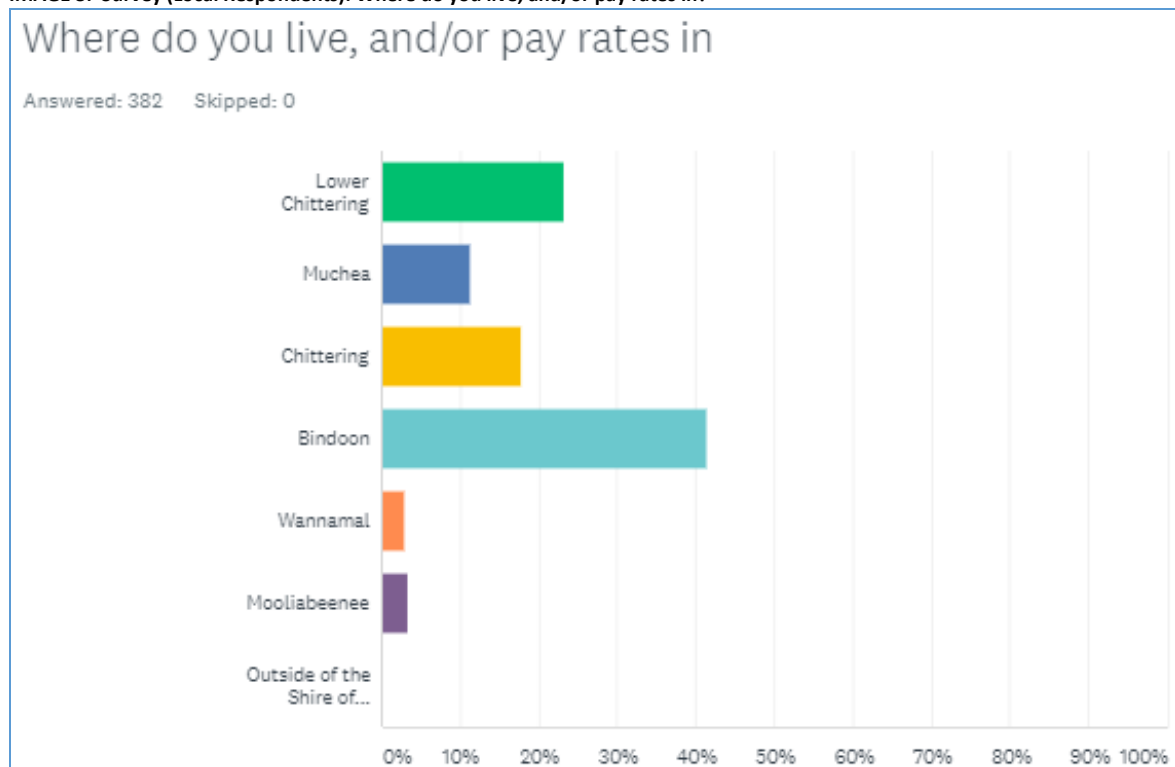


IMAGE 2: Survey (Local Respondents): What is your age bracket?



The highest proportion of respondents were aged between 45 and 54. This is in line with recent Roy Morgan data showing that Generation X'ers, followed by Baby Boomers, are the two most common generations within the Shire of Chittering. Female respondents outnumbered males, 60%:40% respectively.

IMAGE 3: Survey (Local Respondents): Where do you live, and/or pay rates in?



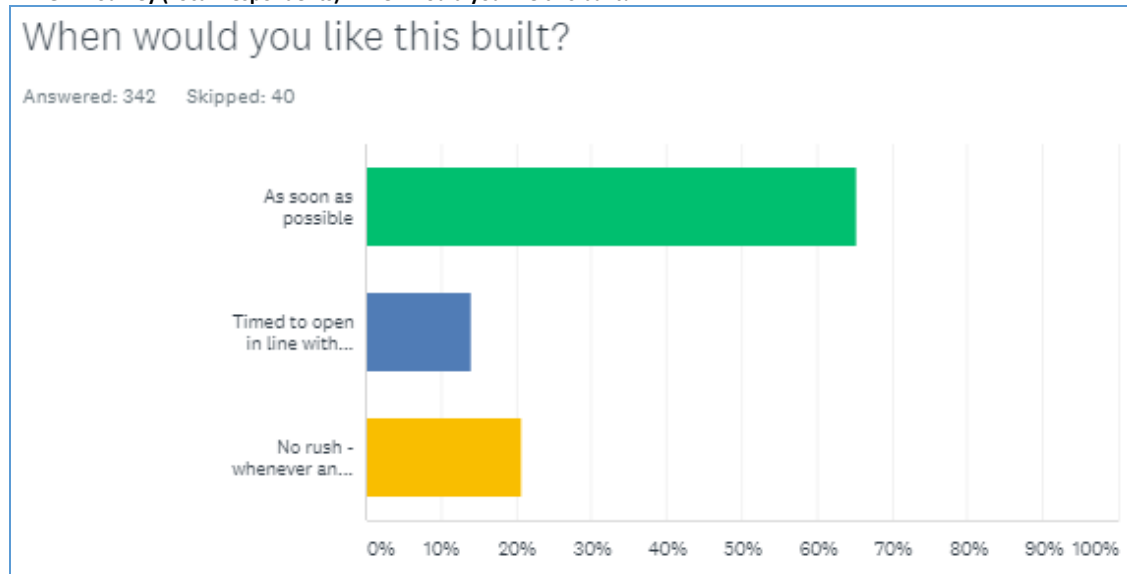
The majority of respondents originated from Bindoon, with 41%. Lower Chittering, Chittering and Muchea made up the next 53%, with Mooliabeenee and Wannamal rounding out the final 6% of responses.

Just over $\frac{2}{3}$ of respondents had attended an information session or read an accompanying information document before responding to the survey.

The following potential features appealed to over half of the respondents (in order);

1. Mountain bike trails of varying degrees of difficulty.
2. Walking trails..
3. Barbecue / picnic facilities and summit point.
4. Toilet facilities / showers.
5. Additional attractions – e.g. Luge / toboggans / dry ski slope / zip-lines / high ropes / wildlife park.
6. Caravan and accommodation facilities.
7. Chairlift for people and bikes.

IMAGE 4: Survey (Local Respondents): When would you like this built?



Most respondents want the facility built as soon as possible, with 65% voting this way. Fourteen percent would like a facility that was opened in line with the Bindoon Bypass opening, with the remaining 21% happy to wait until a funding opportunity might be obtained.

Positive accompanying attributes that local people said they were looking forward to most in a potential facility include (in order);

1. Increased recreation facilities promoting healthy activity;
2. Potential for personal or family use;
3. Assist in the development of the economy in Chittering, and/or alleviating forthcoming economic impacts from the Bindoon Bypass.

Other attributes mentioned by respondents that appealed to them included the accompanying employment opportunities, use of the landscape for attractions in natural surroundings, diversifying tourism and community assets and the raising of the profile of the shire.

IMAGE 5: Survey (Local Respondents): Concerns

	NOT OVERLY CONCERNED	SLIGHT CONCERN	SIGNIFICANT CONCERN	DEAL BREAKER	TOTAL
Impact on rates	42.02% 137	24.85% 81	22.39% 73	10.74% 35	326
Lack of development in other areas of the shire	54.46% 177	28.92% 94	10.46% 34	6.15% 20	325
Natural environment encroachment	45.59% 150	34.04% 112	16.11% 53	4.26% 14	329
More people in Bindoon town	85.40% 275	8.39% 27	2.48% 8	3.73% 12	322

The biggest concern flagged by respondents was potential impacts upon rates. However, $\frac{2}{3}$ said this was of slight or no concern.

Another concern was the potential opportunity cost for development in other areas of the shire (or on other projects) and the potential environmental encroachment of any development. This was particularly voiced in several of the comments of people who did not support the development of the facility. However, a large majority of respondents still said that a lack of development in other areas of the shire was not of significant concern.

A full list of these responses can be found in **Attachment 4** Individual Survey Results.

IMAGE 6: Survey (Local Respondents): Type of development and expected usage

	ON A REGULAR BASIS (4+ TIMES A YEAR)	A FEW TIMES A YEAR	ONCE A YEAR	WOULDN'T BE INTERESTED	TOTAL
Complete Bindoon Mountain Bike & Adventure Park	56.27% 193	23.62% 81	11.95% 41	8.16% 28	343
A limited number of mountain bike trails on Bindoon Hill	37.81% 121	26.25% 84	16.25% 52	19.69% 63	320

The last question in the survey was included to gauge the level of demand for two levels of development. Respondents were inclined to make use of a complete mountain bike and adventure park development rather than a simple trails facility. This is echoed when external respondents are included in the results, with 80% and 49% indicating that they would, on a regular basis, use a complete mountain bike and adventure park, and limited number of trails, respectively.

It would be important in any progression of this facility to not only take into account the concerns and expectations of local people, but to see where this intersects with the needs and wants of the potential stakeholders identified in the feasibility study (who would be visiting to use the facility on a regular basis), in order to ensure maximum use and satisfaction.

It is for this reason that it would be beneficial to build a business model that would aim to fulfil this criteria, to not only ensure satisfaction for the community, but also to ensure the design of a high-value, in-demand tourism product.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 101020

Moved Cr Angus / Seconded Cr Hughes

That Council receive the results from the recent Bindoon Mountain Bike and Adventure Park Survey community consultation.

CARRIED 7/0

8:11PM

CEO04-10/20 Environmental Study for Lot 3874 Chinkabee Road, Bindoon: Potential Bindoon Mountain Bike & Adventure Park

Applicant	Shire of Chittering
File ref	ECDEV-PROJECT-MOUNTAIN BIKE
Author	Economic Development Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. Survey Results Summary Data

Executive Summary

Following a comprehensive survey of the local community, Council is requested to endorse Shire Officers furthering the development of the Bindoon Mountain Bike and Adventure Park project by approving the commencement and funding of an environmental study to be undertaken on the project's proposed land parcel; Lot 3874 Chinkabee Road, Bindoon.

Background

At the Ordinary Meeting of Council held on 17 June 2020, Council requested the Chief Executive Officer perform a period of public consultation on the plans for the Bindoon Mountain Bike and Adventure Park proposal on Lot 3874 Chinkabee Road, Bindoon.

A subsequent survey was presented to the community to gauge the level of community support for the project. The survey was completed electronically and through hard copy submissions to the Shire, returning results indicating support for the project (**Attachment 1**).

In order to establish whether the parcel of land is suitable for development, a detailed botanical survey must be undertaken and submitted to the Department of Biodiversity Conservation and Attractions (DBCA) for their assessment. DBCA request that this study must be undertaken in the spring (latest November) to hold validity in being able to identify potential rare or protected seasonal flora.

Consultation/Communication Implications

Local

An extensive community consultation process was undertaken to maximise community engagement. The objective of the communication and consultation process was to inform the Chittering community of the development opportunity of a proposed Mountain Bike and Adventure Park in Bindoon, and to gauge the level of community support for the project.

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy ImplicationsState

Nil

Local

Nil. Three quotes were received as per the Finance Policy 2.11 Purchasing.

Financial Implications

The 2020/21 Adopted Budget has an allocation of \$30,000 which is to be allocated against:

COA	PURPOSE	AMOUNT
2040251.2100	Bindoon Master Plan	\$10,000
2040251.2100	Aged Care Report	\$20,000

This report is requesting Council consider increasing the budget by \$10,000 for the environmental study of the Bindoon Mountain Bike and Adventure Park. If Council approves the increase, this will be reflected when the budget is reviewed.

Strategic ImplicationsLocal

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.2 A Strong Sense of Community

Strategy: S1.2.3 Activate our local centres and towns

Focus area: Our natural environment

Objective: S2.1 Protective Environment

Strategy: S2.1.2 Develop an integrated network of walking and cycling trails

Focus area: Our built environment

Objective: S3.1 Development of local hubs

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

S3.1.2 Activate town centres to include a good mix of residential, commercial and social infrastructure

S3.1.4 Balance urban development with a focus on natural environment protection and open spaces

Focus area: Economic Growth

Objective: S4.2 Local business growth

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

Objective: S4.3 Economic growth

Strategy: S4.3.3 Facilitate, promote and support ecotourism

Corporate Business Plan 2017-2021
Mountain Bike Trails Master Plan (2016)
Chittering Economic Development Strategy (2015-2025)
Chittering Trails Network Plan (2013 -2023)

State

Northern Growth Alliance Tourism Strategy (2019)

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

An opportunity to create a major economic attraction for Chittering, and a chance to offset the expected negative impacts of diverted traffic from the impending Bindoon Heavy Haulage Route. The feasibility study suggests that the Bindoon Mountain Bike and Adventure Park could bring around;

- An extra 17,200 visitors to the region annually; and
- \$1,670,000 additional in spending in the region; and
- The creation of 11 new full time jobs.

Social implications

Increased community connectedness.

Environmental implications

There are no known significant environmental implications associated with this proposal. As highlighted in this report, an environmental study would be required before land purchase.

Officer Comment/Details

Survey Response Analysis

Results from 382 local respondents in Chittering (572 including those external to the Shire) has shown that residents and ratepayers are fundamentally supportive of the Shire developing the project. This volume of local feedback is amongst the highest the Shire has received in a Shire-led community engagement process, in recent years.

Around 93% of those who completed the survey from all age groups and locations around the shire expressed their support of a mountain bike park project in Bindoon. This level of support is consistently reflected in the results collected from different community groups from retirees through to answers collected at community forums in places like Muchea.

A Level 2, Detailed Botanical Survey will need to be undertaken during Spring (i.e. by November at the latest) to ensure relevant flora is noted and will be accepted for assessment by Department of Biodiversity Conservation and Attractions. Findings from environmental studies have been known to halt development progress and it is important that this is undertaken before purchase of the land is finalised. If this November timing is not achieved, it may be another year before another report can be undertaken. In this time there is potential for many things to change, including the availability and cost of the land for purchase.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 111020

Moved Cr Curtis / Seconded Cr Ross

That Council:

- 1. Request the Chief Executive Officer to engage an environmental consultant to begin work on a Spring Environmental Study for Lot 3874 Chinkabee Road, Bindoon, in anticipation of furthering the potential Bindoon Mountain Bike Park Project.**
- 2. Increase the budget by \$10,000 to cover the costs of the study.**

CARRIED 5/2

8:18PM

CEO05-10/20 Community Assistance Grants and Sponsorship Funding – Round 1, 2020

Applicant	Shire of Chittering
File ref	15/01/7
Author	Community Development Officer
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple majority
Attachments	Nil

Executive Summary

Council is requested to note the allocation of funding for the first round of the 2020 Community Assistance Grants and Sponsorship Funding. Applicants have been notified of the outcome of their applications.

Background

Each financial year Council invites community-based, not-for-profit organisations in the Shire of Chittering to submit Community Assistance Grant / Sponsorship / Support Applications to Council for consideration in the annual budget.

“Community Assistance Grants” refers to funding towards infrastructure and equipment. Examples of this type of funding are uniforms or play equipment.

“Sponsorships” refers to funding towards events, projects (annual or one off) Examples of this type of funding are the Bindoon Rodeo or Veteran/Historic Car Days. Shire staff working for setting up events should be included in your application, but does not form part of your Cash contribution. Funding for annual Christmas and Australia Day Functions will be released in September.

“Support” refers to Community Bus use and Photocopying/Printing/Works. For example, this type of funding can be used towards Seniors Day Trips, Museum Flyers. Works for events should be included in your event sponsorship application.

Consultation/Communication Implications

Local

All community groups were sent an email notifying them of the opening and closing dates, and guidelines for the grants. Generally a Community Grants Workshop is held, providing an opportunity for groups to speak with the Community Development Officer about their applications. This year due to COVID-19, the workshop was cancelled.

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy ImplicationsState

Nil

Local

Community Development Policy 6.4 Community Assistance Grants Scheme

Financial Implications

The adopted 2020/21 annual budget has an overall allocation of \$52,750 (which includes the community bus):

COA	DESCRIPTION	AMOUNT
121107180.2700	OTH CUL – Community Chest	\$52,750

Strategic ImplicationsLocal

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

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

Objective: S1.2 Strong sense of community

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

State

Nil

Site Inspection

Not applicable

Triple Bottom Line AssessmentEconomic implications

By supporting local community groups, we are creating investment in our facilities, thus reducing the financial impact on Council in regard to upgrades of facilities.

Social implications

Investment in local community groups, helps them to maintain services and activities, strengthening the social capital in our communities.

Environmental implications

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

Officer Comment/Details

An amount of \$45,000 has been allocated to Community Assistance Grants and Sponsorship Funding in the 2020/2021 Adopted budget. An additional \$7,750 has been allocated for Sponsored Community Bus Use.

The Community Assistance Grants Funding group met on 1 September and the following funding was allocated to community groups:

Community Bus (Vote: 3/0)	Total Round 1 - \$5,050
Bindoon Chittering Retirees	\$2,500
Bindoon Garden Club	\$750
Chittering Wildlife Carers	\$500
Bindoon Men's Shed	\$1,000
Chittering Veteran Car Club	\$300
TOTAL COMMUNITY BUS FUNDING	\$7,750
ROUND 2 Community Bus Funding	\$2,700

Photocopying / Printing (Vote: 2/1)	Total - \$1,000
Chittering Veteran Car Club	\$200
Chittering Wildlife Carers	\$200
Bindoon Men's Shed	\$200
Chittering Art Society	\$200
Bindoon Farmers Market	\$200

Events/Program Sponsorship (Vote: 3/0)		Total - \$6,000
Chittering Veteran Car Club	Chittering Car Day	\$1,000
Gingin District High School YouthCARE Council	Chaplaincy	\$2,000
Chittering Art Society	Art & Photography Exhibition	\$1,000
South Midlands Polocrosse	Annual Tournament	\$1,000
Lions Cancer Institute	Children’s Christmas Outing	\$1,000

Community Grants		Total - \$1,816
Lower Chittering Volunteer BFB	Uniforms for Events	\$1,366
Chittering Wildlife Carers	Uniforms	\$450

TOTAL ROUND 1 EXPENDITURE	\$8,816
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Christmas & Australia Day – ROUND 2	\$4,000
ROUND 2 FUNDING	\$32,184

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 121020

Moved Cr Curtis / Seconded Cr Gibson

That Council note the Community Assistance Grants and Sponsorship Funding – Round 1, 2020 allocation of funding as contained within the report.

CARRIED 7/0

8:19PM

CEO06-10/20 Amendment to Administration Policy 3.14 Appointment of an Acting Chief Executive Officer

Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Support Officer Governance
Supervised by	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	<ol style="list-style-type: none">1. Draft - Appointment of an Acting Chief Executive Officer Policy2. Delegation 1.1.26 - Appointment of an Acting Chief Executive Officer3. Current Staff Policy 3.14 - Appointment of an Acting Chief Executive Officer Policy

Executive Summary

Council is requested to update the Appointment of an Acting Chief Executive Officer Policy, which prescribes the processes for the appointment of an Acting Chief Executive Officer (ACEO) in ordinary and extraordinary circumstances.

Background

Pursuant to Section 5.36 of the *Local Government Act 1995*, it is a requirement that the Council employ a person to be the Chief Executive Officer (CEO) to enable the functions of the Local Government and the functions of the Council to be performed. The manner of the recruitment is prescribed in the *Local Government Act 1995* and the *Local Government (Administration) Regulations Act 1996*.

Due to the passage of the *Local Government Legislation Amendment Act 2019*, section 5.39C was inserted into the *Local Government Act 1995*. This section requires each Council to adopt a policy that sets out the process to be followed by the local government in relation to the appointment of an employee to act in the position of CEO for a term not exceeding one year.

Sub-Section 5.39(1a) of the *Local Government Act 1995*, recognises that an employee may act in the position of a CEO for a term not exceeding one year without a written contract for the position in which he or she is acting.

Consultation/Communication Implications

Local

Executive Manager Corporate Services
Executive Assistant

State

WALGA

Legislative Implications

State

- Local Government Act 1995

5.39C. Policy for temporary employment or appointment of CEO

- (1) A local government must prepare and adopt* a policy that sets out the process to be followed by the local government in relation to the following—
 - (a) the employment of a person in the position of CEO for a term not exceeding 1 year;
 - (b) the appointment of an employee to act in the position of CEO for a term not exceeding 1 year.

** Absolute majority required.*
- (2) A local government may amend* the policy.

** Absolute majority required.*
- (3) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.
- (4) The CEO must publish an up-to-date version of the policy on the local government's official website.

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The Chief Executive Officer has the delegation to determine acting arrangements for the filling of the Chief Executive Officer position when vacant for periods equal to or less than four weeks.

The guidelines included in the delegation however are dependent to the availability of the Chief Executive Officer to make the decision as to the Executive Manager who will act in the role.

A risk exists in these procedures regarding situations where the Chief Executive Officer is not only unavailable to perform his role but is also unavailable to decide on the acting arrangements.

The attached Policy has been developed to address this risk and to provide guidelines for dealing with unexpected leave situations.

The Shire has procedures included in delegation 1.1.26 dealing with acting arrangements for the position of Chief Executive Officers when it becomes temporarily vacant due to approved leave arrangements. These delegations have been included in the amended Staff Policy 3.14.

As these delegated procedures do not provide for situations where the vacancy of the Chief Executive Officers position is unexpected, or the Chief Executive Officer (CEO) is unavailable to decide on any acting arrangements, a risk was identified regarding continuity in leadership for the Shire.

The amended policy contains five key sections:

- (i). CEO Leave Entitlements.
- (ii). Appointment of an Acting CEO – Expected leave periods under 3 months.
- (iii). Appointment of an Acting CEO – Leave periods in excess of 3 months but no more than 12 months.
- (iv). Appointment of an Acting CEO – Unexpected leave or vacancy.
- (v). Salary and conditions of Acting CEO.

CEO Leave Entitlements

This section recognizes that the CEO has certain contractual leave entitlements that would be accessed as required and approved as outlined in the contract. The filling of any vacancy would be determined by the CEO in accordance with delegation 1.1.26.

Appointment of an Acting CEO – Expected leave periods equal to or less than 4 weeks

This section contains the details of delegation 1.1.26 and the requirement that acting arrangements are advised in writing.

Appointment of an Acting CEO – Leave periods in excess of 4 weeks but no more than 12 months

For periods in excess of 3 months there must be council approval for the acting arrangements to occur. The process is also subject to Section 5.40(a) of the *Local Government Act 1995* that establishes principles affecting employment by local governments. This section also addresses the requirement of *Local Government Legislation Amendment Act 2019*, section 5.39C that each Council adopt a policy that sets out the process to be followed by the local government in relation to the appointment of an employee to act in the position of CEO for a term not exceeding one year.

Appointment of an Acting CEO – Unexpected leave or vacancy

This section deals with situations where the position of CEO may become vacant due to unforeseen circumstances. It provides for a process for the filling of the vacancy until such time as council can decide on any ongoing acting arrangements.

Salary and conditions of Acting CEO

This section provides guidance to the issue of the determination of remuneration for any acting arrangements until such time as council decides on any ongoing acting arrangements.

Current management practice provides remuneration at the rate of 80% of the substantive CEO's salary component for periods less than five weeks, and 90% of the substantive CEO's salary component for periods in excess of five weeks.

The CEO is contractually entitled to certain leave conditions as outlined in his or her employment contract. Acting arrangements for the position of CEO for leave periods equal to or less than four weeks is at the discretion of the CEO in accordance with the relevant delegation (Delegation 1.1.29).

These arrangements however apply primarily to scheduled leave and do not cover procedures for dealing with unexpected leave, or the unexpected vacating of the position by the CEO. To maintain business continuity for the position of Chief Executive Officer (CEO) procedures have been developed to address these vacancy situations and included in draft Policy 3.14 - Appointment of an Acting Chief Executive Officer Policy.

The proposed amendments to Staff Policy 3.14 - Appointment of an Acting Chief Executive Officer Policy provides contingency arrangements for situation of unforeseen leave for the position of Chief Executive Officer (CEO).

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 131020

Moved Cr Hughes / Seconded Cr Angus

That Council BY AN ABSOLUTE MAJORITY:

- 1. Endorse amended policy "Staff Policy 3.14 - Appointment of an Acting Chief Executive Officer", as per Attachment 1.**
- 2. Endorses "Delegation 1.1.26 – Appointment of an Acting Chief Executive Officer", as per Attachment 2.**

CARRIED 7/0

8:21PM

CEO07-10/20 Chief Executive Officer Performance Review and Key Performance Objectives

Applicant	M Gilfellon
File ref	22/10/153
Author	Chief Executive Officer
Authorising Officer	N/A
Disclosure of interest	The author has an interest as it relates to their employment
Voting requirements	Simple Majority
Attachments	1. DRAFT Key Performance Objectives

Executive Summary

Council is requested to endorse the outcomes of the previously performed Chief Executive Officer Performance Review and to adopt the Key Performance Objectives for the 2020/2021 Financial Year.

Background

Under Section 5.38 of the *Local Government Act 1995* the performance of a Chief Executive Officer is to be reviewed at least once in relation to every year of the Chief Executive Officer's Performance. A performance review took place on 8 July 2020. Following the performance review, the Chief Executive Officer was informally informed of the outcome being satisfactory performance however a formal Council Resolution must be passed.

Consultation/Communication Implications

Local

Council

State

Nil

Legislative Implications

State

- Local Government Act 1995
Section 5.38 of the *Local Government Act 1995* establishes a requirement for Council to perform an annual review of the CEO's Performance. Though not expressly mentioned, in order to do this Council would need to follow Human Resource management procedures, the foremost establishing Key Performance Objectives against which performance can be reviewed.

Local

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.

Officer Comment/Details

It is important in establishing Key Performance Objectives for the Chief Executive Officer that agreement is reached between Council and the Chief Executive Officer on what the Key Performance Objectives are.

The Draft Key Performance Objectives are shown in **Attachment 1**. This year's Key Performance Objectives are weighted towards achieving satisfactory performance in the Administration and Compliance of the Shire of Chittering. The Service Delivery and Community Satisfaction and Major Projects are the two Key Performance Objectives that carry a smaller weighting. These Key Performance Objectives are established taking into consideration the inward focus of Council on the Administration of the Shire and taking into account the resources being required around the governance of the Shire.

OFFICER RECOMMENDATION

Moved Cr Hughes / Seconded Cr Angus

That Council:

1. Endorse the outcome of the review of the Chief Executive Officer's Performance over the period from 1 July 2019 to 30 June 2020 that resulted in the Chief Executive Officer's performance being rated as Satisfactory.
2. Endorse the Chief Executive Officers Performance Objectives Key Performance Objectives for period from 1 July 2020 to 30 June 2021, as per Attachment 1.

AMENDMENT

Moved Cr Ross / Seconded Osborn

That Attachment 1 be amended as per the following:

Performance Objective 1 (Administration and Compliance):

1.8 Effective relationship and interface with Council, including timely reporting, provision of accurate advice, and timely implementation of Council Resolutions.

Performance Objective 3 (Significant Projects):

3.5 Commencement of the Muchea Sportsground project.

Objective 3.1 be deleted and the Objectives renumbered accordingly.

CARRIED 7/0

8:27PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 141020

Moved Cr Hughes / Seconded Cr Angus

That Council:

- 1. Endorse the outcome of the review of the Chief Executive Officer's Performance over the period from 1 July 2019 to 30 June 2020 that resulted in the Chief Executive Officer's performance being rated as Satisfactory.**
- 2. Endorse the Chief Executive Officers Performance Objectives Key Performance Objectives for period from 1 July 2020 to 30 June 2021, as per Attachment 1, subject to the following changes:**
 - i. Performance Objective 1 (Administration and Compliance):**
Insert new "1.8 Effective relationship and interface with Council, including timely reporting, provision of accurate advice, and timely implementation of Council Resolutions."
 - ii. Performance Objective 3 (Significant Projects):**
Insert new "3.5 Commencement of the Muchea Sportsground project."
 - iii. Performance Objective 3 (Significant Projects):**
Delete "3.1 Commencement of the Chittering Community Centre Project (dependent on Council Decision)."; and
the Objectives be renumbered accordingly.

CARRIED 7/0

8:27PM

CEO08-10/20 Revoke Council Resolution 160220

Applicant	Shire of Chittering
File ref	N202468
Author	Executive Assistant
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Absolute Majority
Attachments	Nil

Executive Summary

Council is requested to revoke Resolution 160220, which resolved *“That all proposals to engage outside consultants be referred to Council for approval.”* This request is made on the basis that following a comprehensive budget process, with all requirements for expenditure on consultants identified to Council, it would be an Ultra Vires decision of Council to require further approval to implement the budget and would be counter-productive to the efficient and effective governance of the shire.

Background

At the Ordinary Meeting of Council held on 16 September 2020 a report was presented to Council to engage outside consultants to undertake projects that have been approved in the Shire’s adopted 2020/21 Annual Budget.

At this meeting Council resolved *“That item CEO05-09/20 Engaging Consultants be deferred to the Ordinary Meeting of Council scheduled for 21 October 2020, to allow for further advice to be received.”*

The Chief Executive Officer obtained formal advice from McLeods Barristers and Solicitors, which is summarised under ‘Officer Comments/Details’. The full legal advice was distributed to Council under Confidential cover on 8 October 2020.

Consultation/Communication Implications

Local

An email was sent to Council on 8 October 2020 advising that this report requires $\frac{1}{3}$ support from Council to be included in the agenda (i.e. three Councillors required). The Shire received four responses in support of the Recommendation were received from:

- (i) Cr Carmel Ross – willing to Move or Second the Recommendation;
- (ii) Cr Peter Osborn – willing to Move or Second the Recommendation;
- (iii) Cr Kylie Hughes – willing to Move or Second the Recommendation; and
- (iv) Cr Mary Angus – supportive of the Recommendation.

State

McLeods Barristers and Solicitors
WALGA

Legislative Implications

State

- Local Government (Administration) Regulations 1996

10. Revoking or changing decisions (Act s.52(1)(e))

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported—
 - (b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made—
 - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
 - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

[Regulation 10 amended: Gazette 31 Mar 2005 p.1030.]

Local

- Local Government (Council Meetings) Local Law 2014

16.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

Policy Implications

State

Nil

Local

Finance Policy 2.11 Purchasing

Financial Implications

Nil. Administration will be implementing expenditure in accordance with the adopted 2020/21 Annual Budget.

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The *Local Government Act 1995* splits the Governance and Administration functions of the local government in order to promote a more efficient and effective local government and to remove uncertainty between the two roles that often leads to some presidents and councillors becoming involved in administrative matters that should be handled by staff.

Part of the Chief Executive Officer's functions under the *Local Government Act 1995* is to:

1. Ensure that advice and information is available to Council so that informed decisions can be made; and
2. Manage the day-to-day operations of the local government.

It is within the Chief Executive Officer's powers to engage consultants to assist with these functions, where it is done so in accordance with legislation and lawful policies.

In forming the 2020/21 Annual Financial Budget, Council participated in at least six budget workshops and was given budget detail to below the line item level. During the budget formation process, all proposals to engage consultants were identified and Council were informed of these. The implementation of the 2020/21 Annual Financial Budget that was approved by an Absolute Majority Council Decision sits under the functions of the Chief Executive Officer and according to the legal advice, it would be an ultra vires decision of Council to make a blanket decision requiring that proposals to engage outside consultants to be referred to Council for approval.

As Resolution 160220 of Council would be an ultra vires² decision, it is an invalid decision and hence it is being recommended that Council revoke the decision.

Beyond the legalities of the Council Resolution, there is the principal of efficient and effective governance that the *Local Government Act 1995* seeks to implement. With consultants already identified and approved by an Absolute Majority budget decision, it is inefficient to require a further decision of Council to appoint identified consultants. Requirements such as these lead to an increase in administrative workload, for no additional benefit, and contribute to delays in other projects and tasks that the administration is required to undertake.

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 151020

Moved Cr Ross / Seconded Cr Osborn and Cr Hughes

That Council BY AN ABSOLUTE MAJORITY revoke RESOLUTION 160220 where Council resolved:

That all proposals to engage outside consultants be referred to Council for approval.

CARRIED 5/2
8:34PM

² Meaning of ultra vires ... "acting or done beyond one's legal power or authority."

CEO09-10/20 Aged Care Forum Outcomes

Applicant	Shire of Chittering
File ref	03/01/0005
Author	Community Development Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to note the outcomes reached by all parties present at the Age Care Forum held in Council Chambers on 16 September 2020.

Background

The Aged Care Forum was proposed by Council as a means to understand the proposed projects that are being pursued by the Chittering Resident and Ratepayers Association and other independent community members in the area of aged housing. Regular interactions have occurred between the above stakeholders, the Chief Executive Officer and Shire officers, as well as a few Councillors, on their respective views for aged care housing within the Bindoon Townsite, since the withdrawal of Retirees WA and the subsequent resale of Lot 89 Koomal St, Bindoon.

The withdrawal of the Retirees WA proposal for aged care housing on Lot 89 Koomal St Bindoon was advised on 31 May 2019.

In September 2018 Retirees WA advised their intentions to sell the land back to the Shire as it was no longer financially viable for them to proceed with the proposed Retirement Village. Discussions ensued between Retirees WA, former Shire CEO (Mr Alan Sheridan) and Council on the possibility of a Lifestyle Village and Caravan Park, to provide for short stay accommodation and long-stay accommodation, which may suit an aging population.

At the Ordinary Council meeting held on 17 October 2018, Council resolved the following:

9.4.5 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 131018

Moved Cr Osborn / Seconded Cr King

That Council:

- 1. Note that an Integrated Lifestyle Village/Caravan Park Development Feasibility Report will be provided at the November Ordinary Council Meeting.*
- 2. Authorise the Chief Executive Officer to engage an Engineering Consultancy associated with on-site waste water disposal (as outlined in this report).*
- 3. Authorise the Chief Executive Officer to prepare an Expression of Interest for development on the land comprising of an integrated Lifestyle Village/Caravan Park.*
- 4. Note that the proposed Expression of Interest document will be returned to Council for further consideration.*

Advice note:

That the expression of interest document considers land for aged care or other development within the Bindoon Townsite.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0

Since this time, investigations into an integrated Lifestyle Village / Caravan Park has been thwarted with the resignation of the then Chief Executive Officer, the appointment of an Acting Chief Executive Officer and subsequent appointment of a new Chief Executive Officer, Council elections that were held in October 2019, saw the appointment of three new Councillors and, the COVID19 pandemic.

During this period, the Chittering Resident and Ratepayers Association, and other independent community stakeholders, have continued to raise their concerns to the Chief Executive Officer over the lack of aged housing options within the Shire, resulting in the Chief Executive Officer seeking advice from the state manager for Leading Aged Services Australia (LASA), the national peak body representing all providers of age services across residential care, home care and retirement living. A meeting was held on 5 December 2019 with representatives as below:

- Shire President (Cr Don Gibson) and Cr John Curtis
- Shire Chief Executive Officer
- Shire Community Development Coordinator
- Chittering Resident & Ratepayers Association representatives
- Independent community members x3
- LASA State Manager and Senior Media & Communications Advisor

The aim of the meeting was to seek advice from LASA on the types of age care accommodation options that may be available to the Shire of Chittering, and the funding models that accompany these models. The outcome of this meeting was that there are varying perspectives on what is a priority for the community and that we needed to determine what our community needs and, have a better understanding of the demographics that we are talking about, in order to take a proposal to an aged care provider for housing options in Chittering.

A further meeting was held with LASA and the above stakeholders on 11 February 2020. LASA outlined the different levels of aged care and the associated funding. The outcome of this meeting was to investigate the communities need. The Chittering Resident and Rate Payers Association were keen to oversee this process, in conjunction with the Shire.

At the Ordinary Meeting of Council held on 19 February 2020, Cr Gibson submitted a Notice of Motion as...*"There is a desperate need to care for our most vulnerable aged residents, many of whom have been forced to leave their homes, friends and families to obtain care in distant shires, with many still waiting for suitable units and care facilities. It is envisaged that a regional aged care facility, catering for a wide area of the Wheatbelt, will provide economic benefit to local business"*.

Accordingly, at this meeting Council resolved the following:

11.4 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 170220

That Council:

1. *Prioritise the timely provision of aged care in our Shire, due to the considerable number of elderly residents who are located here for retirement; and*
2. *Be given monthly updates from Cr Don Gibson and Cr John Curtis on the development of aged care.*

CARRIED 7/0
7:49PM

With no further outcomes achieved, an officer report was tabled at the Ordinary Meeting of Council on 15 July 2020 seeking aged care direction from Council.

9.4.8 FORESHADOWED MOTION / COUNCIL RESOLUTION 150720

Moved Cr Osborn / Seconded Cr Ross

That Council directs the Chief Executive Officer to:

1. *Facilitate the preparation of an independent, comprehensive Feasibility Study to include all options available for providing aged and disability care in Chittering.*
2. *Funding for the study is covered by the budget allocation to Council Reserves for this purpose.*
3. *Complete the Bindoon Master Plan as a matter of urgency taking into account the potential need to allocate*

an area of land for Aged and Disability Care.

4. *Carry out community consultation to assess the potential demand from Chittering Shire and surrounds for an aged and disability care facility and what form it is believed it should be delivered.*

CARRIED 7/0
7:49PM

Following this Resolution, the initial Bindoon Masterplan workshop, involving Bindoon townsite business representatives, community groups and facility managers has been scheduled for 7 October 2020.

Consultation/Communication Implications

Local

Representatives of the Chittering Resident and Ratepayers Association, Chittering Health Advisory Group, and individuals who have had recent interactions with both the Chief Executive Officer and Councillors were invited to attend an Aged Care Forum held on 16 September 2020. The Chief Executive Officer, Executive Management Team and Community Development Coordinator were also in attendance.

Invitations were also extended to the following dignitaries as they have been party to some of the discussion between the above parties and, the Shire, with regard to proposed age care options for the Bindoon town site:

- Hon Martin Aldridge MLC
- Hon Christian Porter MP
- Shane Love MLA
- Darren West

The above dignitaries were unavailable for this forum.

Agreed key points identified through the forum include:

- The Bindoon Masterplan is needed as a matter of urgency. There has been in-principle support from Council for the provision of land to age accommodation however; where this land is has not been confirmed. Consideration is required as part of the master planning process to capture population changes and demographic differences. We also need to consider proximity to services and opportunity for intergenerational exchange.
- Ageing doesn't mean the same thing to everyone.
- We need to consider a range of accommodation and service options to enable people to age within our community.
- We need to start small and evolve.
- Disability, day respite and chronic illness needs also need to be considered.
- We need a commitment of land.
- Communication between stakeholders needs to be improved, open and transparent to ensure we are aware of what each other are doing.

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus Area: Our community

Objective: An active and supportive community

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

Objective: Strong sense of community

Strategy: S1.2.3: Activate our local centres and towns

Objective: Our built environment

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

S3.1.2: Activate local town centres to ensure a good mix of residential, commercial and social infrastructure

S3.1.3: Plan for and facilitate housing choice.

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

OFFICER RECOMMENDATION/COUNCIL RESOLUTION 161020

Moved Cr Gibson / Seconded Cr Angus

That Council note the outcomes reached by all parties present at the Aged Care Forum held in Council Chambers on 16 September 2020, as contained within this report.

CARRIED 7/0
8:37PM

CEO10-10/20 Chittering Health Advisory Group (CHAG)

Applicant	Chittering Health Advisory Group
File ref	03/01/3
Prepared by	Community Development Coordinator
Supervised by	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure
Voting requirements	Simple Majority
Attachments	1. "Unconfirmed" minutes from 17 September 2020

Executive Summary

Council is requested to receive the minutes from the Chittering Health Advisory Group (CHAG) held on 17 September 2020.

Background

CHAG officially became an advisory group to Council at the Ordinary Meeting of Council held on 20 May 2020. To ensure that Council remain abreast of CHAG activities, minutes of CHAG will be reported to Council under Reports of Committees, requesting that Council receive the minutes and any specific Council recommendations will be outlined within the report.

The minutes of CHAG will be available to the public via the Ordinary Meeting of Council minutes. Shire officers will also ensure that CHAG minutes are uploaded to the Shire website. Any confidential information will be redacted prior to public circulation.

Consultation/Communication Implications

Local

Chittering Health Advisory Group

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

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.

Officer Comment/Details

While there are no statutory requirements for Council Advisory Groups to report to Council, the regular reporting of CHAG minutes to Council will ensure that Council is kept up-to-date on CHAG activities and proposed actions including recommendations to Council for consideration.

The provision of these minutes as part of the Ordinary Council Meeting Minutes will also ensure that CHAG minutes are recorded as a public document.

OFFICER RECOMMENDATION/COUNCIL RESOLUTION 171020

Moved Cr Hughes / Seconded Cr Ross

That Council receive the Chittering Health Advisory Group minutes, as per Attachment 1.

CARRIED 7/0

8:38PM

CEO11-10/20 Commuter use of Ranger Vehicle

Applicant	Shire of Chittering
File ref	22/10/152
Author	Human Resources Coordinator
Authorising Officer	Chief Executive Officer
Disclosure of interest	Neither the Author nor Authorising Officer have any Impartiality, Financial or Proximity Interests that requires disclosure.
Voting requirements	Absolute Majority
Attachments	Nil

Executive Summary

Council is requested to approve special permission for the Chief Executive Officer to grant commuter use of vehicles to Rangers only in order to ensure prompt and efficient service to our community.

Background

In 2019, Council provided Resolution 231119, updating Policy 3.17 – Staff Disciplinary to confirm that the Chief Executive Officer no longer has the ability to offer Private and/or Commuter Usage of Motor Vehicles as a part of a staff member’s remuneration package, without exception.

The Shire of Chittering employs two Rangers that may be called to emergency situations outside of ordinary working hours, which can occur Monday to Sunday, 24 hours a day. Currently the Rangers work on a roster covering 6am-6pm, Monday to Friday; with a Ranger being on-call and undertaking call-outs at all times outside of these hours. The Shire owns two purpose built ranger vehicles that are allocated to individual rangers, one of which has commuter use under an existing contract. Each Ranger is responsible for the general upkeep of the vehicle and ensuring pre-starts are carried out, that the vehicle is kept in good condition and that the vehicle is ready to go at short notice.

Over the last five years most ranger ‘call outs’ have related to dog attacks and wandering stock and as indicated below, most of which have been primarily from the southern end of the Shire:

TABLE 1: Statistics

Location	Dog Attack	Wandering Stock
North of Bindoon	1%	12%
Central	32%	29%
South of Bindoon	67%	59%

To-date, our Rangers have been given commuter use and as a result many jobs have been attended to within a reasonable timeframe without delay leading to an effective community service. Without commuting use, such efficiently could be significantly compromised. Accordingly, this request has been prepared to ensure optimum efficiency and community safety.

Consultation/Communication ImplicationsLocal

Executive Manager Development Services

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

- Staff Policy 3.17 Staff Disciplinary

This Policy was updated in July 2020 to remove private and/or commuting use for all Shire owned vehicles. This can cause some interference with staff efficiency, especially staff on after-hours duties.

Financial Implications

Preventing commuter use to the Ranger services can cause significant delays in attending emergencies as they are subsequently requested to be on-call using their own vehicle to travel to Bindoon before attending an emergency situation. This can mean adding the additional time to commute, which directly results in staff overtime to be paid.

Conversely, if commuter use was permitted, an approximate potential saving of \$150 per call-out could occur. It is not unusual for a ranger to be called out to an emergency three or four times per day on a weekend.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area:	Our community
Objective:	S1.3 A safe and healthy community
Strategy:	S1.3.1 Improve the safety of our community

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Under the current policy, the Chief Executive Officer is not able to provide commuter use to any employee. However, given the nature of the Ranger position being called to emergencies, and any delay caused by officers having to collect a vehicle from the Shire Depot prior to attending to any emergency call out could be detrimental and provide additional risk and cost to Council.

The below points are offered for consideration when making a decision in relation to permission for commuter use for Rangers:

- Emergency call outs
These are often time sensitive in nature and involve potential dog attacks and stock on roads. Ranger vehicles are especially fitted out to attend call outs that can lead to emergency assistance being provided to reduce or limit the risk of injury to person, animal or property whereby any delay, inaction or delay due to a lengthy wait further impacted by collection of a Shire vehicle prior to attending could lead to further injury to person, property or stock or potential loss of life.
- Duty of Care
Under the *Occupational Safety and Health Act 1995*, the Shire has a duty to of care to its employees to assess any risks and make reasonable attempt to remove, reduce or limit risk. In this instance and due to the nature of the position potentially responding to an emergency scenario at any time, it has been determined that there is a level of risk relating to fitness for work and fatigue for staff called outside of general hours. In order to mitigate this risk we advise employees that they are to ensure they have adequate rest if a call out has taken place, however the time spent undertaking any emergency call out may increase by up to 2 hours per call out due to collection and returning of vehicles from the Shire Offices if commuter use is not permitted.
- Financial Impact
Call out services are provided and paid for at penalty rates. If a staff member attend as call out as per 21.6 (c) of the Local Government Industry Award the employee is entitled to *"be paid at the appropriate overtime rate in clause 21 for time required to attend work and Actual time worked will be deemed to apply from the time the employee leaves home."*

To remove commuter use of the vehicle could lead to additional hours being paid at penalty rates for staff called out to emergencies of approximately 2 hours per event, which could lead to a significant increase in call out costs.

Historically, employees in the ranger position and subsequent successful retention has mostly been from outside the southern boundary of the Shire and contracts have allowed for commuter use of the ranger vehicle. A large percentage of our ranger call outs are from the southern boundary and as such our patrols currently commence at the southern boundary in order to ensure as far as practicable and efficient and effective community service attending to emergencies without delay. To remove the commuter use for this position ensues that the rangers will not be able to provide the same response time, and has the potential to remove call out efficiency, therefore increasing cost to council for this service. Other factors including increase risk of fatigue and resulting injury to Ranger Officers, mitigating out duty of care are a possibility.

Accordingly, Council is requested to permit the Chief Executive Officer to permit commuter use of ranger specific vehicles within persons employed in the Ranger position.

OFFICER RECOMMENDATION

Moved Cr Angus / Seconded Cr Osborn

That Council authorise the Chief Executive Officer to include commuter use of ranger specific vehicles in ranger contracts and letters of offer.

AMENDMENT

Moved Cr Gibson / Seconded Cr Curtis

That the following be added to the Officer Recommendation:

“That Council authorise the Chief Executive Officer to install GPS devices into the ranger vehicles before authorising commuter use.”

LOST 3/4

8:44PM

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 181020

Moved Cr Angus / Seconded Cr Osborn

That Council authorise the Chief Executive Officer to include commuter use of ranger specific vehicles in ranger contracts and letters of offer.

CARRIED 6/1

8:45PM

ITEM 10. REPORTS OF COMMITTEES

Nil

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

NOM01-10/20 Cr John Davis: Mountain Bike Trail

NOTICE OF MOTION

Moved Cr Davis / Seconded Cr Gibson

1. No portion of the rates or borrowings from the years 2020 to 2023 financial years to be used for the purchase of land, the design and construction, maintenance and operation of a mountain bike trail in the Shire of Chittering.
2. The Council supports, in principal, subject to town planning regulations, the purchase of land, design and construction, maintenance and operations including insurance, of a mountain bike trail by private business only in the Shire of Chittering.

LOST 2/5
8:50PM

Introduction

No Councillor has moved any motion or suggestion that a Mountain Bike Trail be established in Bindoon, and to my knowledge this only a concept developed by Shire staff and the Chief Executive Officer.

Background

Not provided

Rationale to Support Motion

The Shire should not engage itself in a business that should be exclusively conducted by private business, by encourage others to participate.

If a Mountain Bike Trail is wanted then let private business develop it, not the Ratepayers. Of course the motion that is submitted, is quite simple and to the point.

Officer Comments/Details

Council Decisions are very important in that they set a precedent for the future. While Council's in the past have always made decisions regarding activities that could have some possibility of being considered commercial, this will lower the bar for what is considered a commercial entity. Currently in Western Australia there is one commercial Mountain Bike Park with the vast majority of trails being publicly funded and built on public land. The precedent set by this decision would exclude the consideration of Council funding or in-kind support for many activities including Aged Care, Arts Centres and even Halls.

At the August 2020 Ordinary Meeting of Council the following decision was made:

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 180820

That Council instructs the Chief Executive Officer to conduct a non-binding survey of residents of the Shire of Chittering seeking community input on planning, for recreational and community facilities across the Shire, including but not limited to facilities under consideration at Muchea, Lower Chittering and Bindoon.

CARRIED 6/0
8:09PM

The survey was developed in consultation with all Councillors and included the Bindoon Mountain Bike Park Concept. The survey closed on 9 October 2020 and the results are only being provided to Council at the October 2020 Ordinary Meeting of Council, so the timing of this motion that was delivered on 22 September 2020 would appear to be too early to have proper consideration of the resident's feedback. At the June Ordinary Meeting of Council, the following decision was made by a unanimous decision of Council:

11.4 MOTION / COUNCIL RESOLUTION 050620

Moved Cr Osborn / Seconded Cr Davis

That Council requests the Chief Executive Officer to perform a period of public consultation on the plans for the Mountain Bike Park.

CARRIED 7/0
8:23PM

The period of Public Consultation was performed however the results are yet to be formally presented to Council due to the decision of Council to conduct a wider Sport and Recreation Survey. It is important when following a process in seeking feedback from resident's that their feedback is received before making a decision.

At the October 2019 Ordinary Meeting of Council, the following decision was made:

9.4.2 RECOMMENDATION / COUNCIL RESOLUTION 171019

Moved Cr Osborn / Seconded Cr Gibson

That Council adopt the Chief Executive Officer Performance Criteria for the period to 30 June 2019 as per Attachment 2, Draft Performance Criteria.

CARRIED 7/0
8:17PM

Included in the Chief Executive Officer's Key Performance Indicators was 4.1 Masterplan for facilities in the Shire of Chittering including: "b. Proposed Mountain Bike Park". In July 2020 Council performed an assessment of the CEO's performance. All Councillors were in attendance.

The Mountain Bike Park was included as a project in the 2018-2028 Shire of Chittering Long Term Financial Plan. This Plan was adopted by Council and was most recently adopted at the September 2020 Ordinary Meeting of Council by a unanimous decision of Council.

Following the completion of a Feasibility Study, Breakaway Tourism presented to Council on the Feasibility Study in June 2019. Council received the Feasibility Study at the July 2019 Ordinary Meeting of Council. Following the change of Council at the October 2019 Elections, Breakaway Tourism presented the Feasibility Study to Council in February 2020.

At the April 2016 Ordinary Meeting of Council, Council endorsed the “*Shire of Chittering Mountain Bike Trails Master Plan*”. The 2013-2023 Chittering Trails Network Master Plan included the following proposal:

Project 4 Mountain Bike Trail (\$22,000) (Feasibility Project): consideration of the construction of a long distance mountain bike trail, possibly passing through the Shire of Toodyay and City of Swan. This project would entail an investigation of land tenures, stakeholder views and other practical issues.

The Plan also presented the following opportunity:

5.3 Mountain Bike Trail - Park With the increase in the popularity of Mountain Biking there could be merit in the addition of a trail and / or park within the Shire of Chittering as a means of attracting visitors to the area.

NOM02-10/20 Cr Don Gibson: Meetings between President, Deputy President and Chief Executive Officer

NOTICE OF MOTION

Moved Cr Gibson / Seconded Cr Curtis

That Council resolve to continue the weekly meetings between the President, Deputy President and Chief Executive Officer, to be held every Tuesday morning at 9am, unless the President advises otherwise.

AMENDMENT

Moved Cr Angus / Seconded Cr Hughes

That the Notice of Motion be amended to read as follows:

“That Council resolve that the weekly meetings between the President and Chief Executive Officer (and other Councillors by invitation by the President) be held at a time mutually agreed.”

CARRIED 5/2
9:03PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 191020

Moved Cr Gibson / Seconded Cr Curtis

That Council resolve that the weekly meetings between the President and Chief Executive Officer (and other Councillors by invitation by the President) be held at a time mutually agreed.

CARRIED 5/2
9:05PM

Introduction

This motion is necessary due to the unwillingness of the Chief Executive Officer to meet the President and Deputy President on a weekly basis so that he is properly informed of current community concerns. Councillors are embedded in our community and receive constant feedback which is relevant to the efficiency of the Shire services, and the Chief Executive Officer needs to be regularly advised, to help him respond in a timely manner.

Background

Weekly meetings of the President, Deputy President, and Chief Executive Officer have been an efficient means of highlighting community concerns and pointing out breaches of the Local Government Act to the Chief Executive Officer, in the expectation that he will conform to the statutory obligations of his position, in complying with Council resolutions.

Rationale to Support Motion

These weekly meetings are essential to advise the Chief Executive Officer of current community concerns and to remind the Chief Executive Officer of his obligations to comply with Council resolutions. Contrary to the unconfirmed minutes of the previous meeting with the President, Deputy President and Chief Executive Officer, there was no agreement reached on cancelling the weekly meetings in favour of a meeting preceding the forum, despite the President offering to negotiate an outcome, which was ignored.

Officer Comments/Details

On the 18 September 2020 the Shire emailed Council a memo, the subject of which was the President and Chief Executive Officer meeting arrangements. Following the recent City of Perth Inquiry, and following recent events, Administration received informal advice regarding Governance Arrangements. It was noted that improvements should be made to current governance arrangements that would benefit both Council and Administration, as well as safeguard against potential future governance failures.

A formal framework has now been established for the President and Chief Executive Officer meetings. The Chief Executive Officer developed a Guidance Note outlining the framework, which is included as **Attachment 1** to this Notice of Motion. The Chief Executive Officer set aside time at the October Council Forum (i.e. 14 October 2020) to discuss with Council, however this new arrangement was implemented immediately with the first meeting held on 22 September 2020.

As these arrangements are normally agreed between the President and Chief Executive Officer, Council were asked to read the Guidance Note and inform the President and the Chief Executive Officer if they agree with the process. Administration received notification back from the following:

Councillor	Feedback
Cr Carmel Ross	Many thanks for these minutes of the meeting, they are very helpful in keeping us up to date and will probably save you and others time in answering the same question by multiple councillors.
Cr Kylie Hughes	Cr Ross makes a great point, formalising these meetings in this way is a great initiative, much appreciated!
Cr John Curtis	I'm quite happy to have the office of the President and the office of the CEO to arrange meetings that suit their needs. As long as all items that discussed that need implementation are brought to council.

One of the most important functions is to ensure the Governance framework that they develop assists in the efficient and effective running of the local government. To determine this the costs and outcomes must be assessed. The current cost of conducting weekly meetings between the President, Deputy President and Chief Executive Officer cost approximately \$11,305 per year. Reducing this to fortnightly meetings without the Deputy President would result in a reduction in costs to approximately \$4,256, a reduction of \$7,048.

The cost needs to be assessed against the outcomes. Under the *Local Government Act 1995* the Deputy President does not have any additional functions than any other Councillor unless the President is absent. There would not be a loss from their absence as the minutes of the meeting will be shared to all Councillors. There is already commentary from the President and Deputy President that the way the meeting are currently held is not an effective way to share information, so there is a limited potential loss from the reduction in meetings. It is expected however that if the President fulfills his legislated role in seeking issues from all Councillors and the information is shared back to all Councillors, then there would be a positive benefit. Finally, the type of information being shared would also be a deciding factor. The majority of information presented by the Shire President revolve around administration type matters such as dog poo on ovals, bin pickups and street signs missing. These issues could be more efficiently and effectively solved through the use of the works request system or via email.

NOM03-10/20 Cr Don Gibson: Nominate an Acting Chief Executive Officer

NOTICE OF MOTION

Moved Cr Gibson / Seconded Cr Davis

The Council require the Chief Executive Officer to advise the President and Deputy President if he is going on leave, and nominate an acting Chief Executive Officer before leaving.

LOST 3/4

9:02PM

Introduction

This is just a normal requirement which in this case has been neglected by the Chief Executive Officer, another reason to continue frequent meetings to keep communication open.

Background

Not provided

Rationale to Support Motion

There are continuing communication problems in the Shire, and they will only get worse without regular meetings in person. Example, no advice from the Chief Executive Officer that he is taking leave. No acting Chief Executive Officer appointed. These failures are unacceptable.

Officer Comments/Details

This motion was received via email on Saturday 26 September 2020. The period of leave for the Chief Executive Officer was Tuesday 29 September to Friday 2 October 2020. It would seem inexplicable that the Chief Executive Officer could have been negligent in informing the President of leave when it was already known by the President that leave was being taken before the period of leave was taken.

At the meeting with the President and Deputy President on 22 September 2020, the Chief Executive Officer informed the meeting that he would be on annual leave the following week. An email to all Councillors on 24 September 2020 also contained information informing Councillors that the CEO would be on leave.

Under the *Local Government Act 1995*, the power to appoint the CEO is a power of Council. This includes the power to appoint an Acting Chief Executive Officer. *Staff Policy 3.14 Appointment of an Acting Chief Executive Officer* provides the guidelines for the appointment of an Acting Chief Executive Officer in the absence of the Chief Executive Officer due to annual, long service or extended sick leave.

The definition of "annual leave" in the policy means "*in excess of five working days*". The Chief Executive Officer's period of leave commenced on Tuesday 29 September and concluded on Friday 2 October 2020, therefore only four working days have been taken. The Chief Executive Officer was following the Council Policy in not appointing an Acting CEO for periods of leave.

NOM04-10/20 Cr Don Gibson: Reserve Land for Aged Care Accommodation

NOTICE OF MOTION / COUNCIL RESOLUTION 201020

Moved Cr Gibson / Seconded Cr Curtis

That Council resolve to identify and reserve land for aged and disability accommodation by the November Ordinary Council Meeting.

CARRIED 4/3

9:08PM

Introduction

Community volunteers who are working on facilitating the provision of aged and disability accommodation need to have certainty that Council owned land is allocated for the purpose, which will help them in getting interested developers involved.

Background

The provision of aged and disability accommodation is desperately needed due to the increasing numbers of aged retirees in the Shire, and the Shire has to date failed to act on keeping our senior citizens in the Shire, rather than forcing them to leave friends and family to be housed elsewhere in the state.

Rationale to Support Motion

The community are very concerned at the lack of progress in the provision of facilities for our ageing ratepayers, and Council should be actively assisting those volunteers who have been giving their time to achieve an outcome, by providing certainty on the identification of Shire land for aged and disability accommodation.

Officer Comments/Details

As highlighted in report CEO09-10/20 Aged Care Forum Outcomes, Council have resolved at previous meetings to address the need for aged accommodation, but have not yet specified where this land might be until the Bindoon Masterplan process has been undertaken. With a process already in place, the introduction of another process merely takes resources away other processes that have previously been resolved by Council. Rather than help Council in developing Aged Care Solutions, these motions further hinder the development of Aged Care Solutions.

At the Aged Care Forum that was held on 16 September 2020 it was highlighted that the Bindoon Masterplan is needed as a matter of urgency. The first community session of the Bindoon Masterplan was held on 7 October 2020. While land was nominally allocated for aged care during this session, the Community Groups in attendance were still waiting on the outcomes of the Aged Care Royal Commission before they can provide certainty around the size of land required to be set aside. This would seem to be an important factor in Council making a decision around the provision of land.

NOM05-10/20 Cr John Curtis: Recycling Waste with 10c Refund Mark

NOTICE OF MOTION

Moved Cr Curtis / seconded Cr Gibson

Where the local government supplies recycling waste receptacles, an owner or occupier of premises must not deposit or permit to be deposited any item displaying a 10c refund mark in a recycling waste receptacle.

MOTION WITHDRAWN BY THE MOVER AND SECONDER

9:09PM

Introduction

The state government commenced the container deposit scheme this month to stop the littering of the environment and to improve the recycling rate, to do this they provided an incentive of 10c refund on all eligible containers, so that community groups can be big drivers for the change needed.

Background

The full financial benefits of Container Deposit Scheme (CDS) for community groups, schools, church groups etc., will be reduced considerably by the placement CDS items in yellow bins, by prohibiting the placement of such items in yellow bins will maximise the amount of items available for community groups fundraising projects.

The estimate value of all eligible containers from the 2018-2019 waste report:

- Cans 12 tonnes@ \$7,000=\$84,000
- Glass 131 tonnes@\$500=\$66,000
- Plastic 25 tonnes@ ? As plastic drink containers vary in weight and eligibility it is hard to put a value on it but the financial benefits could be high.

As all 10c refund containers deposited in yellow bins is shared between the contractor and the local government, the passing of this motion will benefit the community at large.

Will be implemented under Waste Local Laws.

Part2. Local govt waste.

Insert under 2.3 General Waste Receptacles.

Rationale to Support Motion

Not provided

Officer Comments/Details

There are two aspects that should be considered in making this decision. The first is enforceability of the proposal and the second is the legality.

Consideration of the enforceability of such a ban raises the following questions:

- Does Council want officer's auditing owners'/occupiers' waste bins?
- How would bin auditing be perceived by the community?
- What impact would this have on owners'/occupiers' privacy?
- How much would this cost in staff time and other resources?

Bans which are difficult to enforce raise significant concerns. Limited resources for enforcement could result in a small number of individuals being punished for behaviour that is widespread in the community. This may be perceived as inequitable and could undermine confidence in the Shire. Rather than introducing a ban, Council may wish to consider providing more opportunities to engage with the CDS by encouraging and educating individuals and community groups to participate voluntarily.

The second issue is the legality of such a motion. A decision of Council cannot override a law passed by the Western Australian Parliament, which includes our Waste Local Law. For this motion, the relevant sections of our Waste Local Law are Section 2.3 and Section 2.4 which are stated below:

Waste Local Law 2018 – Shire of Chittering

2.3 General waste receptacles

- (2) *Where the local government supplies recycling receptacles, an owner or occupier of premises must not deposit or permit to be deposited in a general waste receptacle any recycling waste.*

2.4 Recycling waste receptacles

An owner or occupier of premises must not deposit or permit to be deposited in a recycling waste receptacle –

- (a) *anything other than the particular type of recycling waste for which that receptacle was provided by the local government for those premises...*

Definitions

recycling waste receptacle – means a receptacle for the deposit and collection of recycling waste.

recyclable waste – means –

- (a) *paper and cardboard;*
- (b) ***plastic containers comprised of polyethylene terephthalate or high density polyethylene;***
- (c) ***glass containers;***
- (d) ***steel containers;***
- (e) ***aluminium containers;***
- (f) ***liquid paper board;***
- (g) *and any other waste determined by the local government to be recycling waste.*

Clauses 2.3 and 2.4 establish a negative duty (a duty not to do something as opposed to a positive duty to do something) not to:

- place recyclable material in general waste receptacles;
- place general waste in recycling receptacles.

These clauses require an owner/occupier to use the appropriate bin when discarding waste. They do not require owners/occupiers to engage with or prioritize any waste recovery scheme.

The definition of *recyclable waste* under the *Waste Local Law 2018* ('Local Law') includes aluminium, steel, glass, liquid paper board containers. Containers bearing the 10c mark are still classified as recyclable waste under the Local Law. There is nothing in the Local Law which prohibits discarding recyclable waste in recycling receptacles. Under the Local Law, the duty of the owner/occupier is to ensure such containers are not discarded in general waste receptacles.

The motion cannot be implemented under 2.3 of the Local Law as it stands. To achieve the intent of the proposed motion, the Local Law would need to be amended or replaced.

Local Laws do need to be passed by the Western Australian Parliament and to do this they must align with the aims of the legislation that enables the power to establish the local law.

Preventing persons from discarding certain recyclable into recycle bins would be broadly inconsistent with the objects of the CDS.

The *Waste and Resource Recovery Act 2007* ('WARR Act') lays out the main objects of the CDS:

'Section 47A – Objects of Part

The main objects of this Part are to –

- (a) increase the recovery and recycling of empty beverage containers;*
- (b) reduce the number of empty beverage containers that are disposed of as litter or to landfill; and*
- (c) ensure that first responsible suppliers of beverage products take product stewardship responsibility in relation to their beverage products; and*
- (d) provide opportunities for social enterprise, and benefits for community organisations, through participation in the container deposit scheme; and*
- (e) complement existing collection and recycling activities for recyclable waste.'*

Objects (a), (b) and (e) are achieved when individuals utilise their regular recycling service. It would be inconsistent with the WARR Act to ban a behaviour, which is consistent with the objects of the CDS.

The proposed motion seeks to support object (d), however, the CDS framework has been established to provide opportunities for social enterprise/community benefit rather than mandate the use of the Scheme. Similarly, Western Australian Return, Recycle, Renew ('WARRRL', founders and operators of the CDS) use language such as 'incentivises' and 'encourages' when referring to the Scheme, highlighting its voluntary nature.

It is not evident from the relevant legislation or CDS program details that the Government intended to prevent CDS eligible containers from being discarded in regular recycle bins. The intent of the legislation is to provide greater opportunities and incentives rather than prohibit other methods of recycling.

Section 3.7 of the Local Government Act and section 61(8) of the WARR Act makes any local law inoperative to the extent that it is inconsistent with the legislation or subsidiary regulations.

NOM06-10/20 Cr John Curtis: 'Cash for Containers' Container Deposit Scheme

NOTICE OF MOTION / COUNCIL RESOLUTION 211020

Moved Cr Curtis / Seconded Cr Gibson

That Council instruct the Chief Executive Officer to:

- 1. Develop and implement an educational campaign to encourage residents to utilise the 'Cash for Containers' Container Deposit Scheme.**
- 2. Investigate options for increasing the utilisation of the 'Cash for Containers' Container Deposit Scheme and report the findings of the investigation to Council.**
- 3. Develop a policy that allows for community groups to operate mobile donation collection points for the 'Cash for Containers' Container Deposit Scheme on Shire owned land.**

CARRIED 7/0

9:13PM

Introduction

All funds raised to go to the build and maintenance of aged care and senior housing in the Shire of Chittering.

Background

Not provided

Rationale to Support Motion

Not provided

Officer Comments/Details

An important part of increasing the rate of recycling in the area is to get the community involved in recycling activities. In making their decision, Council should consider whether providing approval to a particular group is appropriate. It is important Council ensures fairness between all community associations by providing them equal opportunities to raise funds. Council should consider whether they would be willing to provide the same opportunity to other community groups and whether there is capacity to achieve this. If there is significant interest amongst community groups to operate mobile collection points, the Council should consider how it future requests should be handled. This may be best achieved through the creation of a policy, which manages the way in which requests are addressed and establishes requirements to operate mobile collection points.

The policy can cover many of the issues that have been raised by this motion and raised previously by Councillors. Some of these items to be considered are:

- How to deal with the planning implications of such proposals. There is not enough information provided in the motion to ascertain planning requirements;
- How the groups would apply for a space;
- How to decide on which community groups are given access, especially considering some of the recent court decisions regarding Councillors assigning rights to groups of which they are a member. There are also some sites, such as the Bindoon Landfill site, that could be more lucrative than the suggested site;
- Whether to grant access on a commercial basis or a 'peppercorn' basis. There have been strong pushes to ensure that group utilising shire land are paying commercial rates;

- How the community group reports their activities to the shire. There has been a strong push that groups receiving a benefit from the shire should be reporting on their activities to the shire. This is especially pertinent as the Councillor Motion does not adequately reflect the reason given for fundraising in the Councillor motion.

If Council are to approve the motion, it is highly recommended that the Chittering Residents and Ratepayers Association become a registered Community Group for the Containers for Change scheme as currently they are not eligible to collect a refund. This will also allow the Shire to track how much they have earned through the scheme that will assist in the auditing task.

NOM07-10/20 Cr Carmel Ross: Blackboy Ridge Media Notification

NOTICE OF MOTION

Moved Cr Ross / Seconded Cr Hughes

That Council instructs the Chief Executive Officer to issue a media notification concerning the Council Resolution on the September OCM "CEO01-09/20 Blackboy Ridge Name Consultation" to provide an accurate account of the resolution adopted by Council at that meeting.

LOST 3/4

9:22PM

Introduction

At the September OC, Item CEO01-09/20 Blackboy Ridge Name Consultation let to the adoption of the following resolution:

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 130920

That Council:

- 1. Supports the investigation into the renaming of Blackboy Ridge.*
- 2. Authorises the Chief Executive Officer to consult with Local Indigenous Groups to investigate a more suitable name.*
- 3. Be presented with a further report with several alternative naming suggestions following the completion of Point "2".*
- 4. Based on outcome of Point "3", a period of community consultation on the shortlist of names be undertaken.*

CARRIED 7/0

Background

As above

Rationale to Support Motion

Subsequent to the unanimous adoption of the Resolution, media interviews by the Shire President have let do the inaccurate information being presented to the public about the content of the Resolution. This is a matter that entails some sensitivity and it is unfortunate that Council's decision has not be accurately conveyed to the public. It is important that the community of our shire, and perhaps the public more generally, be accurately informed of the content of the Council Resolution. Transcripts of the media interviews are available, so it is possible to list the inaccuracies the interviews contain. These can be addressed in a media notification from the Chief Executive Officer that provides an overview of the Resolution adopted by Council and corrects the inaccuracies in the media interviews undertaken.

Officer Comments/Details

Nil

NOM08-10/20 Cr Carmel Ross: Reconciliation Action Plan

NOTICE OF MOTION

Moved Cr Ross / Seconded Cr Osborn

That Council instructs the Chief Executive Officer to commence the preparation of a Reconciliation Action Plan for the Shire:

- Work on the Reconciliation Action Plan should begin with the next four months.
- The Reconciliation Action Plan should be undertaken in stages, with ongoing development of the Plan over a three year period.
- Appropriate engagement with Indigenous people should be undertaken.
- One or two Councillors should be appointed to the working party/committee that develops the Reconciliation Action Plan.

AMENDMENT

Moved Cr Hughes / Seconded Cr Ross

That the Motion be amended by:

1. Deleting "Work on the Reconciliation Action Plan should begin with the next four months."; and
2. Inserting "in the next budget period." after the words "That Council instructs the Chief Executive Officer to commence the preparation of a Reconciliation Action Plan for the Shire".

CARRIED 7/0
9:30PM

SUBSTANTIVE / COUNCIL RESOLUTION 221020

Moved Cr Ross / Seconded Cr Osborn

That Council instructs the Chief Executive Officer to commence the preparation of a Reconciliation Action Plan for the Shire in the next budget period:

- The Reconciliation Action Plan should be undertaken in stages, with ongoing development of the Plan over a three year period.
- Appropriate engagement with Indigenous people should be undertaken.
- One or two Councillors should be appointed to the working party/committee that develops the Reconciliation Action Plan.

CARRIED 7/0
9:32PM

Introduction

Council resolved in 2019 to introduce the practice of reading an 'Acknowledgement of Country' at all meetings. This is an important first step in recognising the original inhabitants of the Shire. Having taken this step, it is timely for Council to embark on the development of a Reconciliation Action Plan to provide opportunities for better understanding in our community about the Indigenous heritage of this shire, and to engage Indigenous people in the process to ensure respectful and accurate practices, signage, etc., is put in place to recognise this heritage.

Background

The shires Indigenous population at the 2016 census was 123 people, 2.2% of the shire population at that time. However there will be other Indigenous people who have historical links to the land in the shire, who may be able to contribute to the development of a Reconciliation Action Plan.

Rationale to Support Motion

To allow adequate time for this project, it is proposed the Plan be steadily developed over a three year period, so the process is not rushed and that time and funds can be allocated in successive budgets to prepare a plan that draws on input from Indigenous people and allows consultation with relevant stakeholders, including the community of the shire.

As evidence of Council's commitment to this, it is recommended that one or two Councillors form part of a working party to progress this initiative.

Officer Comments/Details

The importance of the development and implementation of a Reconciliation Action Plan is acknowledged however it will take staff resources to develop it. The inclusion of timeframes that recognise the limitations on resources is appreciated.

Cr Davis vacated the Chair and handed the meeting to Cr Gibson at 9:33PM.

Cr Davis declared a Financial Interest pursuant to Section 5.60A of the *Local Government Act 1995* on item NOM09-10/20 Cr Don Gibson: Reimbursement of Travel Expenses for Cr John Davis, and remained in chambers where he took part in debate but did not vote on the Motion.

NOM09-10/20 Cr Don Gibson: Reimbursement of Travel Expenses for Cr John Davis

NOTICE OF MOTION

Moved Cr Gibson / Seconded Cr Curtis

That Council resolve to support the fact finding mission to Cunderdin by the President, Deputy President, and Chairperson of the Chittering Health Advisory Group, for the provision of aged and disability accommodation in Bindoon, as authorised by the President, and direct the CEO to reimburse the travel claim for that trip.

LOST 3/3
9:44PM

Introduction

Not provided

Background

Not provided

Rationale to Support Motion

Not provided

Officer Comments/Details

Cr Davis sought reimbursement for travel to Cunderdin in July with the President. The information provided to Shire officers to understand the claim has highlighted that the President authorised the trip to Cunderdin (refer to **Image 1**).

IMAGE 1: Email sent to the CEO Mailbox on 2 October 2020 from Cr Gibson's private email account

From: Don Gibson <[REDACTED]>
Sent: Tuesday, 13 October 2020 8:49 AM
To: CEO Mailbox
Subject: I20120685 - Motion for October ordinary meeting

G'day Matthew ,
Please include this motion in the October agenda , Motion .
That Council resolve to support the fact finding mission to Cunderdin by the President , Deputy President , and Chairperson of the Chittering Health Advisory Group , for the provision of aged and disability accommodation in Bindoon , as authorised by the President , and direct the CEO to reimburse the travel claim for that trip .
Regards ,

Don Gibson
[REDACTED]

Policy 4.3 Elected Member's Entitlements and Training policy states the following expenses for reimbursements:

2.1 Expenses approved for reimbursement

LG Regulations 32(1)(a) prescribes expenses that may be approved by a Local Government for reimbursement. The express authority of the Council is given to Council Members to perform the following functions to which an expense incurred can be reimbursed:

- a) attendance by an Elected Member at any working group meeting, ordinary or special briefing session and Council forum, notice of which has been given by the Chief Executive Officer;*
- b) attendance by an Elected Member at any meeting of anybody to which the Elected Member has been appointed by the Council or to a secondary body as approved by the Chief Executive Officer;*
- c) attendance by an Elected Member at any annual or special electors' meeting;*
- d) attendance by an Elected Member at a Shire of Chittering civic function to which all Council members are invited;*
- e) attendance by an Elected Member at a citizenship ceremony conduct by the Shire;*
- f) attendance by an Elected Member at any ceremony for the presentation by the Shire of awards to school students by any member responsible for presentation of the awards;*
- g) attendance by an Elected Member at any meeting of a ratepayer/residents association dealing with the interests of an area represented by that Elected Member;*
- h) attendance by an Elected Member at any site where:*
 - i) the site is the subject of an item of business on an agenda for a Council briefing session or a Council meeting; and*
 - ii) the attendance occurs between the issue of the agenda and the Council briefing session or the Council meeting.*
- i) attendance by an Elected Member at a meeting with the Chief Executive Officer or a Manager of the Shire at the request of the Chief Executive Officer or a Manager;*
- j) attendance by an Elected Member at a meeting with a ratepayer/resident or a local body or group to discuss any local government matter; and*
- k) attendance by an Elected Member at a funeral for those deceased persons recognised under the Shire of Chittering's Bereavement Recognition Policy.*
- l) attendance by the Shire President at a meeting or function of anybody including any State Government body, in his or her capacity as the Shire President, including attendance by the Deputy Shire President or an Elected Member in place of the Shire President;*
- m) any other function, meeting or event in their role as an Elected Member that is supported by a written invitation.*

The Motion to reimbursement travel expenses does not fall under any of the allowable expenses under the Council's Policy.

All reimbursements to Councillors must meet the requirements of Section 31(1) and Section 32(1) of the *Local Government (Administration) Regulations 1996* and the most recent Salaries and Allowances Tribunal Determination. As this travel was not associated with a Council or Committee Meeting, Section 31(1) does not apply. Section 32(c) of the *Local Government (Administration) Regulations 1996* allows for the reimbursement of an expense incurred by a council member in performing a function in their capacity as a council member.

The *Local Government Act 1995* sets out the functions of a Councillor under *Section 2.10 Role of a Councillor*. The functions are:

A councillor—

- (a) represents the interests of electors, ratepayers and residents of the district; and*
- (b) provides leadership and guidance to the community in the district; and*
- (c) facilitates communication between the community and the council; and*
- (d) participates in the local government's decision-making processes at council and committee meetings; and*
- (e) performs such other functions as are given to a councillor by this Act or any other written law.*

Cr Gibson vacated the chair and Cr Davis resumed the chair at 9:56PM.

ITEM 12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

At 9:56PM Cr Gibson gave the Chief Executive Officer his letter of resignation as President.

At 9:56PM Cr Davis gave Cr Gibson a letter that announced his resignation as Deputy President and as a Councillor of the Shire of Chittering, which was read aloud to the meeting. Cr Gibson handed the letter to the Chief Executive Officer. Mr Davis then went and sat in the public gallery.

At 9:56PM Cr Gibson assumed the Chair.

PROCEDURAL MOTION / COUNCIL RESOLUTION 231020

Moved Cr Gibson / Seconded Cr Angus

That Council in accordance with *Council Meetings (Local Law) 2014, c5.4(1)* considers item NB01-10/20 Wired Fibre to the Home Connections.

CARRIED 5/1
9:59PM

NB01-10/20 Wired Fibre to the Home Connections

MOTION

Moved Cr Gibson / Seconded Cr Curtis

This motion is to issue a communication to all telcos within the shire, that our community is stating our demand on the record that wired fibre to the home connections are to be implemented shire-wide as per the customers' demands, over any wireless proposals. This motion also puts forward that within this communication it must be stated that where possible (particularly on Bell Hill where residents have consistently asserted their wishes for wired fibre to the home) that the Bell Hill tower be deactivated and all residents alternatively be given wired fibre to the home as a matter of urgency. It is clear that the residents on Bell Hill are determined to see all legal options through to their completion whether these options include actions against the Council, or alongside. It is our duty to champion all alternative avenues open to them against wireless radiation and for wired internet services that we are able.

LOST 2/4

CR GIBSON AND CR CURTIS VOTED IN FAVOUR

10:09PM

Cr Gibson provided the following reasons:

As evidenced by seven years of objections by the community to the Bell Hill tower, and similar objections to the tower in Lower Chittering due to concerns of radiation, the residents of Chittering have consistently proven through community feedback that the rollout of wireless services is rejected, and that wired services suit the residents demands for safe, fast and health conscious technology. As quoted in the Sydney Morning Herald, communications Minister Paul Fletcher stated that new fibre to the home connections would have no up-front charge, and that "if the customer doesn't ask for it, we won't roll fibre to your home."

"If the customer demonstrates that he or she has got the demand, then we will roll the fibre out", Minister Fletcher said.

ITEM 14. MEETING CLOSED TO THE PUBLIC

Matters for which the meeting may be closed

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 241020

Moved Cr Ross / Seconded Cr Angus

That Council moves into a confidential session to discuss items:

- CON01-10/20 Smoke Nuisance – Legal Action;
- CON02-10/20 EOI Proposal: Lot 91 (RN 6138) Great Northern Highway, Bindoon ("Ferguson House");
- CON03-10/20 Supply and Lay of Bitumen; RFQ 2020/21; and
- CON04-10/20 Cement Stabilisation of Road Construction Projects; RFQ Stabilising 2020/21,

under the terms of the *Local Government Act 1995, Section 5.23(2)*:

(2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following –*

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal –*
 - (iii) *information about a business, professional, commercial or financial affairs of a person.*

where the trade secret or information is held by, or is about, a person other than the local government.

6/0
10:12PM

Public reading of resolution that may be made public

The meeting was reopened to the public at 10:21PM and two members from the general public returned to the meeting, Cr Gibson read the following aloud:

CON01-10/20 Smoke Nuisance – legal action

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 251020

Moved Cr Hughes / Seconded Cr Curtis

That Council approves proceeding with legal action against Mr Wayne Dufall of 105 Pioneer Drive, Bindoon for breaches against the Shire of Chittering *Health Local Law 2016* for causing a smoke nuisance to his neighbours at 113 Pioneer Drive, Bindoon.

CARRIED 6/0
10:15PM

CON02-10/20 EOI Proposal: Lot 91 (RN 6138) Great Northern Highway, Bindoon ("Ferguson House")

PROCEDURAL MOTION / COUNCIL RESOLUTION 261020

Moved Cr Hughes / Seconded Cr Osborn

The Council defers the EOI to the November Ordinary Meeting of Council, to be able to consider the new information that has been received by the Shire.

CARRIED 6/0

10:18PM

CON03-10/20 Supply and Lay of Bitumen; RFQ 2020/21

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 271020

Moved Cr Osborn / Seconded Cr Angus

That Council BY ABSOLUTE MAJORITY:

1. Receives the Evaluation report, as per Attachment 1.
2. Award the contract for Supply and Lay Bitumen RFQ 2020/21 – Supply a full service; to Fulton Hogan for the sum of \$188,058 (excluding GST) and enter into a suitable contract.
3. Authorise the Chief Executive Officer to manage the Fulton Hogan contract, including the provision of possible variations, providing the variation is necessary in order for the goods or services to be supplied.

CARRIED 6/0

10:20PM

CON04-10/20 Cement Stabilisation of Road Construction Projects; RFQ Stabilising 2020/21

OFFICER RECOMMENDATION / COUNCIL RESOLUTION 281020

Moved Cr Hughes / Seconded Cr Ross

That Council BY ABSOLUTE MAJORITY:

1. Receives the Evaluation report.
2. Award the contract for Cement Stabilising RFQ 2020/21 – Supply a full service; to Downer for the sum of \$296,193 (excluding GST) and enter into a suitable contract.
3. Authorise the Chief Executive Officer to manage the Downer contract, including the provision of possible variations, providing the variation is necessary in order for the goods or services to be supplied.

CARRIED 6/0

10:21PM

ITEM 15. CLOSURE

Cr Gibson declared the meeting closed at 10:24PM.