

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

WEDNESDAY 20 JUNE 2018

**Chinkabee Complex
6166 Great Northern Highway
Bindoon**

**Commencement: 7.00pm
Closure: 10.40pm**



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 Friday 29 June 2018.



Alan Sheridan
Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on Wednesday 18 July 2018.

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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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7:00PM.

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

2.1 Attendance

The following Members were in attendance:

Member:	Cr Gordon Houston	President (Presiding Member)
	Cr Peter Osborn	Deputy President
	Cr Aaron King	
	Cr George Tilbury	
	Cr Carmel Ross	
	Cr Mary Angus	
	Cr Don Gibson	

Quorum – 4 members

The following Shire staff were in attendance:

Staff	Alan Sheridan	Chief Executive Officer
	Rhona Hawkins	Executive Manager Corporate Services
	Peter Stuart	Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Jake Whistler	Senior Planning Officer
	Natasha Mossman	Executive Support Officer (Minute Secretary)

Members of the public	30
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Media	0
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2.2 Apologies

Nil

2.3 Approved leave of absence

Nil

2.4 Announcements

Councillors are requested 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 Council Meeting for inclusion in the Council Minutes.

Cr Gordon Houston (President)

- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 25 May
- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 8 June
- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 15 June
- Northern Growth Alliance meeting on 20 June

Cr Peter Osborn (Deputy President)

- Chamber of Commerce "Business After Hours" Sundowner at Nesci Estate on 18 May
- Chittering Residents and Ratepayers Association President and Deputy President meeting on 21 May
- Perth Tourism Exchange at Perth Arena on 24 May
- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 25 May
- Lower Chittering Sports and Recreation Facility Reference Group tour of regional facilities on 1 June
- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 8 June
- Weekly catchup meeting with the Deputy President and Chief Executive Officer on 15 June
- Wheatbelt North Regional Road Group meeting on 18 June

Cr Mary Angus

- Chittering Youth Krew meeting on Saturday 16 June

Cr Don Gibson

- Chittering Veteran Car Club meeting on 2 June
- Bindoon Historical Society meeting on 12 June
- Chittering Residents and Ratepayers Association meeting (Muchea) on 13 June

Cr Carmel Ross

- Chamber of Commerce "Business After Hours" Sundowner at Nesci Estate on 18 May
- Bindoon Australia's Biggest Morning Tea on 1 June
- Chittering Residents and Ratepayers Association NBN tower meeting on 7 June
- Chittering Residents and Ratepayers Association meeting (Muchea) on 13 June
- Events Coordination meeting on 14 June
- Chittering Community Planning Advisory Group meeting on 14 June

Cr George Tilbury

- Meeting with Peter Hunt Architects to discuss Lower Chittering sports facility on 17 May
- Meeting with Immaculate Heart College on 17 May
- Lower Chittering Sports and Recreation Facility Reference Group meeting on 23 May
- Lower Chittering Sports and Recreation Facility Reference Group tour of regional facilities on 1 June

3. DISCLOSURE OF INTEREST

Councillors must declare to the President any potential conflict of interest they have in a matter before the Shire Council as soon as they become aware of it.

3.1 Item 9.4.7 "Council Resolution Enabling Cr Osborn to participate and vote on matters involving the Chittering Tourist Association"

Cr Ross declared an Impartiality Interest in that she is a member of the Executive of the Chittering Tourist Association; where she is the representative of the Bindoon Farmers Market with no financial interest.

Cr Osborn declared the following:

1. Financial – as a part owner of Wootra Farm Bed and Breakfast, a member of the Chittering Tourist Association and appear in the annual planner. Wootra Farm (of which he is a part-owner) also sells preserves through the Chittering Tourist Association shop.
2. Impartiality – is the nominated Council Delegate to the Chittering Tourist Association.
3. A closely associate person with interests in this matter – his wife is also a member on the Chittering Tourist Association (in the position of President) and is part owner of Wootra Farm Bed and Breakfast.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 John Curtis, Bindoon

Question 2 **How much has been spent on the property at 6138 GNH since being purchased and the price paid?**

Answer 1 *The Shire purchased the property in 2009 for the amount of \$450,000. The Shire undertook a complete renovation of the property in 2012 and spent \$179,000.*

4.2 Public question time

The Presiding Member took questions from floor before addressing those there were submitted prior to the meeting.

4.2.1 Chris Waldie, Bindoon

Chris Waldie made a lengthy statement with regard to Item 9.1.1 "Proposed Extension to term of Development Approval (40m high nbnTM and Telstra monopole): Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213)" on tonight's agenda. Mr Waldie then asked the following questions:

Question 1 Did the Chief Executive Officer have any input into the plan '6T00-51-01-BIND-C3' that was put into the submission not go out to the public?

Answer 1 Through the Chair, the Chief Executive Officer advised that no, he was not aware that this plan was not included in the information that was provided to the general public in the recent consultation.

Question 2 Why was the plan not sent out?

Answer 2 Through the Chair, the Chief Executive Officer advised that he was not sure what time frame Mr Waldie was referring to in the previous question. The planning application was dealt with in 2016; the purpose of this matter is an extension to the planning approval that has already been granted.

Question 3 Item 2 laterite outcrop found, has the Shire been appraised of the excavation required to handle the extra outcrop?

Answer 3 The Presiding Member advised that he would need to look at the original application. Through the Chair, the Executive Manager Development Services advised that the original plans were not re-sent out as it would have caused confusion, as this is purely for extension of time. All plans are currently available in the 2016 minutes on the Shire's website and library.

Question 4 Safe vehicle access is currently not possible, entire access is too steep at entry, has the Shire been appraised on how they are to overcome this issue?

Answer 4 Through the Chair, the Executive Manager Development Services advised that those details are provided as part of a building permit. A building permit cannot be lodged until approval is finalized to use the land for that purpose.

Question 5 Access upgrade is required for earthworks, grading standard to shire guidelines; they have not made an application to how they will handle it; there are concerns about run-off when they go to seal the road. Are the ratepayers going to be appraised of that when (or if) it gets submitted?

Answer 5 Through the Chair, the Chief Executive Officer advised that conditions within the approval relate to the control of run-off and access to the site.

4.2.2 Julie Duzevich, Bindoon

(as supplied)

Question 1 What is the total cost to Ratepayers to these NBN applications on Bell Hill Reserve? This is the third time it has gone before Council to vote on: 2015, 2016 and 2018. Please give a breakdown of the Administration costs, signage, newspaper advertisements, mailouts to residents, consultant fees, legal fees, massive Planning Reports that must of taken considerable hours to prepare etc. The Ratepayers are entitled to know the true facts?

Answer 2 The Presiding Member took the question on notice.

Question 2 Why didn't Council disclose the true information to Ratepayers why NBN requested an extension to the Development Application on Bell Hill Reserve, that construction was delayed due to the Reserve being an Aboriginal Heritage Site, as advised by an anthropological survey and the Yued elders and that a Section 18 has been applied for to the Department of Aboriginal Affairs. This may have influenced the submission outcomes. This appears to be manipulative and highly questionable behaviour by the Council and a repeat of when it was voted on in May 2016, when time was not given for an aboriginal assessment of the site before it was voted on. Please answer why?

Answer 2 Through the Chair, the Executive Manager Development Services advised that this is addressed in the Officer Report that is before Council tonight. The matter being referred to is run through State Government processes not the Shire, i.e. it is not under the control of the Shire.

4.2.3 Richard Frew, Bindoon

Julie Duzevich asked the following question on behalf of Richard Frew, Bindoon.

(as supplied)

Question 1 Why was the Bell Hill tower site only assessed for its two dimensional footprint of 118 square metres which is entirely misleading and disingenuous? The true visual and physical impact of the NBN tower is its volume of 45 metres x 118 square metres which equals 5,310 cubic metres. This is the true visual, structural and environmental impact on the Reserve and the surrounding properties. Has the true visual and environmental impact of the NBN tower Bell Hill Reserve, been assessed as follows:

- At a distance of 10 metres – visitors to the site (Aboriginals, tourists, local residents)
- At a distance of 55 metres – a property adjacent to the site
- At a distance of 80 metres – a property adjacent to the site
- At a distance of 150 metres – a property adjacent to the site
- At a distance of 300 metres – local properties
- At a distance of 600 metres – local properties
- At a distance of 1200 metres – Bindoon townsite

Have all those involved in the decision making of this matter done the above research? Do they need help visualizing this? Please visit the NBN Aldridge Tower on Mooliabeenee Road, Gingin and assess it at the above distances. Live and learn of the true impact of this proposed tower for Bell Hill Reserve. Would this help in their decision making process?

Answer 1 The Presiding Member took the question on notice.

4.2.4 Norbert Merrifield, Bindoon

Norbert Merrifield made a statement that he had seen this meeting being advertised as being held in in Mooliabeenee on the Shire's noticeboard, which is where he had just travelled to.

Mr Merrifield made a further statement with regard to Item 9.1.1 "Proposed Extension to term of Development Approval (40m high nbn™ and Telstra monopole): Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213)" on tonight's agenda, that the time for installation had expired, therefore their previous application for approval of application should be nul-in-void.

Mr Merrifield did not ask any questions.

4.2.5 Josephine Fern, Bindoon

Josephine Fern made a lengthy statement with regard to Item 9.1.1 "Proposed Extension to term of Development Approval (40m high nbn™ and Telstra monopole): Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213)" on tonight's agenda, and then asked the following question:

(as supplied)

Question 1 **How can I trust or believe any development within the Chittering Shire with conditions attached would be followed through? Or do I just expect the council to change their mind as it suits them at the time. I thought conditions would be binding.**

Answer 1 *The Presiding Member took the question on notice.*

Question 2 **Will this Council reconsider and delay the decision to give the extension to NBN, as there are issues still to be taken into consideration by NBN and Ericsson that have not yet been explored?**

Answer 2 *The Presiding Member took the question on notice.*

Post meeting note: *The matter was subsequently voted on at the Council meeting. The extension to the planning approval was approved by Council.*

4.2.6 John Broad, Bindoon

John Broad made the statement with regard to Item 9.1.1 "Proposed Extension to term of Development Approval (40m high nbn™ and Telstra monopole): Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213)" on tonight's agenda, as to why this matter was still being debated as Council made a decision two years ago on this matter.

Mr Broad did not ask any questions.

4.2.7 John Curtis, Bindoon

Question 1 **With regard to the proposed sewerage: is the Council going to fairly and honestly deal with the ratepayers of the Bindoon townsite this time around or are we going to be backstabbed like the Water Board and others did to us previously?**

Answer 1 *The Presiding Member advised that the sewerage is a non-event and until such time that becomes an event in any format, there is no impact on the town; other than impeding development.*

Question 2 According to the Water Board letter of 26 May 2016 there were 26 properties in the STED area; how many has the Shire got now?

Answer 2 *The Presiding Member advised that since 2016 this has increased to 27 properties as the Shire has purchased an additional property (in accordance with Council Resolution 200717).*

4.2.8 John Nagel, Bindoon

Question 1 In reply to a letter we received yesterday from nbn, why haven't they tested the specific site that was suggested at the meeting of the Chittering Residents and Ratepayers Association?

Answer 1 *The Presiding Member took the question on notice.*

Question 2 The radius of the letter distribution; why wasn't the letter sent out to a 4km radius not the stated 2km?

Answer 2 *Through the Chair, the Executive Manager Development Services advised that it is based on visual impact. This application has been processed exactly the same way as originally undertaken two years ago.*

The Presiding Member then tabled the following questions which were submitted prior to the meeting.

4.2.9 Kylie Hughes, Muchea

(as supplied)

Question 1 Is there currently a compliance officer appointed, has there been a compliance officer in place for the past 2 years inclusively and what is their role in relation to ensuring adherence to existing planning conditions of approval and identifying and addressing unapproved developments and land uses happening within the Shire of Chittering?

Answer 1 *No. The previously employed Compliance Officer ceased work approximately one year ago through private circumstances. The Shire is currently reviewing the position and intend to employ a new person shortly. Undertaking an audit of compliance for all land uses within the Shire would take a single officer an insurmountable time and effort to undertake, with no guarantee of success. Instead such an officer would ordinarily rely upon a written complaints process to help address legitimate concerns as a matter of priority.*

Question 2 Is Shire aware that there has been a large increase in Heavy Vehicles including Semi-Trailers and Water trucks using local roads to access properties and park there within the Muchea Townsite. This is causing serious road safety concerns as some are parking their trucks on local streets over night and fall within several school bus routes, often travelling faster than 50km/hr on these local roads and causing damage to the roads themselves. Transport depots are an inappropriate land use under the zoning table for the Muchea Townsite so I believe these may be operating without the applicable approvals as I do not recall seeing any recent advertising notices seeking public comment for planning approval within the Muchea Townsite. There are two with onsite fuel/diesel bulk tanks that are not located on bunded hardstands as is the minimum requirement, with the trucks themselves also not being parked on sealed and

bunded hardstands. This poses a serious public health issue as there is nothing in place to ensure containment of contaminated water runoff or ability to contain and clean up fuel spills. With the majority of Muchea residents reliant on ground water this is of great concern. Have there been any Approvals granted for Transport Depots and/or parking of trucks on blocks zoned Muchea Townsite within the past 2 years? With the close proximity of the Perth to Darwin Highway to the Muchea Townsite there is a real concern that we will see more instances of trucks moving into the area to the detriment of the people already living within the Townsite. Perhaps a crack down now will help set a precedent to deter others from following suit and encourage those wishing to set up Transport Depots and the like to locate them within the Muchea Employment Node area as is its intended purpose.

Answer 2 The Shire is unable to regulate entirely the use of heavy vehicles on local roads, nor vehicle parking on roadsides, however seeks to prevent it most recently through conditions of development approvals. That said, the Shire is working on measures to prevent the sprawl of industrial based land-uses and consolidate within the Muchea Industrial Park (formerly known as the "Muchea Employment Node"), through the Scheme Amendment process. There have been no approvals issued for 'Transport Depots' within the Muchea Townsite in the past two years. The Shire is aware of, and is actioning complaints, relating to the storage of heavy vehicles within the Muchea Townsite.

4.2.10 Wayne and Jill Charles, Lower Chittering

(as supplied)

Question 1 There is a Development Application for Lot 1 Jenkins Road, Bullsbrook that adjoins residents in the Rosa Park Estate in Lower Chittering. There are a number of residents that are within the 150m buffer zone of this development. This application has not yet been before the City of Swan. There are concerns over contamination of potable water, dust and noise. As this Development Application affects the residents of Rosa Park who are ratepayers of the Shire of Chittering, what assistance can the Council give to the residents?

Answer 1 Shire officers are available to help guide affected residents on the interpretation of the documentation and aspects to provide to the City of Swan, however these officers are not in a position to directly comment on the proposal; as has been conveyed previously on similar proposals. Regardless of which boundary the residents are located, the City of Swan is obliged to consider all submissions and affected properties relative to this proposal. Chittering Landcare has advised they Shire that they are aware of the proposal and have submitted a response to the application based on environmental grounds.

Question 2 Lot 167 Rosella Way (No 48) has a drainage easement on it. (as per diagram attached). If a bunded walls was to be erected, as nominated in the proposal, we are concerned of the pos[s]ibility of flooding to properties. When Lot 1 Jenkins Road, fills with industrial waste, contaminated water may well flow back onto the properties, this would also affect the firebreaks, ie wash aways. Can the Shire of Chittering investigate this and report any outcomes?

Answer 2 These concerns should be directly conveyed to the assessing officer at the City of Swan as they will have the power to require amendments to the application (if required on this matter) directly. Per the answer to Question 1, Shire officers are

available to help interpret and provide guidance where possible to help affected residents shape their submissions.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Ordinary Council Meeting: Wednesday 16 May 2018

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 010618

Moved Cr Ross / Seconded Cr Gibson

That the minutes of the Ordinary meeting of Council held on Wednesday 16 May 2018 be confirmed as a true and correct record of proceedings.

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, TILBURY, KING, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

7:58PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Wear Ya Wellies

Wear Ya Wellies, the Shire of Chittering's annual free "welcome to winter", family fun day was an absolutely amazing success and proved you can still get outside and have fun in winter! Around 5,500 people packed Edmonds Place Reserve on the 27 May, and braved the rain to experience a true Aussie winter day of messy, muddy madness! And after a LOT of rain in the lead up to the event, there was a LOT of mud. There were some new attractions this year, with a Mini Mud Run for the kids, a bigger Hay Mud Maze and the addition of a Toddler Mud Pit. PLUS Educated by Nature and Messy Moments joined us with some good (not so clean) decorative clay face paint, and some very messy sliding fun.

The kids enjoyed the experience of getting muddy and wet, and immersing themselves in winter fun. They got to see and hold native animals like kangaroos, snakes, frogs and bugs, plus they could take a ride on the train to visit the petting zoo. Throughout the day, most took advantage of shelter under the activities tent and got their face painted, a tattoo or participated in some arts and crafts! Chittering Landcare also gave kids the opportunity to find out more about our natural environment, and the ladies from Koorunga CWA were on hand (dressed to impress!) with their annual Welly Tossing Competition. At the end of the day, there were some very messy kids, a lot of messy parents too, but also just as many smiles.

Thanks to Lotterywest and the Road Safety Commission for their financial support. Without this funding we would not be able to supply the required infrastructure for an event such as this. Thanks also to Educated by Nature and Messy Moments for donating their time and expertise to help the kids get truly muddy, as well as Nature Play WA and Act Belong Commit for donating giveaways for the kids.

We wholeheartedly appreciate the voluntary efforts on the day of local organisations including Ace Dynamic Electrical (Jack), Last Drop Water Carriers (James), Muchea Plumbing and Gas (Peter, Brendon and Brady), Bindoon Volunteer Bush Fire Brigade, Shire of Chittering staff and Councillors, Chittering Youth Krew, those involved with the Bindoon Farmers Market, plus all the local community members who helped with set-up and pack-up. Without them free community events simply would not take place.

Item 9.3.3 Monthly Financial Reports for the Period Ending 31 May 2018

This report has been withdrawn from the Meeting Agenda by the Chief Executive Officer and will be resubmitted for consideration by Council at its July Ordinary Council Meeting. Unfortunately, the statements were unable to be distributed in sufficient time for Council to review the information.

Item 9.4.6 Formation of the Chittering Residents and Ratepayers Association

The Chief Executive Officer has advised that the Executive Summary, as printed in the Agenda, is incorrect. The report was amended as a result of discussion with Council at the Agenda Forum on 12 June 2018, however the Executive Summary was not amended accordingly. The Executive Summary is now amended to read as follows:

"Council is requested to formally acknowledge the formation of the Chittering Residents and Ratepayers Association."

MOTION / COUNCIL RESOLUTION 020618

Moved Cr Osborn / Seconded Cr Tilbury

That Council suspends *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members* to allow free and open debate.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:00PM

The Chief Executive Officer made reference to the *Local Government (Council Meetings) Local Law 2014, Clause 6.9* deputations as he had been advised that representatives from NBN would like the opportunity to make a deputation to the meeting:

- (1) *Any person or group wishing to be received as a deputation by the Council is to either—*
 - (a) *Apply, before the meeting, to the CEO for approval; or*
 - (b) *With the approval of the Presiding Member, at the meeting, address the Council.*

The Presiding Member informed the meeting that under clause 6.9(1)(b) that they had previously been given the opportunity at previous times; however he would not give approval at this meeting.

MOTION / COUNCIL RESOLUTION 030618

Moved Cr Tilbury / Seconded Cr Ross

That Council resumes the *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members*.

**THE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:06PM

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Proposed Extension to term of Development Approval (40m high nbnTM and Telstra monopole): Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213)*

Report date	20 June 2018
Applicant	Aurecon Pty Ltd on behalf of NBN Co.
File ref	A10088
Prepared by	Senior Planning Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Minutes of item 9.1.1 of May 20162. Applicant's request for time extension3. Schedule of Submissions4. Late submission from the Department of Planning, Lands and Heritage (received 12 June 2018)

Executive Summary

Council's consideration is requested for an application to extend the period within which development of a 40m high telecommunications monopole may commence on Lot 12383 Forrest Hills Parade, Bindoon, also known as "Bell Hill Reserve". The infrastructure was previously approved by Council in 2016 subject to a requirement that development shall commence within two years. Development has not yet commenced and as such, an application to extend the two year frame has been submitted to Council for consideration. This report and subsequent determination of Council, is simply for an extension of the time period within which development is to commence.

IMAGE 1: Location Plan



Background

At its Ordinary Meeting held 18 May 2016, Council considered an application for Development Approval for a 40m high telecommunication monopole and associated infrastructure on Lot 12383 Forrest Hills Parade, Bindoon (Bell Hill Reserve - 44213). Council subsequently resolved the following:

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 020516

Moved Cr Tilbury / Seconded Cr Rossouw

1. *That Council grant planning approval for the proposed Telecommunications Facility/NBN Fixed Wireless Facility at Lot 12383 (Bell Hill Reserve No. 44213) Forrest Hills Parade, Bindoon subject to the following:*
 - a. *All development to be in accordance with the approved plans.*
 - b. *Screening and landscaping of the area is to be implemented by the applicant within a period of 3 months of finalizing of the Fixed Wireless Facility.*
 - c. *The Landscape Management Plan is to be submitted and approved by the Chief Executive Officer. The Landscape Management Plan is to address:*
 - i. *Screening planting;*
 - ii. *Upgrading of firebreaks;*
 - iii. *Control of weeds;*
 - iv. *Removal of dead trees.*
 - d. *The applicant is required to plant 50 trees to compensate for the loss of six trees as a result of the construction of the 118m² compound to house the tower and these are to be maintained for two summers from the date of planting. Timing of planting and species to be at the discretion of Chittering Landcare.*
 - e. *If trees which are required to be removed are deemed as habitat for any endangered species at present or in the future upon maturation, the applicant is to fund to the installation of roosting boxes to compensate for the potential loss of habitat.*
 - f. *Any soils deposited or disturbed on-site shall be stabilized to the approval of the Chief Executive Officer.*
 - g. *Stormwater generated from the development of the compound and access track shall be managed to the satisfaction of the Chief Executive Officer.*
 - h. *The proponent undertake all works in accordance with the Aboriginal Heritage Act 1972 with respect to disturbing Aboriginal Heritage Sites under section 5 of the Act.*
2. *After the issuing of Planning approval, the Shire of Chittering is to apply to the Department of Lands to:*
 - a. *excise a portion (118m² compound and separate access easement) of Bell Hill Reserve; and*
 - b. *re-reserve it for the purpose of 'Telecommunications Infrastructure' with the power to lease.*
3. *Following the excision of the land for the purpose of 'Telecommunications Infrastructure' that the applicant:*
 - a. *enters into a lease agreement with the Shire for the portion of the reserve for the purpose of Telecommunications Infrastructure.*
 - b. *the Lease Agreement is to be prepared by the applicants Solicitors and all costs associated with the preparation of the lease agreement will be borne by the applicant to the satisfaction of the Shire.*
4. *Any revenue as a result of the lease is to be placed into the Public Open Space Reserve.*

5. That the Shire President and Chief Executive Officer be authorised to sign and fix the common Seal to all relevant documents relating to this approval.

Advice Notes:

1. Kangaroo proof protection of new trees (for revegetation and landscaping) to be installed during the planting process.
2. The applicant is required to obtain a clearing permit from the Department of Environmental Regulation prior to undertaking any clearing of vegetation and/or trees on the Bell Hill Reserve.
3. The applicant to provide rubbish bins during construction phase at an appropriate site and remove all rubbish from the site and any damage caused to be remediated upon completion of works to the Chief Executive Officers satisfaction.
4. The applicant is to immediately once upon construction of the tower of the tower is complete, co-locate the existing DFES pager antenna on the tower to the satisfaction of DFES.
5. The applicant is to register the tower with the Aviation Authority/RAAF.
6. A building permit shall be issued by the Shire of Chittering prior to the commencement of any work on the site.
7. Any noise emitted during the operation of the tower shall be in accordance with the Environmental Protection (Noise) Regulations 1997.
8. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where planning approval has lapsed, no further development is to be carried out.
9. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
10. The proponent is to liaise and engage with the South West Land and Sea Council regarding Aboriginal Heritage prior to any works being undertaken.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/1
Cr Gibson voted against the Motion

A copy of the Council report upon which the above determination was made has been provided as an Attachment to this report (**Attachment 1**).

The two year timeframe within which development is to be 'substantially commenced' pursuant to the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) has now expired with construction of the development yet to commence. As such, the applicant has submitted an application to extend the term of approval for a further two years. The applicant's request for the extension of time and details of the previously approved development are provided in **Attachment 2** of this report.

The applicant's justification for the request is centred around the significant delays experienced addressing the requirements of the Department of Aboriginal Affairs which stems from the requirements of the *Aboriginal Heritage Act 1972*.

The application to be determined by Council is the request for an extension of the two year timeframe within which development shall commence. No other changes are requested or proposed.

Consultation/Communication Implications

Local

Pursuant to the requirements of the Regulations, the application was advertised in the following ways:

- Letters to landowners within a 4km radius of the proposed development (consistent with advertising area for the original application);
- Advertising signs placed adjacent to Lot 44213 on Forrest Hills Parade; and
- Public notice placed in the local newspaper (Bullsbrook/Gingin Advocate).

Affected landowners were afforded 21 days to provide a response to the Shire with advertising conducted between 25 April 2018 and 16 May 2018.

As a result of the above advertising, a total of 81 public submissions were received with 49 supporting the application and 32 objecting to the application. Each submission has been tabled within the 'Schedule of Submissions' with the applicant and Shire officers providing a comment against each submission. The Schedule of Submissions has been provided in **Attachment 3** of this report. It is noted that four of the submissions received checked the 'object' box on the submission sheet however, provided comment to the contrary. These submissions were still listed and tallied as an 'objection'.

State

Pursuant to the requirements of the Regulations, the following authorities were afforded the opportunity to provide comment on the application and given 42 days to respond:

- Chittering Landcare;
- Department Planning, Lands and Heritage (Aboriginal Affairs Division);
- Department of Biodiversity, Conservation and Attractions; and
- Department of Health.

From the above agencies, and at the time of writing this report, two submissions were received with no objections being raised. These submissions received are also included within the Schedule of Submissions (**Attachment 3**).

A late submission was received from the Department of Planning, Lands and Heritage (Aboriginal Affairs) on 12 June 2018, which is included as a further attachment to this report (**Attachment 4**).

Legislative Implications

State

- *Telecommunications Act 1997*
 - *Land Administration Act 1997*
 - *Planning and Development Act 2005*
 - *Planning and Development (Local Planning Schemes) Regulations 2015*
- These legislations generally govern the siting and powers for such infrastructure to be placed on land otherwise reserved under the Crown.

The *Planning and Development Regulations 2015* provides for the matters to be considered by Council in determining the application. These are listed in more detail later in this report.

Local

- Shire of Chittering Local Planning Scheme No. 6
Local Planning Scheme No. 6 (LPS6) identifies the land as being zoned Local Scheme Reserve. Application has been previously made to the Department of Planning Lands and Heritage to excise and reclassify a portion of the reserve as "Telecommunications". This process is separate to the application before Council. Any decision made will not affect the excision process.

Policy Implications

State

- State Planning Policy 5.2 - Telecommunications Infrastructure
State Planning Policy 5.2 - Telecommunications Infrastructure (SPP5.2) provides decision makers with guidance pertaining to the siting, location and design of telecommunications infrastructure. Although relevant to the proposed development, SPP5.2 is not required to be addressed for the subject application as it relates only to an extension to the term of approval. The provisions of SPP5.2 were previously addressed in the original Council report which resulted in the application being approved.

Local

- Shire of Chittering Local Planning Policy No. 1 - Bindoon Townsite
Shire of Chittering Local Planning Policy No. 1 - Bindoon Townsite provides guidance on assessing development proposals within each policy area identified. The assessment criteria of the Policy are already captured and covered in the original report to Council by the LPS6 provisions and SPP5.2. Furthermore, as the current application is only for an extension to the term of approval, the provisions of this policy are not considered to be relevant and are not further addressed in this report.

Financial Implications

Pursuant to the Council resolution made 18 May 2016, and if approval is granted for the extension of time, a portion of the subject reserve is proposed to be excised and re-purposed for 'Telecommunication Infrastructure' with a power for Council to lease. The proponent is then required to enter into a lease agreement with the Shire for an annual fee.

Further to the above and Council's previous resolution, revenue raised from the lease agreement is to be placed into the Shire's Public Open Space reserve account.

Strategic Implications

Local

- Strategic Community Plan 2017-2027
Focus area: Economic Growth
Objective: S4.1 - Economic growth and S4.2 - local business growth
Action: 'Continue to advocate for improved access to the NBN and better mobile phone coverage.'

Site Inspection

A site inspection was conducted by officers following receipt of the subject application. The site inspection did not reveal any significant changes to the locational environment to that previously reported to Council in 2016.

Triple Bottom Line Assessment

Economic implications

The proposed development has the capacity to assist the growth of existing businesses and promote further businesses being established within the locality, including the Bindoon Townsite, through increased communication connectivity.

Social implications

The proposed development will increase communication connectivity (through broadband internet and increased mobile phone reception) which is a likely benefit to the community at large. Importantly the infrastructure will provide additional coverage for emergency services, should it be approved and constructed.

The built form component of the development however, may present negative impacts from a visual amenity perspective. Telecommunication infrastructure such as that proposed can also create the perception that the health of local residents will be adversely affected (electromagnetic energy), regardless of the report indicating the expected EME levels are 0.17% of the federal public exposure limit.

Public access to the portion of the reserve containing the proposed development will be restricted however, the balance of the reserve will still be accessible to the general public.

Environmental implications

The proposal indicates that a total of six trees will need to be cleared to accommodate the infrastructure. The clearing of native vegetation is required to comply with the requirements of the *Environmental Protection Act 1986* and *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* regardless of any requirements of the Shire.

Notwithstanding the above, the original Development Approval granted by Council was conditioned to require the proponent to plant 50 trees in lieu of the loss of six trees and fund the installation of roosting boxes if endangered species' habitat trees are to be removed.

Officer Comment/Details

The original application for the telecommunication infrastructure on the subject site was assessed against all relevant legislation and policies by Shire officers at the time. The application was subsequently approved by Council (May 2016) following its consideration of the reported assessment and submissions received.

Within the two year period that has passed since this Council determination, it is contended that there have not been substantial changes to the relevant legislation or policies having influence upon this proposal, which affect this proposal. As such, because all the legislative and policy matters were considered previously, they do not need to be re-addressed in this report. As already noted, the previous Council report has been provided as an attachment to this report.

This report and subsequent determination of Council, is simply for an extension of the time period within which development is to substantially commence.

Given the above, officers consider that the following are relevant to this time extension request:

- Sch. 2, Pt. 9, Cl. 77 of the Regulations - 'Amending or cancelling development approval';
- Sch. 2, Pt. 9, Cl. 67 of the Regulations - 'Matters to be considered by local government'.

Each of the above are addressed individually, as follows:

Sch. 2, Pt. 9, Cl. 77 of the Regulations - 'Amending or cancelling development approval'

In assessing the current application for an extension to the period within which development shall commence, officers consider that Sch. 2, Pt. 9, Cl.77 (1)(a) of the Regulations is pertinent which states:

- '(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following -*
- (a) to amend the approval so as to extend the period within which any development approval must be substantially commenced.'*

Further to the above, Sch. 2, Pt. 9, Cl. 77 (2) of the Regulations states:

- '(2) An application under subclause (1) -*
- (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and*
 - (b) may be made during or after the period within which the development approved must be substantially commenced.'*

The above provisions of the Regulations allow for the two year timeframe of any development approval to be considered for extension upon application, with it to be assessed as if it were a new application for Development Approval. Furthermore, Sch. 2, Pt. 9, Cl. 77 (3) of the Regulations states:

- '(3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.'*

Pursuant to the above, there is discretion that can be applied towards the advertising requirements (Part 8) for the subject application.

In order to apply a consistent approach to that taken for the original development application and to offer a level of transparency given the high level of public interest that this development has attracted, the discretionary powers to vary the advertising requirements were not exercised.

Subclause (3) above, also allows for requirements of Part 9 to be varied if the application relates to a minor amendment to the development approval. No aspect of the built form or land use is being varied as part of this application (simply a time extension) and as such, the changes are regarded as a minor amendment to the original approval. This allows the local government to vary the requirements of Part 9, which includes having due regard to the listed matters for consideration when determining an Application for Development Approval. This is further discussed below.

Sch. 2, Pt. 9, Cl. 67 of the Regulations - 'Matters to be considered by local government'

As noted previously in this report, the application at hand is for an extension of the time period within which development is to commence. The assessment of the development itself (telecommunications infrastructure) has already been undertaken for the original application and remains current, as the statutory environment (legislation and policies) surrounding this application has not substantially changed.

Sch. 2, Pt. 9, Cl. 67 of the Regulations provides the matters for consideration when assessing an application for development approval. Given the above, the following matters need to be taken into consideration when determining this time extension request:

- '(67)*
- (y) any submissions received on the application;*
 - (za) the comments or submissions received from any authority consulted under Clause 66;'*

The submissions received are contained within **Attachment 3** however; the main concerns raised through the advertising period are addressed in this report and are listed below:

- Impacts on Aboriginal heritage;
- Impacts on residents health;
- Impacts on visual amenity
- Purpose of reserve;
- Other suitable sites are available.

Each of the above are addressed individually

Aboriginal Heritage

Concerns were received regarding the potential impacts of the proposed development on a site that may have some Aboriginal heritage significance.

Although the original application and report to Council did not specifically address the potential impacts on Aboriginal heritage, the conditional approval granted by Council included the following Condition and respective Advice Note:

- (h) The proponent undertake all works in accordance with the Aboriginal Heritage Act 1972 with respect to disturbing Aboriginal Heritage Sites under Section 5 of the Act.*

Advice Note:

- 10. The proponent is to liaise and engage with the South West Land and Sea Council regarding Aboriginal Heritage prior to any works being undertaken.'*

As provided in the applicant's justification for the time extension request, the delays in commencing construction of the development is due to meeting the above condition of approval and the requirements of the *Aboriginal Heritage Act 1972*.

Should Council resolve to approve the subject application, the requirements of the *Aboriginal Heritage Act 1972* will still need to be met which will suitably address any impacts the proposed development may have on the Aboriginal heritage of the site.

Health Impacts

The potential for the proposed development and the emission of electromagnetic energy (EME) to impact on the health of the nearby residents was raised on several occasions through the submissions received. The submissions referenced independent studies that have been conducted, which apparently refute claims that the levels in which EME is emitted are within safe levels.

Notwithstanding, the concerns raised surrounding the potential health impacts from the proposed telecommunications infrastructure are acknowledged. It is further acknowledged that various independent studies may provide claims that the level of EME emitted from telecommunication infrastructure such as the development proposed may have harmful effects on nearby residents.

The assessment of the subject application however, should only be conducted against legislation, policies, guidelines, standards et al that are endorsed or approved by a recognised and relevant agency or government authority. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) provide the federal standards for maximum exposure to EME for members of the public, which are enforced upon telecommunications carriers by the Australian Communications and Media Authority (ACMA).

The calculated EME for the subject site was provided in the original application and indicated maximum exposure levels to be 0.17% of the public exposure limit established by ARPANSA. Based on this information, the proposed development is unable to be considered as having anything greater than negligible impacts on the health of nearby residents.

Visual Amenity

Visual amenity was an issue raised through the advertising period and is a common concern when infrastructure of this nature is proposed, particularly within a rural-residential environment. The development proposed includes a 40m high monopole which is expected to be visible from various places within the locality.

The issue of visual amenity was raised and specifically addressed in the original report to Council and provided the following points for consideration:

- Many of the nearby dwellings located on Forrest Hills Parade face away from Bell Hill Reserve lessening the visual impact on these residences; and
- The development is proposed atop a steep plateau of Bell Hill with a portion screened by established trees.

The environment within which the development is proposed has not considerably changed since Council's original determination and as such, the potential visual impacts are considered to also remain the same. Based on Council's original decision after taking into consideration the visual amenity impacts, it is considered that visual amenity impacts should not be a reason for this application (extension of time) to be refused.

Purpose of Reserve

Submissions received raised the issue that Bell Hill Reserve was reserved for the purpose of public open space (public enjoyment, wildlife etc.) and the use of the land for telecommunications infrastructure is not appropriate.

Lot 12383 is a local reserve for 'Parks and Recreation' under the LPS6. Pursuant to Sch. 2, Pt. 9, Cl. 67(j) of the Regulations, development on land reserved under the Scheme should have regard to the objectives for the reserve and the additional and permitted uses identified in the Scheme. LPS6 does not contain any objectives or additional/permitted uses for local reserves within the Shire and so assessment against these cannot occur.

It is acknowledged that the proposed development does not align with this reserve purpose. However, the development itself and associated infrastructure intends to occupy an area of approximately 118m². This equates to approximately 0.0055% of the total site area of Bell Hill Reserve which is approximately 2.13ha. Given the area of land required to accommodate the proposed telecommunications infrastructure, the development is considered to be ancillary to the predominant use and purpose of the reserve and will not unduly affect the public's recreational use.

Further to the above, the original determination of Council was accompanied with the following resolutions relating to the purpose of the reserve:

- 2. After the issuing of Planning approval, the Shire of Chittering is to apply to the Department of Lands to:*
 - a. excise a portion (118m² compound and separate access easement) of Bell Hill Reserve; and*
 - b. re-reserve it for the purpose of 'Telecommunications Infrastructure' with the power to lease.*
- 3. Following the excision of the land for the purposes of 'Telecommunications Infrastructure' that the applicant:*
 - a. enters into a lease agreement with the Shire for the portion of the reserve for the purpose of Telecommunications Infrastructure.*
 - b. the Lease Agreement is to be prepared by the applicants Solicitors and all costs associated with the preparation of the lease agreement will be borne by the applicant to the satisfaction of the Shire.'*

If Council determines to approve the application, the above resolutions will still be valid and will need to be executed, effectively creating a new stand-alone reserve for the dedicated purpose of Telecommunications Infrastructure.

Alternate Locations

The advertising period attracted submissions suggesting that alternate sites would be more appropriate to house the infrastructure. In the original application presented to Council, a list of alternate sites was provided, accompanied with justification as to why Lot 12383 was the preferred candidate.

Although alternate sites could potentially be utilised for the development, the application that was originally determined was for telecommunications infrastructure to be developed on Lot 12383. Subsequently, the request for an extension of time to that approval needs to be determined on its merits as presented to Council. Although alternate sites may be suggested and discussed informally outside of the application process, there is a statutory requirement to determine the application at hand in its current form.

The application to be determined is a request for the period, within which development shall be substantially commenced, to be extended for the approved 40m high telecommunications monopole on Lot 12383 Forrest Hills, Parade, Bindoon.

The statutory environment within which the proposal relates has not significantly changed since the proposed development was originally approved by Council on 18 May 2016. This original approval sets a precedent for Council to have due regard when determining the application for an extension of time.

It is on this basis that the application is recommended to be permitted to extend the timeframe for substantial commencement subject to appropriate conditions which have been slightly modified to reflect contemporary standards.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040618

Moved Cr Tilbury / Seconded Cr Osborn

That Council:

- 1. Approve the application to extend the period for a further two years within which development approval must be substantially commenced for a telecommunications facility (40m high monopole and associated infrastructure) on Lot 12383 Forrest Hills Parade, Bindoon.**
- 2. Issue an amended Development Approval for the proposed telecommunications facility (40m high monopole and associated infrastructure) on Lot 12383 Forrest Hills Parade, Bindoon subject to the following Conditions:**
Conditions:
 - a. All development shall be in accordance with the approved plans.**
 - b. A Landscape Management Plan shall be submitted to and approved by the Shire to the specifications of Chittering Landcare prior to the completion of construction of the proposed development. The Landscape Management Plan shall make provision for the planting of at least 50 native trees within Lot 12383 and their ongoing maintenance for a period not less than two summers and the Plan shall address the following:**
 - i. screening planting;**
 - ii. firebreak upgrades;**
 - iii. weed control;**
 - iv. removal of dead trees; and**
 - v. protection of trees from kangaroos.**

- c. The approved Landscape Management Plan shall be implemented by the proponent within three months of the proposed development being constructed to the satisfaction of the Shire.
- d. The proponent shall provide an environmental report to the Shire prepared by a suitably qualified consultant detailing the vegetation required to be removed to accommodate the proposed development and whether any vegetation being removed is likely to be habitat to any threatened and/or endangered fauna, prior to commencement of works on site. The report shall make provision for the installation of roosting/nesting boxes being provided if the vegetation to be removed is determined to be threatened and/or endangered species habitat.
- e. The measures of the environmental report shall be implemented by the proponent within three months of the completion of construction of the proposed development to the satisfaction of the Shire.
- f. Any soils deposited or land disturbed on site shall be stabilised and/or remediated to the satisfaction of the Shire to avoid erosion prior to and at all times during the construction of the proposed development.
- g. All stormwater from the proposed development and associated access track shall be suitably managed and contained on site to the satisfaction of the Shire.
- h. The proposed development site shall be made free from all rubbish/litter immediately following the completion of construction of the proposed development to the satisfaction of the Shire.
- i. The existing Department of Fire and Emergency Services telecommunications equipment on Lot 12383 shall be suitably co-located on the proposed development by the proponent to the specifications of the Department of Fire and Emergency Services to the satisfaction of the Shire prior to the use and/or operation of the proposed development.
- j. A new crossover and internal accessway shall be located and constructed to the Shire's specifications at the proponent's cost prior to commencement of construction of the proposed development.
- k. The Development Approval granted by Council on 18 May 2016 for telecommunication infrastructure on Lot 12383 Forrest Hills Parade, Bindoon is hereby invalidated by this approval.
- l. This Development Approval is valid for a period of two years commencing from the date of issue by Council.

Advice Notes:

- i. *With regard to Condition 2.d. and 2.e., 'threatened and/or endangered' species are those listed as such under the Wildlife Conservation Act 1950 or the Environmental Protection and Biodiversity Conservation Act 1999.*
- ii. *With regard to Condition 2.g., it is acknowledged that retention of all stormwater from the access track on site may not be possible and in this instance, the proponent should contact the Shire to arrange an alternate solution which may include connection to the roadside drainage network.*
- iii. *The proponent is required to comply with the Aboriginal Heritage Act 1972 with respect to disturbing Aboriginal Heritage Sites. It is recommended that the proponent liaise and engage with the South West Land and Sea Council regarding Aboriginal Heritage prior to any works being undertaken on site.*
- iv. *The proponent is advised of the requirements for the clearing of native vegetation under the Environmental Protection Act 1986 and Environmental Protection (Clearing of Native Vegetation) Regulations 2004.*
- v. *Noise emitted from the proposed development is required to comply with the Environmental Protection (Noise) Regulation 1997 at all times.*
- vi. *The proponent is recommended to consult with the Civil Aviation Safety Authority and the Royal Australian Air Force prior to construction of the proposed development to*

- ensure compliance with relevant aviation legislation.*
- vii. *With regard to Condition 2.I., the proponent is advised that this approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing) that may be granted by the local government. Where Development Approval has lapsed, no further development is to be carried out.*
- viii. *The proponent has a right of review to the State Administrative Tribunal should the proponent be aggrieved by the Council's decision. Such a review should be lodged to the State Administrative Tribunal within 28 days of Council's decision.*

3. **Following the issuance of the Development Approval referred to in Resolution 2. above, instruct the Chief Executive Officer to apply to the Department of Lands to:**
- Excise a portion (118m² compound and separate access easement) of Bell Hill Reserve; and**
 - Re-reserve the 118m² excised portion of reserve for the purpose of 'Telecommunication Infrastructure' with the power for the Shire to lease to a third party.**
4. **Following the creation of the new 118m² reserve in accordance with Resolution 3. above, instruct the Chief Executive Officer to enter into a lease agreement between the Shire and the proponent for the ongoing use of the 118m² reserve with the lease agreement to be prepared by the proponent's solicitor and all costs associated with the preparation of the lease agreement to be borne by the proponent to the satisfaction of the Shire.**
5. **Instruct the Chief Executive Officer to allocate revenue generated from the lease agreement entered into in accordance with Resolution 4 above, into the Shire's Public Open Space reserve account.**
6. **Authorises the Shire President and the Chief Executive Officer to sign and affix the Shire's common seal to all relevant documents relating to the lease agreement entered into in accordance with Resolution 4. above.**

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/1
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS AND ANGUS VOTED IN FAVOUR
CR GIBSON VOTED AGAINST**

8:14PM

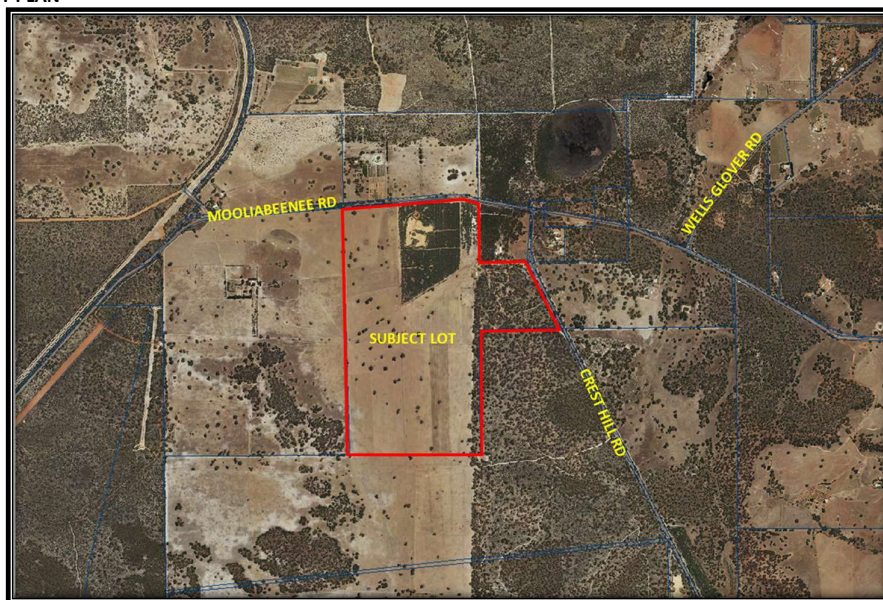
9.1.2 Proposed Extractive Industry for Sand: Lot 502 (RN 737) Crest Hill Road, Bindoon*

Report date	20 June 2018
Applicant	AAA Sands
File ref	A1526; P023/18
Prepared by	Planning Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Applicant's report 2. Amended site map for proposed extraction area 3. Schedule of Submissions 4. Letter from applicants lawyers (CONFIDENTIAL – not for public disclosure)

Executive Summary

Council's consideration is requested to determine an application for a proposed extractive industry for sand on Lot 502 (RN 737) Crest Hill Road, Mooliabeenee, for a period of 20 years. While the subject property has been extracted for basic raw materials previously, any such approvals have since expired with the subject application subsequently made as a 'fresh' application. The property is located within land zoned for "Agricultural Resource", for which 'Industry – Extractive' is an 'A' use. The item is being referred to Council as objections were received during the public consultation period.

IMAGE 1: LOCALITY PLAN



Background

The subject property is located approximately 6km north of the Bindoon townsite. The site is currently used for grazing of livestock and is mostly cleared of vegetation with the exception of a 17ha area of planted Tagasaste and scattered Eucalypt trees. The surrounding land uses include rural living and general agricultural. There is also a small orchard directly north of the subject site. While not adjoining, the Bindoon airfield and rifle range is also located in proximity to the site.

It should be noted the proposal has been altered since it was initially lodged with the Shire, so as to relocate the extraction area approximately 150m – 200m west, due to the proposed Bindoon Bypass intersecting the

property. However, the applicant has advised that there will be no changes to the proposed excavation volume or depth.

Planning consent for extractive industry was granted for the property in 2001 and operated until 2009. Following the expiry of this approval, a further development application for an extractive industry was lodged in 2009, however, a search of the Shire's records indicates planning approval was not granted for this application due mainly as a result of the caveat over the property.

The below table provides a general outline of the extraction proposed:

Aspect	Proposal Characteristic
EXCAVATION	
Total area of excavation applied for	50 hectares (ha)
Area of excavation open at any one time	2 ha
Current excavation open	2 ha
Rate of excavation based on average anticipated volumes	50,000 – 100,000 tonnes per year
Life of project	20 years
Area cleared per year	No native vegetation Approx. 1 – 2 ha required per year
Maximum depth of excavation	2 – 4 metres at final depth
PROCESSING	
Resources	No processing proposed at this stage. Screening plant remains a possibility to produce speciality sands if required.
Water requirements	Nil
Water supply source	Farm supplies
INFRASTRUCTURE	
Total area of plant and stock	None required
Area of settling ponds	None required
Fuel Storage	No fuel storage
TRANSPORT	
Truck Movements	Variable but approximately 3 – 10 laden trucks per day on average
Access	Existing access road to Mooliabeenee Road
WORKFORCE	
Construction	Renewal – already in operation
Operation	2 persons
Hours of Operation	07:00 – 17:00 Monday – Friday inclusive (excludes public holidays for processing and excavation.) Loading and transport from site may commence at 06:00 Monday – Friday inclusive, exclusive public holidays.

Consultation/Communication Implications

Local

The application was advertised in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Letters were circulated to surrounding landowners within 1km of the subject property.

The proposal was also advertised in the local newspaper in addition to the Shire's Facebook and 'Have Your Say' pages.

A total of four submissions were received with three objections and one support. The primary reason for objecting to the proposal included:

- Devaluing of property
- Excessive noise, dust and traffic
- Threats to native flora and fauna
- Environmental concerns relating to impacts on nearby water resources
- Previous complications regarding illegal use of the site/ non-compliance

Although the proposed extraction area has been slightly modified following advertising, it was not considered necessary to re-advertise to surrounding landowners given that the proposed extraction area will still meet the recommended buffer distance between sensitive land uses (dwellings) as per the EPA's guidance statement.

State

The proposal was also advertised to Chittering Landcare (Landcare) and the below state agencies:

- Department of Planning Lands and Heritage (DPLH)
- Department of Water and Environmental Regulations (DWER)
- Main Roads Western Australia (MRWA)
- Department of Mines, Industry Regulation and Safety (DMIRS)
- Department of Biodiversity, Conservation and Attractions (DBCA)

Initial comment received from MRWA was unsupportive of the proposal, due to the endorsed Bindoon Bypass (bypass) passing through the proposed extraction area. The applicant has since arranged with MRWA to relocate the proposed extraction area further west, to avoid any intersection with any future works for the bypass. It is understood that MRWA is still unsupportive of the proposal, given there is no fixed alignment.

It was not considered necessary to re-advertise the relocated extraction area to agencies.

The remaining agencies did not object to the proposal.

Legislative Implications

State

- *Planning and Development Act (2005)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
In considering an application for development approval the local government is to have due regard to clause 67 of the Regulations – the 'Matters to be Considered'. The relevant matters for the application have been discussed below.

g) any local planning policy for the Scheme area;

The application proposes to extract material within 500m of the nearest dwelling. This is not consistent with Local Planning Policy 10 – Basic Raw Materials.

k) the built heritage conservation of any place that is of cultural significance;

The property is listed within the Shire's Municipal Inventory. The site has significance for its association with the beginnings of civic administration in the Shire. Lot 502 is registered as management category 5, which is the lowest category. No specific regulations are imposed for category 5 items in relation to preserving the site. The proposed extraction area covers pasture and planted Tagasaste and will not require the demolition of any structures. It is not considered to impact on the cultural or heritage significance of the site.

m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

The locality is mostly characterised by rural living and general farming with an orchard opposite the site. The proposed extraction will be set back 80m - 100m from the road reserve and screened by either Tagasaste or native vegetation along Mooliabeenee Road and the lot boundary. Excavation will be staged to no more than 2ha at a time, with rehabilitation occurring continually. Therefore the proposal is considered to be compatible with the rural area given it will be mostly screened and progressing in small stages.

n) the amenity of the locality including the following —

- (i) environmental impacts of the development;*
- (ii) the character of the locality;*
- (iii) social impacts of the development;*

Two submissions raised concern for the loss of amenity as a result of increased dust, noise and traffic generated from the proposal. A dust management plan is included in the application, however relies on visual monitoring and does not propose any watering procedures to reduce dust. In addition to this, the applicant has since altered the location of the extraction area so as to be approximately 200m further west of the previously proposed area. This will assist in reducing noise as well as the level of dust spread to the neighbouring dwelling to the east.

In relation to noise, the applicant is required to comply with the *Environmental Protection (Noise) Regulations 1997*. No excavation is proposed after 17:00 or on weekends.

The applicant proposes 3 – 10 laden trucks per day on average, which equates to up to a maximum of 20 truck movements daily. This would be approximately 1 – 2 movements an hour during working hours. This is considered to be a low to moderate impact to local residents in relation to traffic, dust and noise. A site inspection undertaken to the property determined Mooliabeenee Road does not contain high levels of traffic and has mostly sufficient sight lines; therefore, the increase in trucks along the road would not be highly detrimental to the locality. The application was also discussed with the Shire's Executive Manager Technical Services who advised that Mooliabeenee Road is already a freight route and, providing the driveway has adequate sightlines, 20 truck movements is considered acceptable.

w) *the history of the site where the development is to be located;*

Planning consent for extractive industry was granted for the property in 2001, and operated until 2009. Following the expiry of this approval, a further development application for an extractive industry was then lodged in 2009; however, a search of the Shire's records indicates planning approval was not granted for this application.

y) *any submissions received on the application;*

The Shire received a submission regarding a Caveat on the property between two third party members. It was concluded that this is not a planning consideration pertinent to the application, rather it is more of a civil matter than a matter for the Shire.

za) *the comments or submissions received from any authority consulted under clause 66;*

Original plans lodged indicating the proposed excavation area has been amended as a result of MRWA's objection to the proposal, due to the Bindoon Bypass traversing the lot.

Local

- Shire of Chittering Local Planning Scheme No. 6 (LPS6)

The application is considered to be consistent with the below objective of the 'Agricultural Resource' zone:

"3.2.5d) allow for the extraction of basic raw materials where it is environmentally and socially acceptable."

Part 4.15 of LPS6 also specifically references requirements for Basic Raw Material extraction in the Shire, these being:

- a) *Extraction of essential materials for roads and construction are to be permitted in areas where they will not adversely affect living environments, the landscape quality or contribute to land degradation problems during and after operations;*
- b) *Extraction of basic raw materials within the rural zones is to be managed in accordance with best industry practices including consideration of end use and rehabilitation at time of decommission;*
- c) *Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;*
- d) *Local government will not support development within those buffer areas, which may be detrimental to the efficiency of the industries. This is to protect the basic raw materials precincts from development that may compromise its operations.*

The proposal is considered to be generally consistent with the above, however, the extraction is proposed within approximately 330m of an existing dwelling, whereby best practice generally recommends a minimum of 500m. It is not clear whether the dust management plan proposes to mitigate the spreading of dust with water spraying, which would assist in minimising the impacts of dust. Consequently, it may be necessary to modify the dust management plan to require this. The implementation of greater dust control reduces the need for a larger buffer area.

- Shire of Chittering Extractive Industries Local Law 2014
The local law provides requirements and guidance for operators to obtain and hold a license to extract basic raw materials. License applications are applied for subsequent to a planning approval for the land use being granted.

Notwithstanding, Part 6 of the local law is relevant, as it limits excavation near the boundary. The application does not comply with part 6.1(e), which requires:

- (a) *500 metres of any adjoining residence unless approved by Council and adjoining neighbours in writing in accordance with the Department of Environment and Conservation Guidelines, March 2011—"A Guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other activities."*

The amended plans indicate the nearest dwelling is 300m to the north, rather than the required 500m as per the local law.

Policy Implications

State

- *State Planning Policy 2.0 Environment and Natural Resources Policy*
- *State Planning Policy 4.1 State Industrial Buffer*
- State Planning Policy 2.5 – Rural Planning
The separation distance for extractive industries from sensitive land uses is consistent with that listed in the guidance statement. The Policy also suggests management plans be implemented to further reduce impacts generated such as increase dust, noise, traffic and odour. The application proposes dust, noise and other environmental management plans.
- EPA Guidance Statement No 3 Separation Distances between Industrial Uses and Sensitive Land Uses
The statement recommends a buffer of approximately 300m – 500m between sensitive land uses and the extraction area. The amended plans indicate the distance between the nearest dwelling and the proposed extraction area is 330m. While the proposed extraction area is relatively large, the rate of excavation is not, with only 3 – 10 laden trucks per day leaving the site. Consequently, the proposal is not considered large in scale, requiring a larger separation distance to manage impacts.

Local

- Local Planning Policy 10 - Basic Raw Materials and Extractive Industries (LPP 10)
As with the local law, the Policy is not generally supportive of extractive industries proposed within 500m of any dwelling, this is stated under section 5.4 (v). Following assessment of the proposal, it is considered the buffer distance is sufficient due to the small scale of the operation. Notwithstanding this, the dust management plan does not specify the use of water spraying to counteract dust generated within the dust management plans. The report does state elsewhere in 5.9 that water can be used should dust become an issue. Council may wish to require water trucks to spray internal pits and reduce dust spreading regardless as a condition of approval.

Financial Implications

Additional use of Mooliabeenee Road for heavy trucks may require additional maintenance for road safety. The road is an existing freight route and the addition of up to 10 laden trucks per day may cause impact on the current schedule of maintenance.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Economic Growth

Objective: S4.2 Protective environment

Strategy: S4.2.1 Ensure the protection of our local biodiversity

The proposal may increase local employment in the area. There are no known impacts on local biodiversity, and the rehabilitation plans ensure the long term use of the site is environmentally sound.

State

Nil

Site Inspection

Site inspection undertaken: Yes

A site inspection was undertaken by planning officers in late April 2018. During the inspection, it was noted:

- the sand was relatively moist considering the Shire was currently experiencing one of the driest April's for a number of years; and
- a portion of the site amongst the Tagasaste trees has been excavated and not rehabilitated. The subject application provides an opportunity for the Shire to require this area to be appropriately rehabilitated.

Triple Bottom Line Assessment

Economic implications

The proposal may generate local employment for the members of the community. The proposal may also provide a local source of sand for the future, endorsed Bindoon Bypass, as well as surrounding business owners and rate payers.

Social implications

Three objections were submitted by local residents, outlined above under 'Consultation'. The submissions mainly focused on the social implications such as the impact the operation may have towards landowner rural living amenity. These impacts related to increased dust, noise and traffic. One submission also raised concern their property would decrease in value as a result of being in proximity to the proposed pit.

Environmental implications

With the exception of a small number of eucalypt trees sparsely located around the property, the applicant is not proposing clearing of native vegetation. Additionally, excavation will only be to a depth of 2 – 4m, providing a 2m separation to the highest known ground water line. There is also no predicted occurrence of acid sulphate soils.

Providing the applicant operates in accordance with the lodged documentation, environmental implications should be minimal.

Officer Comment/Details

The proposed extraction area has shifted approximately 150m - 200m further west from its original location shown in the report. This is due to the submission received from MRWA relating to the Bindoon Bypass traversing Lot 502 and the proposed extraction area. It was not considered necessary to re-advertise the proposal given the adjoining lot to the west is owned by the same land owner and the distance from nearby dwellings is compliant with the EPA's guidance statement. The proposal is otherwise generally consistent with the historical operations.

The proposed extractive industry is located on cleared pasture with the exception of a 17ha portion of planted *Tagasaste*. With clearing of native vegetation, no evidence of Acid Sulphate Soil in the area and a separation of at least 2m between ground level and the highest known water table, the proposed extraction area is not considered to be detrimental to the environment. In addition to this, no concerns were raised by DWER or DBCA.

The nearest dwelling is a 330m distance to the proposed excavation area boundary with the remaining dwellings in the vicinity being 400m and over 500m respectively. While this is compliant with the EPA Guidance Statement, it is not consistent with the Shire's Local Law or *Local Planning Policy 10*. An insufficient buffer distance may be detrimental to the amenity of nearby residents with impacts such as dust and noise becoming nuisances. Vegetation buffers between the proposed extraction area and dwellings act to minimise dust, however the dust management plan does not state any watering of internal access roads or the pit. It is considered that providing watering occurs, the variation of the policy and local law is acceptable.

The extraction is relatively small scale with only 2ha opened at any one time and gradual rehabilitation taking place. In addition to this, adequate setbacks, screening from planted *Tagasaste*, the existing street trees and other vegetation on the boundary will assist in minimising any visual impact.

The applicant has stated 3 – 10 laden trucks will be exiting the site daily, which equates to 20 truck movements daily or 1 – 2 per hour. This is considered to be acceptable considering the route is already used for freight purposes.

The applicant has sought approval for a period of 20 years. In this instance, a 10 year period is recommended, rather than 20. The rationale for this is both consistency with Part 3 of the Shire's Local Law relating to Extractive Industries; and reassessment of the application should occur after 10 years due to potential changes in local and state legislation and policy, as well as changes to the environment. These changes may require the operations and management of the quarry to be modified.

In light of the above, the proposed extractive industry is considered to be appropriate and therefore it is recommended that Council approve the application for the extraction of sand on the property for a period not exceeding 10 years subject to appropriate conditions.

OFFICER RECOMMENDATION

Moved Cr Osborn/ Seconded Cr King

That Council grant Development Approval for the Extractive Industry (sand) at Lot 502 (RN 737) Crest Hill Road, Mooliabeenee subject to the following Conditions:

Conditions:

1. This approval is for a term of 10 years, commencing from the date of approval until 20 June 2028, at which time all excavation activities must cease and the site be rehabilitated in accordance with the approved documentation.
2. A current public liability insurance policy shall be taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the extractive industry operations prior to the issue of an Extractive Industry Licence.
3. Management and operation of the approved extractive industry site shall be in accordance with the application document dated October 2017 at all times.
4. An updated extraction area plan, to the specifications of Main Roads is to be provided to the Shire prior to the issue of an extractive industry license. All extractive operations shall be contained within the area identified on the updated approved plan.
5. An updated Dust Management Plan shall be submitted to and approved in writing by the Shire prior to the issue of an Extractive Industry Licence. The Dust Management Plan shall provide measures to prevent the escape of dust from the property and shall include the provision of watering of all internal surfaces of the extraction area and access tracks.
6. A Rehabilitation Plan shall be submitted to and approved in writing by the Shire prior to the issue of an Extractive Industry Licence. The Rehabilitation Plan shall provide but not be limited to the following:
 - a. Final land contours following extractive activities;
 - b. Nature of materials to be brought into site;
 - c. Proposed vegetation plantings;
 - d. Weed and disease management measures;
 - e. Ongoing management measures following rehabilitation of the site; and
 - f. Staging of rehabilitation within the site.
7. A bond or bank guarantee shall be provided to the Shire of a rate not less than \$17,900/ha to secure the rehabilitation of the site in accordance with the approved Rehabilitation Plan prior to the issue of an Extractive Industry Licence.
8. A levy of \$0.50 per tonne of material extracted is to be paid on an annual basis to Council to assist in the upgrade and maintenance of gazetted roads used for access to the pit. Alternatively, if the applicant so elects, enter into a deed with the Shire which provides for the proponent to lodge with the Shire a bank guarantee in the sum of \$300,000 which the Shire may call upon for the purpose of maintaining and upgrading the access roads in default by the proponent. Any such deed must be prepared to the requirements of the Shire by the Shire's solicitors at the cost of the proponent. The deed must be executed and the bank guarantee provided to the Shire before the grant of an Extractive Industry Licence.
9. The existing crossover shall be upgraded to the specifications of the Shire prior to the issue of an Extractive Industry Licence. The crossover shall be maintained to the required standard for the life of the extractive industry to the satisfaction of the Shire.

10. The approved Dust Management Plan shall be implemented at all times for the life of the extractive industry to the satisfaction of the Shire.
11. Rehabilitation of the extraction site shall occur in accordance with the approved Rehabilitation Plan to the satisfaction of the Shire. Rehabilitation of the entire extraction site shall occur within 12 months of the completion of the extractive operation or expiry of the Extractive Industry Licence, whichever occurs first. In the event that rehabilitation does not occur in accordance with this condition, the Shire may utilise the rehabilitation bond/bank guarantee to complete the required rehabilitation works.
12. Vehicles associated with the approved extractive industry shall only access and egress the site from Mooliabeenee Road without further approval from the Shire and/or Main Roads WA.
13. A maximum of 20 truck movements associated with the approved extractive industry are permitted per day for the life of the extractive industry unless otherwise approved by the Shire.
14. All vehicle loads associated with the approved extractive industry shall be fully covered and secured prior to and upon leaving the site to prevent the escape of dust and extraction material.
15. The storing of fuels or refuelling of vehicles is not permitted on site at any time.
16. The servicing and/or maintenance of vehicles and/or plant associated with the approved extractive industry shall not occur on site at any time.
17. The hours of operation including vehicle movements within the site shall be limited to:
 - a. Monday to Friday 0600 to 1700 hours; and
 - b. Saturday, Sunday and Public Holidays not permitted.
18. Extractive operations shall not occur less than two metres from the maximum winter water table at any time to the satisfaction of the Shire.
19. Extractive operations including any earth bund or haul road shall not occur within the following setback requirements:
 - a. Within 50 metres of a boundary of any land not owned by the applicant/landowner or Development Approval holder;
 - b. Within 50 metres of any identified threatened ecological community;
 - c. Within 20 metres of any land affected by a registered grant of easement;
 - d. Within 300 metres of any house;
 - e. Within 50 metres of any road and/or road reserve; and
 - f. Outside of the approved excavation areas shown on the approved plan.
20. A progress report shall be submitted to the Shire every 12 months from the date of issue of an Extractive Industry Licence for the life of the Extractive Industry Licence to the satisfaction of the Shire that identifies the following:
 - a. The progress of excavation;
 - b. Depth to groundwater from each pit floor;
 - c. Progress of rehabilitation; and
 - d. Community complaints and responses/actions.
21. The screening or processing of extraction materials shall not occur on site at any time without the further approval of the Shire.

Advice Notes:

1. An Extractive Industry Licence will only be issued upon satisfactory completion of Conditions 2 - 8 of this Development Approval.
2. With regard to Condition 10, the extractive operations are required to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
3. With regard to Condition 17, any proposed variation of the operating hours requires the approval of the Shire.
4. With regard to Condition 6, the rehabilitation bond or bank guarantee may be limited to a single stage and rolled over after each stage is rehabilitated in accordance with the approved Rehabilitation Plan.
5. The applicant is advised to liaise with the Department of Water and Environmental Regulation in relation to any native vegetation clearing that may occur as part of this extractive industry.
6. All extractive activities shall comply with the *Shire of Chittering Extractive Industry Local Law 2014* at all times to the satisfaction of the Shire unless otherwise stipulated by a condition of Development Approval or a condition on the Extractive Industry Licence.
7. The applicant is advised this Development Approval does not override Main Roads right to acquire any property within Lot 502. With regard to Condition 4, the updated Plan is required due to the future construction of the Bindoon Bypass and the current uncertainty surrounding its alignment.

AMENDMENT

Moved Cr King / Seconded Cr Angus

That Condition "17" be amended to read as follows:

17. The hours of operation including vehicle movements within the site shall be limited to:
 - a. Monday to Friday 0700 to 1800 hours;
 - b. Saturday 0730 to 1700 hours; and
 - c. Sunday and Public Holidays not permitted.

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
AND FORMED PART OF THE SUBSTANTIVE MOTION
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:23PM

AMENDMENT

Moved Cr Ross / Seconded Cr King

That the Condition "8" be deleted from the Officer Recommendation:

- "8. A levy of \$0.50 per tonne of material extracted is to be paid on an annual basis to Council to assist in the upgrade and maintenance of gazetted roads used for access to the pit. Alternatively, if the applicant so elects, enter into a deed with the Shire which provides for the proponent to lodge with the Shire a bank guarantee in the sum of \$300,000 which the Shire may call upon for the purpose of maintaining and upgrading the access roads in default by the proponent. Any such deed must be prepared to the requirements of the Shire by the Shire's solicitors at the cost of the proponent. The deed must be executed and the bank guarantee provided to the Shire before the grant of an Extractive Industry Licence."

**THE AMENDMENT WAS PUT AND DECLARED LOST 3/4
CRS KING, ANGUS AND GIBSON VOTED IN FAVOUR
CRS HOUSTON, OSBORN, TILBURY AND ROSS VOTED AGAINST**

8:31PM

During the meeting Cr Ross sought advice from Shire officers with regard to the Amendment. Subsequently, following the advice received Cr Ross approval was sought from the Seconder to withdraw the Amendment, however this was not given. Therefore, when the Amendment was put to the vote, Cr Ross voted against the Amendment.

AMENDMENT

Moved Cr Gibson

That following new Condition "22" be added to the Officer Recommendation:

- "22. That the buffer zone is to not extend over neighbouring land not owned by the proponent."

THE AMENDMENT LAPSED FOR WANT OF A SECONDER

8:37PM

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 050618

That Council grant Development Approval for the Extractive Industry (sand) at Lot 502 (RN 737) Crest Hill Road, Mooliabeenee subject to the following Conditions:

Conditions:

- 1. This approval is for a term of 10 years, commencing from the date of approval until 20 June 2028, at which time all excavation activities must cease and the site be rehabilitated in accordance with the approved documentation.**
- 2. A current public liability insurance policy shall be taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than \$10,000,000 in respect of any one claim relating to any of the extractive industry operations prior to the issue of an Extractive Industry Licence.**
- 3. Management and operation of the approved extractive industry site shall be in accordance with the application document dated October 2017 at all times.**

4. An updated extraction area plan, to the specifications of Main Roads is to be provided to the Shire prior to the issue of an extractive industry license. All extractive operations shall be contained within the area identified on the updated approved plan.
5. An updated Dust Management Plan shall be submitted to and approved in writing by the Shire prior to the issue of an Extractive Industry Licence. The Dust Management Plan shall provide measures to prevent the escape of dust from the property and shall include the provision of watering of all internal surfaces of the extraction area and access tracks.
6. A Rehabilitation Plan shall be submitted to and approved in writing by the Shire prior to the issue of an Extractive Industry Licence. The Rehabilitation Plan shall provide but not be limited to the following:
 - a. Final land contours following extractive activities;
 - b. Nature of materials to be brought into site;
 - c. Proposed vegetation plantings;
 - d. Weed and disease management measures;
 - e. Ongoing management measures following rehabilitation of the site; and
 - f. Staging of rehabilitation within the site.
7. A bond or bank guarantee shall be provided to the Shire of a rate not less than \$17,900/ha to secure the rehabilitation of the site in accordance with the approved Rehabilitation Plan prior to the issue of an Extractive Industry Licence.
8. A levy of \$0.50 per tonne of material extracted is to be paid on an annual basis to Council to assist in the upgrade and maintenance of gazetted roads used for access to the pit. Alternatively, if the applicant so elects, enter into a deed with the Shire which provides for the proponent to lodge with the Shire a bank guarantee in the sum of \$300,000 which the Shire may call upon for the purpose of maintaining and upgrading the access roads in default by the proponent. Any such deed must be prepared to the requirements of the Shire by the Shire's solicitors at the cost of the proponent. The deed must be executed and the bank guarantee provided to the Shire before the grant of an Extractive Industry Licence.
9. The existing crossover shall be upgraded to the specifications of the Shire prior to the issue of an Extractive Industry Licence. The crossover shall be maintained to the required standard for the life of the extractive industry to the satisfaction of the Shire.
10. The approved Dust Management Plan shall be implemented at all times for the life of the extractive industry to the satisfaction of the Shire.
11. Rehabilitation of the extraction site shall occur in accordance with the approved Rehabilitation Plan to the satisfaction of the Shire. Rehabilitation of the entire extraction site shall occur within 12 months of the completion of the extractive operation or expiry of the Extractive Industry Licence, whichever occurs first. In the event that rehabilitation does not occur in accordance with this condition, the Shire may utilise the rehabilitation bond/bank guarantee to complete the required rehabilitation works.
12. Vehicles associated with the approved extractive industry shall only access and egress the site from Mooliabeenee Road without further approval from the Shire and/or Main Roads WA.
13. A maximum of 20 truck movements associated with the approved extractive industry are permitted per day for the life of the extractive industry unless otherwise approved by the Shire.

14. All vehicle loads associated with the approved extractive industry shall be fully covered and secured prior to and upon leaving the site to prevent the escape of dust and extraction material.
15. The storing of fuels or refuelling of vehicles is not permitted on site at any time.
16. The servicing and/or maintenance of vehicles and/or plant associated with the approved extractive industry shall not occur on site at any time.
17. The hours of operation including vehicle movements within the site shall be limited to:
 - a. Monday to Friday 0700 to 1800 hours;
 - b. Saturday 0730 to 1700 hours; and
 - c. Sunday and Public Holidays not permitted.
18. Extractive operations shall not occur less than two metres from the maximum winter water table at any time to the satisfaction of the Shire.
19. Extractive operations including any earth bund or haul road shall not occur within the following setback requirements:
 - a. Within 50 metres of a boundary of any land not owned by the applicant/landowner or Development Approval holder;
 - b. Within 50 metres of any identified threatened ecological community;
 - c. Within 20 metres of any land affected by a registered grant of easement;
 - d. Within 300 metres of any house;
 - e. Within 50 metres of any road and/or road reserve; and
 - f. Outside of the approved excavation areas shown on the approved plan.
20. A progress report shall be submitted to the Shire every 12 months from the date of issue of an Extractive Industry Licence for the life of the Extractive Industry Licence to the satisfaction of the Shire that identifies the following:
 - a. The progress of excavation;
 - b. Depth to groundwater from each pit floor;
 - c. Progress of rehabilitation; and
 - d. Community complaints and responses/actions.
21. The screening or processing of extraction materials shall not occur on site at any time without the further approval of the Shire.

Advice Notes:

1. An Extractive Industry Licence will only be issued upon satisfactory completion of Conditions 2 - 8 of this Development Approval.
2. With regard to Condition 10, the extractive operations are required to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
3. With regard to Condition 17, any proposed variation of the operating hours requires the approval of the Shire.
4. With regard to Condition 6, the rehabilitation bond or bank guarantee may be limited to a single stage and rolled over after each stage is rehabilitated in accordance with the approved Rehabilitation Plan.
5. The applicant is advised to liaise with the Department of Water and Environmental Regulation in relation to any native vegetation clearing that may occur as part of this extractive industry.
6. All extractive activities shall comply with the *Shire of Chittering Extractive Industry Local Law 2014* at all times to the satisfaction of the Shire unless otherwise stipulated by a condition of Development Approval or a condition on the Extractive Industry Licence.

7. The applicant is advised this Development Approval does not override Main Roads right to acquire any property within Lot 502. With regard to Condition 4 the updated Plan is required due to the future construction of the Bindoon Bypass and the current uncertainty surrounding its alignment.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:38PM

9.1.3 Proposed Scheme Amendment No. 66: Rezone from ‘Agricultural Resource’ to ‘Industry General’ and inserting “Additional Land Use No A18 – Concrete Batching Plant”*

Report date	20 June 2018
Applicant	Allerding & Associates
File ref	18/02/34; A3238
Prepared by	Planning Officer
Supervised by	Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Applicant’s Report 2. Revised BMP 3. Schedule of Submissions

Executive Summary

At the December 2017 Ordinary Council Meeting (OCM), Council resolved to initiate Scheme Amendment No. 66 (SA66 or Amendment 66). Council’s consideration is now requested to endorse SA66 to *Local Planning Scheme No 6* (LPS6). Amendment 66 involves the rezoning of Lot 22 (3728) Great Northern Highway, Muchea (the property) from ‘Agricultural Resource’ to ‘General Industry’ and insert an additional land use A18 into Schedule 3 for the use of a ‘Concrete Batching Plant’.

This item is before Council in accordance with Part 5, Div. 3, R. 50(3) to provide a recommendation to the Western Australian Planning Commission (WAPC) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations).

IMAGE 1 LOCALITY PLAN



Background

Lot 22 is currently zoned 'Agricultural Resource' under LPS6 and is centrally located within the Muchea Employment Node Structure Plan (MENSP) Area. As detailed in LPS6, a separate structure plan for the site is not required for the subject lot to be rezoned. The inclusion of the additional use is aimed at facilitating the development of a mobile concrete batching plant on the subject site.

The site measures just over 2 hectares (ha) and is accessed via Great Northern Highway to the west. The land surrounding Lot 22 includes a dwelling and transport depot, various outbuildings, pasture and a vacant building previously used for plumbing services. Lot 22 is mostly cleared, with the exception of a small number of fig trees lined along the northern boundary.

A search of the Shire's records indicate no approvals, other than for the existing shed on site, have been granted by the Shire.

Consultation/Communication Implications

State

The amendment was referred to the Environmental Protection Authority (EPA) in accordance with section 48F(2) of the *Environmental Protection Act*. The EPA determined the amendment was not required to be assessed under the Act, which subsequently consented to the amendment being advertised.

Following this, and in accordance with Part 5, Div. 3, R. 50(3) of the Regulations, SA66 was advertised to a number of relevant state authorities for a period of 42 days from 21 February 2018 until 4 April 2018. These authorities were as follows:

- Main Roads Western Australia (MRWA);
- Department of Primary Industries and Regional Development (DPIRD);
- Department of Mines, Industry Regulations and Safety (DMIRS);
- Department of Planning, Lands and Heritage (DPLH)
- Department of Water and Environmental Regulation (DWER); and
- Department of Fire and Emergency Services (DFES).

The proposed amendment was generally supported by the above authorities however, with the exception of DFES, who required modifications to the Bushfire Management Plan (BMP). Although DWER generally supported the proposal, the agency stated the potential for impacts of a concrete batching plant on existing residences within 500m had not been sufficiently addressed. The responses are discussed in further detail in the report and schedule of submissions.

Local

In addition to the above, SA66 was advertised via the below methods, for a period of 42 days:

- Circulation of letters detailing the proposed amendment to landowners within a 1km radius;
- Publication of the notice in a newspaper circulating in the scheme area;
- displayed a copy of the notice in the Shire office for the period for making submissions set out in the notice; and
- published a copy of the notice and the amendment on the website of the local government;

This was also undertaken in accordance with Section 47 of the Regulations.

Only one submission, supporting the proposal, was received.

Legislative ImplicationsState

- Planning and Development (Local Planning Scheme) Regulations 2015

The proposed amendment is classified as a 'standard amendment' and as such, was advertised in accordance with Regulation 47(1). Consideration of submissions was undertaken in accordance with Regulation 50.

It is not considered that any significant modifications to the amendment have been proposed. Therefore, re-advertising of the amendment is not required.

After passing a resolution under Regulation 50(3), the local government must provide the advertised amendment to the local planning scheme to the Commission within 21 days.

- Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998 (Regulations 1998)

Currently the application only proposes to rezone the land however, given an additional use of 'Concrete Batching' has been proposed, the Regulations 1998 have been taken into consideration.

Section 3 and 4 of the Regulations 1998 is most applicable. These sections require that no visible dust escape from the premises, and provide methods by which dust is to be controlled. The presence of a sensitive receptor on the adjoining lot further enforces the need to comply with the Regulations 1998.

Local

- Local Planning Scheme No. 6 (LPS6)

As lot 22 falls within the Muchea Employment Node Special Control Area, Clause 5.7 is applicable to the proposal. The clause identifies specific planning requirements to be addressed in the application.

5.7.2.2 *In considering zoning proposals for 'Industrial Development', 'General Industry' and 'Light Industry' within the Muchea Employment Node, proposals are to address the objectives and requirements of the Muchea Employment Node Structure Plan, including:*

- a) details of how the proposal will manage stormwater run-off and wastewater disposal with specific reference to potential impacts on water quality and quantity and the nutrient load of the Ellen Brook which may include studies, commensurate with the scale of the proposal, in accordance with State Policy and the Better Urban Water Management Guidelines;*
- b) details of potential impacts on flora and vegetation, fauna and habitat which may include the need for studies undertaken in accordance with Environmental Protection Authority guidance and consideration of matters of national environmental significance;*
- c) details of potential impacts to, and proposed buffers from, waterways and wetlands which may include the need for studies in accordance with State Policy and technical guidance;*
- d) a land capability assessment demonstrating that the site is capable of assimilating nutrients and disposing of wastewater without an adverse impact on ecosystem health;*
- e) a desktop Aboriginal heritage assessment; and*
- f) any other matters relevant to the site, such as access and egress and basic raw materials.*

The applicant's scheme amendment report has adequately addressed (a) to (d). During the consultation period, the application was advertised to the Department Planning, Lands and Heritage. No comment was received.

The subject lot and its current crossover is located 61m from the Muchea East Road and Great Northern Highway intersection. This existing crossover is not proposed to be altered for future vehicle access. As the amendment proposes to rezone from agricultural Resource to General Industry, the expectation is for heavy vehicles to be entering and exiting the site. MRWA did not object to the proposal, however advised the access may require upgrading for RAV vehicles.

Poorly controlled concrete batching plants may discharge highly alkaline wastewater and dust. Lot 22 falls within the Water Prone Special Control Area (SCA). The aim of the SCA is to preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems. The applicant's report identifies groundwater levels are separated from surface level by approximately 3m at the lowest point. The applicant has also included an Environmental Assessment of the site. The environmental assessment provides an overview of storm and groundwater management. This is considered to be sufficient for the purposes of the amendment process.

Policy Implications

State

- Muchea Employment Node Structure Plan

The lot sits within the 1,100ha industrial precinct. This proposed scheme amendment is identified in Precinct 1 North A and is consistent with the strategic objectives of this site.

Under Section 6.4 of the Structure Plan documents, General Industry is considered a preferable zone in the MENSF.

The site lies within a Multiple Use Wetland. The Policy allows for development within a multiple use wetland providing adequate stormwater management occurs. The applicant has provided details of stormwater management proposed.

6.3 of the Structure Plan lists site specific requirements for future planning and developments of Precinct 1 (North A and B). The most applicable being:

6.3.1 (3) For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels.

The structure plan also includes a Local Water Management Strategy Checklist. The amendment documents are mostly consistent with the checklist however; this would be more applicable at a development application stage.

The proposed scheme amendment intends to align with the MENSF by incorporating the requirements of the MENSF into rezoning, infrastructure, environment, and built form outcomes.

- State Planning Policy 3.7 – Planning in Bushfire Prone Areas

The applicants report includes a Bushfire Management Plan (BMP). The Plan was referred to DFES for comment. As stated above, DFES highlighted that amendments to the BMP are required, prior to the agency's endorsement of the Plan. These amendments include reclassification of certain vegetation types, revision of table 1 in the BAL contour map and confirmation of water supply. The concerns raised by DFES are mostly administrative or minor and it is considered these amendments have been undertaken with the revised BMP; however confirmation will be sought from DFES prior to any development approval stage.

- Separation Distances between Industrial and Sensitive Land Uses (Guidance Statement 3)
To prevent noise and dust impacts, the guidance document suggests a buffer distance of 300m – 500m between sensitive receptors (dwellings) and concrete batching operations. The proposal does not currently meet the recommended buffer distance due to an existing dwelling being located on the adjoining southern lot. Given both blocks are relatively narrow and the existing dwelling being in close proximity to the northern boundary, any future development could be set back as little as 10m – 20m. The dwelling is currently vacant and the landowner of Lot 202 has provided written comment to the Shire stating they have no objection to the proposal. Nevertheless, should the landowner of Lot 202 sell the property, the Shire would need certainty any future occupier of the dwelling would not be impacted by the batching operations.

The guidelines recommend a site specific study to demonstrate the reduced distance will not result in unacceptable impacts and that management techniques are applied. Annexure 1 of **Attachment 3** Draft Application for Planning Approval contains an Environmental Management Plan which would most likely address this site specific study, however this has not been included in the amendment documents.

Given the required information to address the shortfall in buffer distance and subsequent impacts to neighbouring land uses has not been provided, the Shire cannot be certain any future concrete batching plant will not cause detriment to the adjoining dwelling. Therefore, if Council chooses to endorse the proposed additional use of 'Concrete Batching Plant' in the scheme amendment, it may be endorsing a use that cannot adequately mitigate the impacts caused by their operations.

Local

Nil

Financial Implications

Endorsing the proposed rezoning on Lot 22 will facilitate in the future the construction of a development which could potentially support the progress of development within the MENSF by providing a local producer of concrete to service the area.

Strategic Implications

Lot 22 is located within the Precinct 1 North A area of the MENSF. The precinct has been identified for light and general industry purposes. The proposed rezoning of Lot 22 to 'General Industry' is consistent with the strategic objectives of the site.

Local

- Strategic Community Plan 2017-2027
Focus area: Economic Growth
Objective: S4.1 Economic growth
Strategy: S4.1.2 Actively pursue development of the Muchea Employment Node

State

- Muchea Employment Node
The objective of the MENSF is to designate land for future industrial development and employment creation purposes. The subject lot lies has been strategically identified for light and general industry purposes. This proposed scheme amendment is identifiable within in Precinct 1 North A and is consistent with the strategic objectives of this site.

Site Inspection

Site inspection undertaken: Yes

Multiple site visits to both the lot subject of rezoning and the Muchea Industrial Park (MIP) at large have found that:

- The adjoining Lot (Lot 202) to the subject property contains a dwelling. It appears the dwelling is currently vacant or being used for administration purposes;
- The site is mostly cleared with the exception of a row of fig trees and an outbuilding;
- The MIP is well serviced in reference to the road network, however locations of crossovers are to be carefully located. This is consistent with Main Roads' advice;
- Waterlogging was present during the winter months which will be required to be addressed at development stage; and
- While the majority of the physical land remains as pasture, there are instances where some lots are developed for industrial purposes such as those lots within the immediate vicinity surrounding the subject property.

Triple Bottom Line Assessment

Economic implications

Should the proposed rezoning and subsequent concrete batching plant be endorsed and approved, the operation may generate employment opportunities for the community.

As stated earlier in the report, the proposal will also provide a local alternative for sourcing of concrete in the Shire.

Social implications

There are concerns in relation to the proximity of Lot 22 to the neighbouring dwelling on Lot 202. The purpose of the rezoning to 'General Industry' is to facilitate the development of a Concrete Batching Plant. Concrete batching is usually confined to industrial areas, separate from residential zones, due to impacts such as noise and traffic and decreased quality of air and water. While it is acknowledged the dwelling is not currently being used for residential habitation, the Shire would not have any grounds to refuse future occupants from living at the site. Any future occupants of Lot 202 may likely be impacted by concrete batching operations if appropriate management plans to reduce these impacts are not in place.

Creating local job opportunities is considered to be a positive social implication of the proposed rezoning.

Environmental implications

The primary environmental concerns associated with the site are as follows:

- Contamination/reduction of ground water quality from cement dust or liquid from operations; and
- Reduced air quality from operations as well as increased traffic movements.

The applicant's report provides some measures to address these issues, however refer to a future Environmental Management Plan (EMP) for specific management plans relating to dust, noise and water quality.

Officer Comment/Details

The scheme amendment proposes to rezone Lot 22 from 'Agricultural Resource' to 'General Industry' with the inclusion of an additional use over the land to facilitate the development of a mobile concrete batching plant on the subject site. It represents the first site in the Shire to be rezoned to General Industry.

The applicant's report has demonstrated the rezoning of the property to General Industry is consistent with both the objectives and provisions of the MENSF and LPS6 (as detailed above). It is however considered the information provided in the report is insufficient to justify the shortfall in the generally acceptable buffer distance outlined in the EPA's *Guidance Statement No. 3*, between concrete batching plants and sensitive land uses. No environmental management plan or site specific study which addresses the matter and mitigates the potential impacts has been provided. The applicant has therefore not demonstrated that the additional use will not be detrimental to any future occupant of the adjacent dwelling on Lot 202. Consequently, it is recommended the proposed scheme amendment be endorsed with modifications, to remove the additional use of 'Concrete Batching Plant'. The proponent has been advised of officer's position and has agreed to the suggested changes.

In relation to the concerns raised by DFES and MRWA regarding the BMP and existing crossover, it is considered these can be addressed during the development approval stage for any future concrete batching plant proposed.

In light of the above, it is therefore recommended the Scheme Amendment to rezone Lot 22 (RN 3728) Great Northern Highway, Muchea from 'Agricultural Resource' to 'General Industry' be endorsed with modifications to remove the additional use of 'Concrete Batching Plant'.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060618

Moved Cr Osborn / Seconded Cr Gibson

That Council:

1. Receive the submissions as outlined in the Schedule of Submissions (Attachment 3).
2. Pursuant to Part 5, Division 3, Regulation 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to support Amendment No 66 to *Local Planning Scheme No 6* for final approval with modifications:
 - a. remove the additional use of 'Concrete Batching Plant' from Schedule 3 of the Shire of Chittering *Local Planning Scheme No. 6*.
3. Pursuant to Part 5, Division 3, Regulation 50(3), refer the Amendment No 66 to Western Australian Planning Commission with the recommended modifications with a request for final approval by the Minister for Planning.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:39PM

9.1.4 Adoption of the Shire of Chittering Waste Local Law 2018*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	19/04/1
Prepared by	Principal Environmental Health Officer
Supervised by	Executive Manager Development Services
Voting requirements	Absolute Majority
Attachments	<ol style="list-style-type: none"> 1. Shire of Chittering Waste Local Law 2018 2. Submission from the Department of Local Government, Sport and Cultural Industries 3. Submission from the Department of Water and Environmental Regulation 4. Submission from local resident

Executive Summary

Following public consultation, Council is requested to adopt the Shire of Chittering Waste Local Law 2018. The revised version incorporates the changes recommended by the Department of Water and Environmental Regulation and the Department of Local Government, Sport and Cultural Industries.

Background

At the Ordinary Meeting of Council held on 21 February 2018 it was resolved:

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110218 <i>Moved Cr Osborn / Seconded Cr Angus</i> <i>That Council:</i>	
1.	<i>Adopt the proposed Shire of Chittering Waste Local Law 2018 (Attachment 2) for the purpose of advertising.</i>
2.	<i>Pursuant to s.3.12 of the Local Government Act 1995, give local and state-wide public notice of its intention to make the Shire of Chittering Waste Local Law 2018 and within that notice advise of the following purpose and effect:</i> <i>Purpose: The purpose of this local law is to regulate the storage, collection and disposal of waste and recyclable materials in the Shire of Chittering.</i> <i>Effect: The effect of this local law is the control of storage, collection and disposal of waste and recyclable materials for the benefit of the community and protection of the environment.</i>
<p style="text-align: right;">THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0 BY AN ABSOLUTE MAJORITY</p> <p style="text-align: right;">8:54PM</p>	

Consultation/Communication Implications

The Shire gave state-wide public notice by advertising in The West Australian newspaper on 7 March 2018 and by local notice in The Advocate on 7 March 2018. The local law was also distributed locally in accordance with the Shire's Community Engagement Plan.

Copies of the draft Waste Local Law 2018 were sent to:

- The Department of Local Government, Sport and Cultural Industries
- The Department of Water and Environmental Regulation

Copies of the draft Waste Local Law 2018 were made available on the Shire's website and at the Shire Administration Centre and the Bindoon Library.

Internal consultation was undertaken with:

- Shire of Chittering staff and Executive Managers
- Councillors

Submission from the Department of Environment Regulation

Comments were received from the Department of Water and Environmental Regulation. A copy of the submission is attached. The Department noted that the majority of the clauses in the proposed waste local law are identical with the template waste local law to which the former Joint Standing Committee on Delegated Legislation (JSCDL) had indicated its general approval. This was the template developed by a working group steered by the Western Australian Local Government Authority (WALGA).

The response from the Department of Water and Environmental Regulation indicated that the only issues arising related to minor typographical and referencing errors which have been rectified.

Submission from the Department of Local Government and Communities

A copy of the Department's submission is attached. Suggestions were made to include new definitions for 'right-of-way' and 'reasonable period' and to delete the definition of 'collectable waste receptacle' as it was not used in the local law. Following discussion with the Department of Water and Environmental Regulation it was decided to not include the new definitions of 'right-of-way' and 'reasonable period' and to delete the definition of 'collectable waste receptacle'. The Department's response also uncovered minor typographical and referencing errors which have been rectified.

Public submission

There was one written comment received from a member of the public which disagreed with the progress of the proposed Waste Local Law 2018 due the uncertainty of the industry.

Legislative Implications

Changes to legislation, particularly the introduction of the *Waste Avoidance and Resource Recovery Act 2007* has prompted the introduction of Waste Local Laws by a growing number of local governments. The introduction of the kerbside waste and recycling scheme in 2014 and a review of the operations of the Shire's two landfill sites were also a catalyst for the introduction of the new Waste Local Law 2018.

It should be noted that the consultation and approval process for the draft Waste Local Law 2018 has recommenced following the disallowance of the Waste Local Law 2017 by the Joint Standing Committee on Delegated Legislation due to procedural error whereby it was sent for gazettal before being submitted to the Department of Water and Environmental Regulation for approval. The Joint Standing Committee also found error with the insertion of the definition for 'nuisance'.

Following Council approval to adopt the local law the following additional steps will be undertaken to finalise the process:

- (i) Step 9 -Two copies of the local law will be sent to the Director General of the Department of Water and Environmental Regulation for his consent.
- (ii) Step 10 – Gazettal. Once the local law has received the above consent a copy of the local law will be sent to the State Law Publisher in an acceptable format to be printed in the *Government Gazette*. A copy of the Gazette is to be sent to the Minister for Local Government and any other relevant Minister related to the newly created Local Law.
- (iii) Step 11 – State-wide notice is to be given that Council has made the Local Law.
- (iv) Step 12 – Immediately after gazettal the WA Parliament Joint Standing Committee on Delegated Legislation is to be given an Explanatory Memorandum – sealed and signed by the Chief Executive Officer and the Shire President.

Policy Implications

Nil

Financial Implications

There will be further costs involved with the publishing of the Waste Local Law 2018 in the *Government Gazette* along with printing costs, which will be incorporated in the 2018/19 draft annual budget.

Strategic Implications

Local

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

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

The Shire of Chittering Waste Local Law 2018 will better allow for the control of storage, collection and disposal of waste and recyclable materials for the benefit of the community and protection of the environment.

Officer Comment/Details

The purpose and effect of the proposed Shire of Chittering Waste Local Law 2018 are stated as follows:

Purpose: The purpose of the Shire of Chittering Waste Local Law 2018 is to regulate the storage, collection and disposal of waste and recyclable materials in the Shire of Chittering.

Effect: The effect of the Shire of Chittering Waste Local Law 2018 is to allow the control of storage, collection and disposal of waste and recyclable materials for the benefit of the community and protection of the environment.

The responses received during the consultation period resulted in only minor changes which were not significantly different to the previously proposed Waste Local Law 2018 presented to Council on 21 February 2018.

It is therefore recommended that Council adopt the proposed Waste Local Law 2018.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070618

Moved Cr Ross / Seconded Cr Gibson

That Council:

1. Adopts the proposed Shire of Chittering Waste Local Law 2018 incorporating the relevant changes recommended by the Department of Water and Environmental Regulation and the Department of Local Government, Sport and Cultural Industries.
2. Forwards two copies of the proposed local law to the Director General of the Department of Water and Environmental Regulation for his consent.
3. Published the Shire of Chittering Waste Local Law 2018 in the *Government Gazette* following consent from the Department of Water and Environment Regulation.
4. Authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Shire of Chittering Waste Local Law 2018.
5. In accordance with Section 3.12 of the *Local Government Act 1995*, give statewide public notice of the Shire of Chittering Waste Local Law 2018:
 - a. stating the title of the local law; and
 - b. summarising the purpose and effect of the local law and specifying the day on which it comes into operation; and
 - c. advising that copies of the local law may be inspected or obtained from the Shire of Chittering Administration Centre.

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

CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:39PM

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES**MOTION / COUNCIL RESOLUTION 080618**

Moved Cr Tilbury / Seconded Cr Osborn

That Items '9.3.1 Monthly Financial Reports for the Period Ending 30 April 2018' and '9.3.2 List of Accounts Paid for the period ending 30 April 2018' be raised from the table.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:40PM

9.3.1 Monthly Financial Reports for the Period Ending 30 April 2018*

Report Date	16 May 2018
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for period ending 30 April 2018

Executive Summary

Council is requested to receive the Monthly Financial Report (containing the Statement of Financial Activity) for the periods ending 30 April 2018.

Background

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

The statement of financial activity is to be presented at an Ordinary Meeting of Council within two months after the end of the month to which the statement relates.

The monthly financial report was first presented at the Ordinary Council Meeting held on 18 May 2018 were Council resolved the following:

13. MOTION / COUNCIL RESOLUTION 070518

Moved Cr Tilbury / seconded Cr Osborn

That Items 13.1 "Item 13.1 Monthly Financial Reports" and "Item 13.2 List of Accounts Paid for the Period Ending 30 April 2018" lay on the table until the Ordinary Council Meeting scheduled for 20 June 2018.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

8:24PM

Consultation/Communication Implications

Nil

Legislative Implications

State

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

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

We have received some feedback in relation to improving the graphs contained within the new Monthly Financial Reports so they are easier to read in black and white and interpretation as to how we are tracking is slightly better. It is hoped this work will be completed for next month

Council is requested to receive the Monthly Financial Reports for the period ending 30 April 2018 as presented.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090618

Moved Cr King / Seconded Cr Ross

That Council receives the Monthly Financial Reports for period ending 30 April 2018.

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:41PM

9.3.2 List of Accounts Paid for the period ending 30 April 2018*

Report Date	16 May 2018
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Finance Officer - Accounts
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 30 April 2018

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 30 April 2018.

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.

The monthly financial report was first presented at the Ordinary Council Meeting held on 18 May 2018 where Council resolved the following:

13. MOTION / COUNCIL RESOLUTION 070518

Moved Cr Tilbury / seconded Cr Osborn

That Items 13.1 "Item 13.1 Monthly Financial Reports" and "Item 13.2 List of Accounts Paid for the Period Ending 30 April 2018" lay on the table until the Ordinary Council Meeting scheduled for 20 June 2018.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

8:24PM

Consultation/Communication ImplicationsLocal

Executive Manager Corporate Services

State

Nil

Legislative ImplicationsState

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

Local

Nil

Policy Implications

Nil

Financial Implications

All expenditure has been approved via adoption of the 2017/18 Annual Budget, or resulting from a Council resolution for a budget amendment.

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

The attached "List of Accounts Paid as at April 2018" is presented to Council for endorsement.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100618

Moved Cr Ross / Seconded Cr Osborn

That Council endorse the following Accounts Paid:

- a. PR4211, PR4262**
- b. EFT15713 – EFT15907**
- c. Municipal Fund Cheques 14331 – 14336**
- d. Direct Debits and Transfers as listed**
- e. Trust Fund payments as listed**

totalling \$1,145,973.57 for the period ending 30 April 2018.

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:41PM

As noted in Item 8 "Announcement from the Presiding Member" this report has been withdrawn from the Meeting Agenda by the Chief Executive Officer, and will be resubmitted for consideration by Council at its July Ordinary Council Meeting. Unfortunately, the statements were unable to be distributed in sufficient time for Council to review the information.

9.3.3 Monthly Financial Reports for the Period Ending 31 May 2018*

Report Date	20 June 2018
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Executive Support Officer
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Monthly Financial Report for period ending 31 May 2018 ¹

Executive Summary

Council is requested to receive the Monthly Financial Report (containing the Statement of Financial Activity) for the periods ending 31 May 2018.

Background

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

The statement of financial activity is to be presented at an Ordinary Meeting of Council within two months after the end of the month to which the statement relates.

Consultation/Communication Implications

Nil

Legislative Implications

State

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

Local

Nil

Policy Implications

Nil

Financial Implications

Nil

¹ Not available at time of distribution (15 June 2018)

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

Council is requested to receive the Monthly Financial Reports for the period ending 31 May 2018 as presented.

OFFICER RECOMMENDATION

That Council receives the Monthly Financial Reports for period ending 31 May 2018.

9.3.4 List of Accounts Paid for the period ending 31 May 2018*

Report Date	20 June 2018
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Senior Finance Officer
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. List of Accounts Paid as at 31 May 2018

Executive Summary

Council is requested to endorse payments presented in the List of Accounts Paid for the period ending 31 May 2018.

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

Nil

Financial Implications

All expenditure has been approved via adoption of the 2017/18 Annual Budget, or resulting from a Council resolution for a budget amendment.

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

The attached "List of Accounts Paid as at May 2018" is presented to Council for endorsement.

9.3.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110618

Moved Cr Tilbury / Seconded Cr Angus

That Council endorse the Accounts Paid:

- a. PR4280, PR4364, PR4371
- b. EFT15908 – EFT16083
- c. Municipal Fund Cheques 14336 – 14337
- d. Direct Debits and Transfers as listed
- e. Trust Fund payments as listed

totalling \$963,461.03 for the period ending 31 May 2018.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:42PM

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Wear Ya Wellies Event – 27 May 2018

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	26/01/7
Prepared by	Community Development Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to acknowledge the efforts of staff and volunteers in the organisation and running of another successful Wear Ya Wellies Event for 2018.

Background

Despite inclement weather in the lead up to the event and intermittent rain on the day, the annual “Wear Ya Wellies” event for 2018 was another resounding success. The total number through the gate was just over 5,500. This year the event received radio advertising for free through the 94.5fm ‘What’s on this Weekend’ segment on Saturday morning. With Mini Mud Run tickets already sold out, it is hard to gauge if this has had any direct impact on this years’ numbers, but the Shire anticipates that it will have a flow on effect to next year, with an additional 900 people, and a total of 1,736 people now following the Wear Ya Wellies Facebook page.

People from as far away as Bunbury attended the event. An analysis of postcode number collected at the gate indicated the following:

- Local attendees (includes Gingin and Bullsbrook) – 31%
- Metropolitan/Other – 69%

This shows an increase in the number of locals attending the event from 15% to 31%. This may be attributed to the letter drop done in the southern areas of the Shire and Bullsbrook, and increased social media promotions across a number of the local groups involved in the event.

There was no admission fee for the event, however people were asked to contribute a gold coin donation. Some contributed much more than a gold coin. The amount raised from the donations was \$1,300. This equates to \$0.23c per attendee. As this was a family event, with an average of four people per family, it also equates to approximately to \$1 per family.

The event has grown in attendance and popularity since it was first run in 2013. Anecdotally, the inclement weather for this year’s event has probably impacted on overall attendance. Nevertheless, the event continues to be a resounding success.

The “Wear Ya Wellies” event is planned and coordinated by Council’s Community Development Officer, Alison Reliti. While a lot of people are involved in running and assisting with the event, Alison deserves recognition for ensuring that everything was well organised and coordinated. The event ran smoothly with very few hiccups and the improvements made as a result of last year’s event proved popular.

In terms of volunteers, it should be noted that the backbone was provided by staff and councillors within the Council who gave up their time to assist with the event. Most of this was unpaid. An assessment of volunteer staff hours indicates that 48 hours unpaid staff time was involved in assisting with the event. Staff time assisting with preparations in the lead up to the event is hard to quantify, however Alison works on the event intermittently through the year with approximately 75% of her time spent on the event in the final two months. The final three weeks are purely dedicated to the event, with additional time spent on social media liaison outside of work hours. The Shire's other Community Development Officer (Lisa Kay) also allocates two work days prior to the event and the two work days after to the event. Other Shire staff also assisted with the preparation over the final week before the event.

Another 43 hours, across 30 individual community and Youth Krew volunteers was also required to run the event. Most of that occurred on the day prior to and on the day of the event. It would be difficult to run such an event without unpaid volunteers. However, the volunteer hours above do not reflect the true social capital investment in this event, which is massive. Leading up to the event and across the weekend there is a large number of groups, companies and individuals involved in supporting the event including:

Sponsor/Business	Description of sponsorship
Youth Krew	Assisting with set-up / pack-down, greeting people at the gate, collecting gold coin donations and recording of postcodes.
Bindoon Volunteer Bushfire Brigade	Water for mud pits, Mini Mud Run and the water slide.
Muchea Plumbing and Gas	"Shower" tunnel at the end of the mud-run which was a great addition and was enjoyed by all. The supply of pumps, pipes, and water pods for the wash down area, and water slide. Connection of water from tanker to showers. Also, cleaning of the shower block at the conclusion of the event. 3 staff members.
Ace Dynamic Electrical	On-site power supply and electrical reticulation. Supply of generators, power boards and staffing.
Bindoon Men's Shed	(\$450 donation to club) Volunteer assistance with the management and parking of vehicles. Plus Volunteer Assistance with running a catering stall raising funds for the club.
Chittering Tourist Association.	Volunteer assistance both prior to and on the day of the event as well as promoting the event.
Bendigo Bank.	Volunteer assistance in the lead up to the event and on the day.
ADRA.	Back-up generator.
Individuals.	Other individuals helping out on the day (eg. Councillors Angus and King who supervised some of the activities during the event and "Wilko" – who assisted with the clean-up at the end of the event).
Dik Brownlie, Michelle Rossouw, Belinda Moloney and Graham Springhett, and Mark Kay	Assistance on the Friday and Saturday, picking up hay with staff, and creating the Mini Mud Run and Mud Pits, laying out marquees, fencing.
SDERA and Roadwise	Free activities and information, and assistance with welcoming visitors.
Northern Valleys News	Discounted advertising.
Last Drop Water Carriers	Supply of potable water for showers at the event.
Blue Cow Café	Supply of Volunteer lunches.
Northern Valleys Fruit Pops	Supply of fruit pops for Volunteers
Spuddy	Supply of Volunteer lunches
Educated By Nature	Free clay face painting and other nature based activities
Messy Moments	Free water/mud slide activity

Sponsor/Business	Description of sponsorship
Playgroup WA	Free activity
Waterponyz	Free activity
Sandwizard	Free activity (first 50 children)
Bindoon Farmers Market	Volunteer management of the Market Stalls Setup.
Bindoon Playgroup	Volunteer assistance to run the Mother Hen's Tent
Bindoon Primary School P&C	Volunteer assistance to run a Catering stall raising funds for the group.
Chittering Landcare	Volunteer Run Free Activity and catering raising funds for the group.
Chittering Wildlife Carers	(\$500 donation to group) Volunteer Run Free Activity
Koorunga CWA	Welly Tossing Competition.
Gingin/Chittering Lions Club	(\$300 donation to group) Volunteer assistance with Kids Train Rides.
Emerald Acres	Discounted fees for petting zoo.

Information on volunteer hours has been requested from Community Group Stallholders, to allow us to better gauge the social investment.

Preference was given to local food, wine and cottage industry stands in collaboration with the Bindoon Farmers Market. An improved range of food offerings were available for this year's event. Feedback from stallholders was very positive. A debrief of the event will be held in June, and will include staff, stallholders, sponsors, and major contractors. There are always improvements which can be made for future events.

In terms of approvals, it is noted that all events are subject to a formal approval process, with a documented risk management plan. Authorised electrical and plumbing contractors are on site to inspect all installations. St John Ambulance is available on site for the duration of the event. The same arrangements apply for all major events including Taste of Chittering and the Bindoon Show.

For this event it is evident that greater scrutiny is necessary in relation to the tie-down / fixing of marquee type structures as there were some issues experienced in the windy conditions. The main marquee is hired and erected by an event company and is engineered and certified for these types of events.

Consultation/Communication Implications

Advertising and promotion of the activity is definitely hitting the mark with pre-sales of the mini-mud run tickets selling out two weeks prior to the event. Despite the inclement weather, numbers through the gate exceeded those of 2017. As previously stated, "Wear Ya Wellies" was mentioned on 94.5fm and there has been an over 100% increase in the amount of people following the WYW Facebook Page. One post this year reached over 28,000 people.

Legislative Implications

Not applicable

Policy Implications

There are no direct policy implications.

Financial Implications

The budget for this event is supported by Council, external Grants and the “gold coin donation” gate takings. In summary, the budget, at 31 May 2018, for this year’s event was:

• Council Cash	\$5,048	
• Council In Kind	\$2,452	
• Cold Coin	\$1,300	
• Lotterywest	\$9,000	
RSC	\$1,300	
Stall Fees	\$1,960 (estimate, we are still waiting on final value from BFM)	
• In-kind support (other)	\$6,670 (see below for breakdown)	
ACE Sponsor		1,000
Educated By Nature Sponsor		1,100
Last Drop Sponsor		200
Bindoon Farmers Market		500
Messy Moments		500
Lunches - Assorted		650
Avon Waste		200
Northern Valleys News		520
MPG		2,000
Total Event Value	\$27,730	

Strategic Implications

Local

- Strategic Community Plan 2017-2027
 - Focus area: Our community
 - Objective: S1.2 Strong sense of community
 - Strategy: S1.2.2 Strengthen and grow social events and festivals
 - 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 Increased visitors
 - Strategy: S4.3.2 Support and grow events to attract visitation

Site Inspection

Numerous site inspections were undertaken during the planning of the event.

Triple Bottom Line Assessment

Economic implications

Economic development through promotion of a popular local event and support for local retail and cottage industries.

Social implications

Events such as "Wear Ya Wellies" bring the community together for a common cause. The faces of thousands of kids (and parents) covered in mud says it all. The event is aimed getting kids outdoors and active in nature, even in winter, thus creating more opportunity for social interaction and active participation in the natural environment.

Environmental implications

Not applicable (although it is noted that Landcare was present with information relating to biodiversity and environmental protection within the Chittering Shire). The nature based focus of the event creates links to Chittering Landcare and other similarly focused groups.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120618

Moved Cr Ross / Seconded Cr King

That Council:

- 1. Congratulates the Shire staff on the effort and time in planning and running of another successful "Wear Ya Wellies" event.**
- 2. Acknowledges that Shire staff will formally write to all those who supported the event, thanking them for their efforts.**

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

8:43PM

9.4.2 Draft Corporate Business Plan 2017-2021*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	04/01/1
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. Draft Corporate Business Plan 2017-2021

Executive summary

Council is requested to receive the Draft Shire of Chittering Corporate Business Plan 2017-2021. The Draft Plan has been prepared on the basis of what is considered both practical and affordable. That is, the Draft Plan is consistent with the current Long Term Financial Plan.

Background

Under the *Local Government Act 1995*, Councils have the general power to provide for the good governance of the people in their district. They generally do this through the provision of a range of services along with investment in new and existing community infrastructure (roads, parks, sporting and community facilities). Local Governments are also required to assess and regulate planning and development and to provide for Emergency Services management and preparedness.

An essential part of the governance process is for Councils to determine exactly what services and infrastructure is required by residents and ratepayers through the process of preparing and enacting a Strategic Community Plan. Council's Strategic Community Plan 2012-2022 was reviewed in late 2016 / early 2017 and covers the ten year period from 2017 to 2027.

Council is required to update and review its planning documents on a regular basis and this review of the '*Corporate Business Plan 2015-2019*' is part of that process. Council's Corporate Business Plan is a medium term (2017-2021) plan, which sets out the shorter term priorities for Council based on the strategic direction and goals as articulated in the '*Strategic Community Plan 2017-2027*'.

This version of the Corporate Business Plan is based on detailed 10 year asset plans (roads, buildings and fleet) and the development of a 10 year capital program based on dialogue and discussion with a range of community groups, associations and Council. In particular, formal dialogue has occurred as part of the Community Strategic Plan process and as an integral part of specific project activities, such as the Lower Chittering Sports and Recreation Centre Feasibility Study and the Bindoon Place Making Plan. In addition, a number of previously adopted Council Plans such as the '*Chittering Trails Network Masterplan 2012-2023*' and '*Sport and Recreation Plan 2012-2022*', have been used to inform the development of the Draft Corporate Business Plan 2017-2027.

In terms of asset management, it is important to note that the Road Network Program has been reduced from \$25.2m to \$21.1m over the next 10 years through better asset management practices and more efficient use of resources. Similarly, fleet replacement costs have been reduced from \$12.3m over the next 10 years to \$3.7m through improved fleet management systems and procurement. This has provided the ability for Council to invest in community building infrastructure which will assist in securing a sustainable future for current and future generations.

The Corporate Business Plan guides the formation of the annual budget and is reflective of community aspirations with regard to the provision and maintenance of services and facilities within the Shire. However, the Corporate Business Plan does not commit the Council to funding or proceeding with a particular project; that can only be done through the annual budget process. Nonetheless, it is a very important tool for planning and shaping future investment priorities.

Considerable time and effort has gone into preparing an affordable and realistic Plan with real project activities that reflect the aspirations and priorities of the community. In the future, it is intended that the Corporate Business Plan be updated on an annual basis as part of the budget process; ensuring that it remains relevant and current in terms of setting a future investment path and priorities for Council.

Appendix 2 of the Plan cannot be completed until the Long Term Financial Plan (LTFP) has been finalised. A briefing on the development of the LTFP has been arranged with Council's consultant.

Consultation/Communication Implications

Local

Community consultation associated with the 'Strategic Community Plan 2017-2027' was undertaken between September and December 2016. A range of formal and informal consultation processes have been underway since that time, including those associated with the Lower Chittering Sports Facility Feasibility Study and, more recently, the Bindoon Place Making Plan. Councillors have been consulted via a number of briefing sessions, the most recent of these being held on 16 May 2018.

Legislative Implications

State

- Local Government Act 1995
5.56. Planning for the future
 - (1) *A local government is to plan for the future of the district.*
 - (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*
- Local Government (Administration) Regulations 1996
19DA. Corporate business plans, requirements for (Acts. 5.56)
 - (1) *A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*
 - (2) *A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.*
 - (3) *A corporate business plan for a district is to—*
 - (a) *set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and*
 - (b) *govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and*
 - (c) *develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.*
 - (4) *A local government is to review the current corporate business plan for its district every year.*
 - (5) *A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.*

- (6) *A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*

**Absolute majority required.*

- (7) *If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

[Regulation 19DA inserted in Gazette 26 Aug 2011 p. 3484-5.]

Local

Nil

Policy Implications

There are no direct policy implications. The effect of a Corporate Business Plan is to set the direction for the organisation and to determine the medium term priorities for the future.

Financial Implications

There is no direct financial implication from the adoption of a Corporate Business Plan, however the purpose of such a plan is to guide the allocation of resources and assist Council with its annual budget process.

Strategic Implications

This Corporate Business Plan sets the medium term strategic direction for Council and provides guidance for the allocation of priorities and resources. The 'Corporate Business Plan 2017-2027' is based on the longer term strategies as articulated in the 'Strategic Community Plan 2017-2027' and a number of supporting plans previously adopted by Council such the:

- Community Development Plan 2014-2024
- Sport and Recreation Plan 2012-2022
- Chittering Trails Network Master Plan 2012-2023
- Community Safety and Crime Prevention Plan 2016-2019
- Disability Access and Inclusion Plan 2017-2022
- Communication Plan 2012
- Aged Friendly Community Plan 2016-2019.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

Economic development and job creation is a strong focus in the revised plan.

Social implications

An inclusive, safe and healthy community is a strategic priority within the plan.

Environmental implications

Protection of the environment and biodiversity continues to be a strong focus.

Officer Comment/Details

As previously briefed, a review of the Long Term Financial Plan is currently underway. As a result of this work, it may be that some adjustments to the Draft Corporate Business Plan will be necessary prior to its adoption by Council. This may not occur until after the current budget process.

While the Corporate Business Plan is an essential medium term (5 Year) planning document, it is important to note that the adoption of such a plan does not commit Council to funding particular projects or initiatives; that can only occur as part of the annual budget process.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130618

Moved Cr Tilbury / Seconded Cr Angus

That Council resolves to:

- 1. Receive the Draft Corporate Business Plan 2017-2021 as per Attachment 1.**
- 2. Acknowledge that the Draft Plan may need to be amended following the review of Council's Long Term Financial Plan (presently underway).**
- 3. Acknowledge that a final version of the Corporate Business Plan will be presented to Council for adoption following the Long Term Financial Plan review.**

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

CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

8:43PM

9.4.3 Appointment of Consultant to facilitate the Chief Executive Officer's Annual Performance Review

Report date	20 June 2018
Applicant	A Sheridan
File ref	22/10/110
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council's consideration is requested to appoint John Phillips Consulting to facilitate the Chief Executive Officer's annual performance review in accordance with the *Local Government Act 1995*, s5.38.

Background

The last annual performance review covered the period April 2016 to April 2017. Council is required to undertake a review of the Chief Executive Officer's performance for the period April 2017-April 2018.

To assist Council with the appraisal process, and to ensure transparency, an independent consultant is proposed to be appointed to facilitate the process. The review will be conducted in accordance with the *Local Government Act 1996*, s5.38.

Consultation/Communication Implications

Local

Following the appointment of the consultant, Councillors will be contacted regarding the conduct of the review process.

State

Nil

Legislative Implications

State

- Local Government Act 1995
5.38. Annual review of certain employees' performances
The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.
- Local Government (Administration) Regulations 1996
18D. Performance review of CEO, local government's duties as to
A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.
[Regulation 18D inserted in Gazette 31 Mar 2005 p. 1038.]

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

The Shire has received a verbal quotation from John Phillips Consulting to undertake the performance review, in the amount of \$2,200.00. This will be incorporated into the 2018/19 Annual Budget.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Council is requested to appoint John Phillips Consulting to facilitate the Chief Executive Officer's annual performance review. Council has previously used the services of John Phillips Consulting and the feedback from Council was that the services provided were both positive and cost effective.

OFFICER RECOMMENDATION

Moved Cr Ross / Seconded Cr Osborn

That Council:

1. Appoints John Phillips Consulting to facilitate the Chief Executive Officer's annual performance review.
2. Conducts the personal interviews with John Phillips Consulting on Friday 27 July 2018.
3. Receives the completed Appraisal Report from John Phillips Consulting at the Ordinary Council Meeting scheduled for Wednesday 19 September 2018.

AMENDMENT

Moved Cr Gibson

That council resolve to proceed with the CEO's review without the unnecessary expense of a consultant.

AMENDMENT LAPSED FOR WANT OF A SECONDER

AMENDMENT

Moved Cr King / Seconded Cr Gibson

That the following new Condition be added as #2 and the Officer Recommendation be renumbered accordingly:

2. Requests the consultant to apply a numeric scoring system for the Key Result Areas and ratings to be workshopped with Council.

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**
8:47PM

9.4.3 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 140618

That Council:

1. Appoints John Phillips Consulting to facilitate the Chief Executive Officer's annual performance review.
2. Requests the consultant to apply a numeric scoring system for the Key Result Areas and ratings to be workshopped with Council.
3. Conducts the personal interviews with John Phillips Consulting on Friday 27 July 2018.
4. Receives the completed Appraisal Report from John Phillips Consulting at the Ordinary Council Meeting scheduled for Wednesday 19 September 2018.

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**
8:48PM

9.4.4 Recording of Ordinary Council Meetings for Record Taking Purposes*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	13/02/36
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Information Session Presentation dated 17 February 2017 2. McLeods update paper titled <i>"Proposed recording and live streaming of local government council and committee meetings"</i>

Executive Summary

Council is requested to consider the matter of recording Ordinary Council Meetings and whether this is, on the basis of the research provided in this report, a direction which Council wishes to pursue.

Background

The matter of recording Ordinary Council Meetings has been raised by Councillors on various occasions in the recent past. The matter was last discussed at a Council Information Session on 17 February 2017. The discussion at that session was focussed on Agenda Forums however the discussion also addressed the recording of Council Meetings. An extract from the session presentation from 17 February 2017 is attached (**Attachment 1**).

While a number of metropolitan Councils do record Council Meetings, a snapshot of neighbouring Council's (i.e. Gingin, Toodyay, Northam and Swan) indicated that none of those Council's currently record Council Meetings.

At that workshop, the Chief Executive Officer recommended that Council not proceed with electronic recording of Council meetings for the following reasons:

- i. Proper sound recording equipment would be required
- ii. Additional administrative effort / cost would be incurred
- iii. Other Council's in our region do not do it
- iv. The perceived benefit does not warrant the cost

As a result of these discussions, Council proceeded with making the Agenda Forum's open to the public, but did not proceed with the recording of Council Meetings.

Legal Advice / Commentary

In a Local Government Update Paper prepared by McLeods Solicitors in November 2015, various legal aspects associated with the recording of Council Meetings is discussed. In summary, the paper suggests that *"any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings"*. However, even recording for record taking purposes has other implications, as discussed further in the following section of this report.

The paper highlights some of the issues which Councillors need to be aware of regarding personal liability, including:

- *Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.*
- *To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.*
- *A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.*
- *The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.*
- *Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.*
- *Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.*

Advice received from WALGA

Advice from WALGA regarding this matter is as follows:

- The Local Government Act and Regulations do not provide any guidance in regard to the audio or visual recording of council meetings and therefore it is discretionary for each Local Government to determine.
- The McLeods Update detailing risks arising from recording meetings to be appropriate considerations for the Council
- If the Council does wish to adopt a protocol for the recording of council meetings, then it will require governance controls to be established:
 - A Council Policy, which outlines the principles for why recordings are captured, protocols for how records will be turned on / off, when dealing with confidential matters and public access to recordings. This ensures that Councillors and public are aware of how recording will be administered.
 - Recording are a Local Government record in accordance with the State Records Act. The Shire would therefore need to ensure appropriate record keeping standards are applied to the creation, retention and disposal of the meeting recordings. The State Records Office, [General Disposal Authority for Local Government Records](#) prescribes that recordings of meetings must be retained for one year after minutes have been confirmed and then destroyed (see item 25.1.2).
 - Once the recording is created, it is a Local Government record and is therefore subject to the Freedom of Information Act. This means that any person that has a right to access the record, must be provided with access. Council should therefore give consideration to the risks that

- may arise from creating recordings of Council meetings, as well as if the recordings will be made publicly available or only provided on request.
- Copies of the recordings should be subject to a suitable fee adopted as part of the Schedule of Fees and Charges.
 - It will be important for Elected Members to understand that the record of their participation in a meeting will include the recording. This record can be called as evidence in an investigation by a regulator (DLG or CCC). Therefore, it is important that Elected Members fully understand and fulfil their obligations when participating in meetings.
 - Implications for recording of public question would also need to be considered.

Consultation/Communication Implications

The matter was previously discussed with Council at its workshop on 17 February 2017. As a result of those discussions, Council did not proceed with the recording of Council Minutes.

The purpose of this report is to provide further information to Council regarding this matter and for Council to decide, on the basis of the information provided, how it wishes to proceed.

Legislative Implications

State

The *Local Government Act 1995* and subsidiary Regulations do not provide any guidance in regard to the audio or visual recording of council meetings and therefore it is discretionary for each Local Government to determine.

Local

- *Local Government (Council Meetings) Local Law 2014*

The Shire's Meetings Local Law clause 6.15 prohibiting recording of meetings states:

- (1) *A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.*
- (2) *If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.*

Policy Implications

Local Governments with similar Local Law requirements, implement a further statement in the agenda and as an announcement by the Presiding Member at each meeting, that permission has been provided for the Shire's administration to undertake recording of the meeting however, no other member of the public or Council member may record proceedings. This fulfils the obligation to advise those attending that a recording is occurring.

Financial Implications

There is a cost associated with the purchase and installation of microphones and sound recording equipment. A cost of around \$10,000 was obtained previously for a suitable system, although there may be more cost effective alternatives.

There would be administrative costs associated with the recording of Council Minutes. These have yet to be assessed and would, in part, be dependent upon the adoption of a suitable Council Policy regarding the recording of public meetings.

Strategic Implications

- Strategic Community Plan 2017-2027

Focus area: Strong leadership

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

Direct cost associated with installation of appropriate recording equipment and administration overheads associated with the process.

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 is requested to consider the matter of recording Ordinary Council Meetings and whether this is, on the basis of the research provided in this report, a direction which Council wishes to pursue.

OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Gibson

That Council:

1. Notes the report and the commentary as highlighted above and in the attachments to this report.
2. Provides direction to the Chief Executive Officer with regard to the recording of Council Minutes.

9.4.4 ALTERNATIVE MOTION / COUNCIL RESOLUTION 150618

Moved Cr King / Seconded Cr Gibson

That Council:

- 1. Affirms Council's commitment to being an accessible and transparent local government.**
- 2. Requests the Chief Executive Officer collaborate with Council to develop a draft "Council Meeting Recording" policy to be tabled at an Ordinary Council meeting before the end of 2018, with the objective ensuring a true and accurate record of the debate and decisions at meetings is available and accessible.**
- 3. Requests the Chief Executive Officer investigate the most economical options for audio and provide a report back to an Ordinary Council meeting before the end of 2018, for Council's consideration.**
- 4. Allocate \$15,000 for consideration on the draft 2018/19 budget deliberations for the purpose of installing appropriate equipment for the audio recording of Council Meetings.**

**THE ALTERNATIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

9:06PM

Jake Whistler left the meeting at 9:08PM and returned to the meeting at 9:11PM

9.4.5 Delegated Authority Register Review 2018*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	13/05/0001
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. Delegated Authority Register

Executive Summary

Council's is requested to endorse the Delegated Authority Register as per **Attachment 1**.

Council is also requested to refer the Delegated Authority Register to the next available meeting of the Audit Committee for further review.

No issues have been raised by Councillors or staff during the past 12 months and only one change has been made to the register during that time (adding Rangers to DA 27, Burning on Roadsides).

Background

In accordance with Section 5.46 of the *Local Government Act 1995*, delegations are to be reviewed at least once every financial year. The 2017 review was presented to Council on 21 June 2017.

The Chief Executive Officer and the Executive Management Team have undertaken a review of the Delegated Authority Register.

Consultation/Communication Implications

Local

Chief Executive Officer
Executive Manager Corporate Services
Executive Manager Development Services
Executive Manager Technical Services

State

WALGA

Legislative Implications

State

- *Local Government Act 1995*
 - 5.46. Register of, and records relevant to, delegations to CEO and employees**
 - (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
 - (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
 - (3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*
- *Planning and Development Act 2005* including regulations and adopted policies
- *Dog Act 1976* and regulations
- *Bush Fires Act 1954* regulations and local laws created under that Act)
- *Health (Miscellaneous Provisions) Act 1911* (as amended) regulations and local law created under that Act
- *Freedom of Information Act 1992*
- *Land Administration Act 1997* as amended and regulations
- *Litter Act 1979* and regulations
- *Local Government (Miscellaneous Provision) Act 1960* as amended
- *Caravan Parks and Camping Grounds Act 1995*
- *Control of Vehicles (Off-Road Areas) Act 1978* and regulations
- *Strata Titles Act 1985*
- *Food Act 2008*
- *Environmental Protection Act 2005*
- *Building Act 2011*
- *Public Health Act 2016*
- *Land Act 1933*

Local

Nil

Policy Implications

State

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

Council, as Delegator, is required to review their Delegations annually. In accordance with the Local Government Act 1995, s5.46(2) delegations made under Division 4 of Part 5 of the Act are to reviewed by the delegator at least once during the **financial year**.

Council is therefore requested to endorse the Delegated Authority Register; however it is proposed that the Register be also referred to the Audit Committee for further review at their next available meeting.

OFFICER RECOMMENDATION

Moved Cr Osborn / Seconded Cr Angus

That Council:

1. Endorses the Delegated Authority Register as per Attachment 1.
2. Refers the Delegated Authority Register to the Audit Committee for further review.

AMENDMENT

Moved Cr Angus / Seconded Cr Tilbury

That #2 be amended to read as follows:

- "2. Refers the Delegated Authority Register to the next Audit Committee meeting for review."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
AND FORMED PART OF THE SUBSTANTIVE MOTION
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

9:13PM

AMENDMENT

Moved Cr Gibson / Seconded Cr Angus

That #1 be deleted from the Officer Recommendation.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 4/3
AND FORMED PART OF THE SUBSTANTIVE MOTION
CRS KING, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR
CRS HOUSTON, OSBORN AND TILBURY VOTED AGAINST

9:18PM

9.4.5 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 160618

Refers the Delegated Authority Register to the next Audit Committee meeting for review

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

9:19PM

9.4.6 Formation of the Chittering Residents and Ratepayers Association*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	04/06/0001
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Letter to Residents and Ratepayers Association dated 9 May 2018 2. Briefing Notes (x4)

Executive Summary

Council is requested to formally acknowledge the formation of the Chittering Residents and Ratepayers Association.

Background

Council is aware of the recent formation of the Chittering Residents and Ratepayers Association. More specifically, Council will recall that office bearers attended the Council Briefing Session on 8 May 2018 to advise of the formation of the group and to discuss its aims and objectives. Office bearers also attended to Council Meeting on 16 May 2018 requesting a meeting with Council. As Council was unable to organise such a meeting at short notice, the Chief Executive Officer gave a commitment to meet with the office bearers to ascertain the nature of their requests.

As a result, the Deputy Shire President and Chief Executive Officer met with the office bearers on 21 May 2018. At the commencement of the meeting, the Deputy Shire President asked the group if they could provide written advice regarding the formation of the group, the aims and objectives of the group and who the office bearers are. The group was also advised that a formal report would be prepared for Council regarding the Association and requesting that Council nominates a Delegate and Deputy, as it does for other groups within the community. A letter to that effect was provided at the meeting (refer **Attachment 1**).

At the same meeting, there was discussion on a number of matters which the group had raised. A series of briefing notes were provided (see **Attachment 2**) covering off on those topics:

- Waste and Recycling
- The Proposed nbn™ Facility in Bindoon
- Interest on Overdue Rates
- Vehicles and Fuel Cards

The group has since responded to advise the names and contact details of office bearers, but is yet to provide the additional information as requested in the attached letter. The office bearers are:

- President – John Nagle
- Vice President – Dennis Boyanich
- Secretary – Josie Fern

Consultation/Communication Implications

Local

A number of Councillors attended the initial Bindoon Hall meeting regarding the formation of the group. There has since been another meeting of the group which we understand was attended by a couple of Councillors. Unfortunately, many Councillors were unaware of the second meeting.

The Chief Executive Officer has offered to meet with the Office Bearers at any time to discuss issues they may have or to provide relevant information that will assist with their deliberations.

State

Nil

Legislative Implications

State

Nil

Local

The Shire understands that the Association intends (or may have already done so) registering itself as a 'Not for Profit Incorporated Association'. However, evidence of that is still to be provided.

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

- Strategic Community Plan 2017-2027

Focus area: Our community
Objective: S1.2 Strong sense of community
Strategy: S1.2.1 Actively support community, volunteer groups and networks

Focus area: Strong leadership
Objective: S5.1 An engaged community
Strategy: S5.1.1 Encourage and promote community engagement

Objective: S5.2 Strong partnerships and relationships
Strategy: S5.2.1 Build 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

Positive engagement with community groups has a flow on effect in terms of social cohesion.

Environmental implications

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

Officer Comment/Details

Council is requested to support the Officer Recommendation.

9.4.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 170618

Moved Cr King / Seconded Cr Ross

That Council recognises:

1. The formation of the Chittering Residents and Ratepayers Association.
2. That the Association has agreed to provide additional information regarding its aims and objectives as outlined in Council's correspondence dated 9 May 2018.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

9:20PM

Cr Ross declared an Impartiality Interest in that she is a member of the Executive of the Chittering Tourist Association; where she is the representative of the Bindoon Farmers Market with no financial interest.

Cr Osborn declared the following:

1. Financial – as a part owner of Wootra Farm Bed and Breakfast, a member of the Chittering Tourist Association and appear in the annual planner. Wootra Farm (of which he is a part-owner) also sells preserves through the Chittering Tourist Association shop.
2. Impartiality – is the nominated Council Delegate to the Chittering Tourist Association.
3. A closely associate person with interests in this matter – his wife is also a member on the Chittering Tourist Association (in the position of President) and is part owner of Wootra Farm Bed and Breakfast.

Cr Osborn left the meeting at 9:20PM, and therefore did not partake in discussion or vote on the item.

9.4.7 Council resolution enabling Cr Osborn to participate and vote on matters involving the Chittering Tourist Association

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	04/18/0005; 04/18/98
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to consider a recommendation which would allow for Cr Osborn to be present and participate in matters regarding the Chittering Tourist Association (CTA) in accordance with the *Local Government Act 1995*, section 5.68(1)(b).

Background

Cr Osborn has previously recorded a Financial Conflict of Interest with regard to a previous matter involving the Chittering Tourist Association (CTA). Specifically, at the Ordinary Council Meeting on 16 May 2018, Item 9.3.2 “Memorandum of Understanding: Chittering Tourist Association Inc”; Cr Osborn declared an Impartiality Interest as he is the Council appointed Delegate on the Chittering Tourist Association Inc. It is noted that declaring an Impartiality Interest does not preclude a Councillor from participating in and voting on matters which are before the Council.

At the same time, Cr Osborn also declared a Financial Interest as he is the part-owner of Wootra Farm Bed and Breakfast, he is also a member of the CTA and his business appears in their Annual Planner. Wootra Farm Bed and Breakfast sells jams and preservatives through the Chittering Tourist Association. In terms of the specific nature of the declared Interest, Cr Osborn has since advised as follows:

In October 2015 and again in December 2017, I was elected as Council Delegate to the committee of the CTA. Along with that voluntary role I also donate a large amount of time doing maintenance and small jobs around the Visitors Centre as well as voluntary bus driver for tourism familiarisations.

Wootra Farm (Colleen and I) sells jams and preserves etc. through the Chittering Tourist Association Gift Shop; we are 1 of around 6 local preserve producers who market stock through the Centre. This financial year we so far have sold 3658 jars of product in total, mostly through

the Farmers Markets in Chittering and surrounding areas. Of that total, some 100 were sold through the CTA retail area (2.7% of total sales) for a total profit of less than \$400.

100% of the bookings for our B&B are from our website. The CTA is not a booking agency nor do they recommend places to stay. Visitors are given a sheet with all the available accommodation for them to choose from.

Following a review of Division 6 of the *Local Government Act 1995* (Disclosure of Financial Interests), it may also have been appropriate for Cr Osborn to have declared a similar interest in respect of a Closely Associated Person as defined under the Act; for the very same reasons as outlined above. By way of clarification, Cr Osborn's wife is on the Committee of the CTA (as President) and shares 50% of the Financial Interest as indicated above. At the time, Cr Osborn was unaware of the precise provisions relating to this part of the Local Government Act and has since advised that he would be more than happy to make such a declaration in the future.

In accordance with the *Local Government Act 1995*, Section 5.68, Council may resolve to allow Cr Osborn to participate and vote prior to consideration of an item in which an interest has been disclosed. Cr Osborn would need to depart the Chamber whilst Council considers such a motion.

Given that the nature of the financial interest is modest and the dollar amount involved is very small, Cr Osborn has requested, in accordance with Section 5.68(1)(b)(ii)(I) of the *Local Government Act 1995*, that Council consider providing an approval for him to participate and vote on item future matters involving the CTA. It is noted that the consideration and adoption of the 2018/19 Annual Budget will include an allocation for supporting the CTA's part-time Tourism Promotions Officer, as it has in previous years.

Consultation/Communication Implications

Advice has been sought from the Western Australian Local Government Association regarding this matter. The wording of Section 5.68 of the *Local Government Act 1995* confirms that advice.

Legislative Implications

Local

- *Local Government (Council Meetings) Local Law 2014*
Council's *Local Government (Council Meeting) Local Law 2014*, Part 12, requires that disclosures of interest are to be dealt with in accordance with the Act.

State

- *Local Government Act 1995*
The *Local Government Act 1995*, Section 5.68 states as follows:
 - (I) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter—*
 - (a) *may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
 - (b) *may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if—*
 - (i) *the disclosing member also discloses the extent of the interest; and*
 - (ii) *those members decide that the interest—*
 - (I) *is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or*
 - (II) *is common to a significant number of electors or ratepayers.*

- (2) *A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.*
- (3) *This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.*

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

Council is requested to allow the attendance of Cr Osborn to participate in debate and vote on any matters that relate to the Chittering Tourist Association.

OFFICER RECOMMENDATION

Moved Cr Tilbury / Seconded Cr Angus

That Council, in accordance with the *Local Government Act 1995*, Section 5.68, allow Cr Osborn to participate in debate and vote in regard to matters involving the Chittering Tourist Association on the basis that the extent of the Financial Interest as declared by Cr Osborn, is so trivial or insignificant as to be unlikely to influence Cr Osborn's conduct in regard to matters involving the Association.

AMENDMENT

Moved Cr Houston / Seconded Cr Angus

That the words "*Impartiality and*" be added to the Officer Recommendation so that it reads as follows:

"That Council, in accordance with the Local Government Act 1995, Section 5.68, allow Cr Osborn to participate in debate and vote in regard to matters involving the Chittering Tourist Association on the basis that the extent of the Impartiality and Financial Interest as declared by Cr Osborn, is so trivial or insignificant as to be unlikely to influence Cr Osborn's conduct in regard to matters involving the Association."

MOTION / COUNCIL RESOLUTION 180618

Moved Cr King / seconded Cr Ross

That Council suspends *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members* to allow for free and open debate.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

CRS HOUSTON, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

9:37PM

MOTION / COUNCIL RESOLUTION 190618

Moved Cr King / Seconded Cr Ross

That Council resumes *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members*.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

CRS HOUSTON, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

9:41PM

The Mover (Cr King) withdrew Amendment with support of the seconder. The Officer Recommendation was then put to Council.

9.4.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 200618

That Council, in accordance with the *Local Government Act 1995*, Section 5.68, allow Cr Osborn to participate in debate and vote in regard to matters involving the Chittering Tourist Association on the basis that the extent of the Financial Interest as declared by Cr Osborn, is so trivial or insignificant as to be unlikely to influence Cr Osborn's conduct in regard to matters involving the Association.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 4/3

CRS HOUSTON, TILBURY AND ROSS VOTED IN FAVOUR

CRS KING, ANGUS AND GIBSON VOTED AGAINST

AS THE VOTE WAS TIED CR HOUSTON CAST HIS DECIDING VOTE IN FAVOUR

9:44PM

Cr Osborn returned to the meeting at 9:44PM

10. REPORTS OF COMMITTEES

Nil

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.1 2018/2019 Fees and Charges (Cr Don Gibson)

MOTION

Moved Cr Gibson / Seconded Cr King

That Council delete the punitive charges for payment plans for rates from the 2018/2019 fees and charges.

Cr Gibson provided the following information

There is no justification for further adding to the debt of those ratepayers who are already struggling to pay rates. The payment plan charge has no connection to staff wages, which are paid regardless of the activity the staff happen to be doing. It's time we started supporting the most vulnerable members of our community instead of penalizing them for their lack of resources.

Chief Executive Officer provided the following comments

The "punitive charges" as suggested in the Notice of Motion are nothing of the sort. The charges reflect an administration fee for meeting with the resident, preparing the necessary paperwork, explaining the arrangements and entering into the payment plan. While the administration fee is supposed to recover the additional administrative burden, the fees do not, in almost all cases, cover the real cost. The implementation of fee-for-service charges is common across all levels of Government. It does not matter that the staff wages are already paid; the cumulative impact of this and all other services that the Shire provides, means that we sometimes have to rely on overtime and casual / part-time staff to stay on top of workload. The administration fee which is charged for services such as this, goes some way to assisting with those additional costs.

ALTERNATIVE MOTION

Moved Cr King / Seconded Cr Angus

That Council set a fixed administrative fee for rates payment plans at \$80.00.

MOTION / COUNCIL RESOLUTION 210618

Moved Cr King / Seconded Cr Houston

That Council suspends *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members* to allow for free and open debate.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

CRS HOUSTON, OSBORN KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

9:57PM

MOTION / COUNCIL RESOLUTION 220618

Moved Cr King / Seconded Cr Ross

That Council resumes *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members.*

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
CRS HOUSTON, OSBORN KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR
10:03PM

11.1 ALTERNATIVE MOTION / COUNCIL RESOLUTION 230618

That with the agreeance of the Mover and Seconder the Alternative Motion was amended to read as follows:

“That Council set a fixed administrative fee for new rates payment plans at \$80.00 in the 2018/19 Fees and Charges.”

THE ALTERNATIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR
10:04PM

11.2 Interest charged on overdue rates (Cr Don Gibson)**11.2 MOTION**

Moved Cr Gibson / Seconded Cr King

That Council reduce the punitive interest rate on overdue payments from 11% to 5%, in recognition of the current low official rate, and City of Swan more sensible rate of 5% interest.

THE MOTION WAS PUT AND DECLARED LOST 3/4

CRS KING, ANGUS AND GIBSON VOTED IN FAVOUR

CRS HOUSTON, OSBORN, TILBURY AND ROSS VOTED AGAINST

10:14PM

Cr Gibson provided the following information

There is no reason to continually punish the most disadvantaged residents in our community.

Chief Executive Officer provided the following comments

The *Local Government Act 1995*, S6.51 provides that:

- (1) *A local government may at the time of imposing a rate or service charge resolve* to impose interest (at the rate set in its annual budget) on —*
- (a) *a rate or service charge (or any instalment of a rate or service charge);*
and
- (b) *any costs of proceedings to recover any such charge,*
that remains unpaid after becoming due and payable.

** Absolute majority required.*

In accordance with the *Local Government (Financial Management) Regulations 1996* (as amended by Government Gazette on 29 June 2012, p 2953) the maximum rate of interest is set at 11%. The rate of interest on overdue rates and charges as set by other neighboring local governments is:

- Gingin 11%
- Dandaragan 10%
- Victoria Plains 11%
- Toodyay 11%
- Northam 11%

The rate of interest is set by Council and is now published on the reverse side of the annual rates notice. Council is at liberty to change the rate as part of its annual review of rates and charges, which is part of the annual budget process. Council has already considered rates and charges as part of the 2018/2019 annual budget process and this issue was not raised.

Comparing the Shire of Chittering with the City of Swan is not a valid comparison. By far the majority of Council's in Western Australia charge interest on overdue rates at 11%. The fact that the City of Swan uses its considerable rate base (est 135,000 residents) to subsidise these arrangements, does not make it reasonable for the Shire of Chittering (est 5,400 residents) to follow suit.

Should a ratepayer be experiencing difficulty in paying their rates or find the installment method not suitable, application can be made to the Shire (in writing) specifying the amount that can be paid and any reasons that would assist their application. This matter will then be referred to the Chief Executive Officer for determination. A copy of the "Request for Payment Arrangement" form is shown below.

REQUEST FOR PAYMENT ARRANGEMENT



6177 Great Northern Highway
PO Box 70
BINDOON WA 6502

(08) 9576 4600

chatter@chittering.wa.gov.au
www.chittering.wa.gov.au

Office Hours
8:30am – 4:30pm
Monday to Friday

Customers who wish to enter into a payment arrangement are required to complete all areas of the form. All debts are to be paid in full by 30 June of each year unless approved by senior management.

Applicant Name			
Assessment No		Invoice No	
Residential Address			
Postal Address			
Email Address			
Telephone No		Mobile No	

I wish to enter into a payment arrangement to finalise my outstanding debt as follows:

Debt Amount		Instalment Amount ¹	
Administration Fee ²		No of Instalments	
TOTAL		Payment Frequency	Weekly / Fortnightly / Monthly
Commencement Date		Day of Week	
Comments			

- 1 The minimum payment required is the total of your balance due divided by the number of months left to 30 June.
- 2 An Administration Fee will be charged as per below:

Balance less than \$2,000	\$80
Balance greater than \$2,000 but less than \$4,000	\$110
Balance greater than \$4,000 but less than \$6,000	\$130
Balance greater than \$6,000	\$150
- 3 Interest of 11%pa calculated daily will be charged on amounts outstanding after the due date of the original Rates Notice.
- 4 The last instalment will be adjusted to include interest accrued during this payment arrangement.
- 5 Default of this payment arrangement is considered a serious breach of the arrangements and may result in legal action commencing to recover the whole debt without further warning.

I agree to abide by the above payment arrangements and make funds available on the arranged due date. I acknowledge it is my responsibility to advise the Shire of Chittering, if at any time, I am unable to make a payment, prior to the due date in order to avoid the commencement of legal proceedings.

Signature Date

This payment arrangement is required to be approved by management and you will receive a confirmation letter prior to any deductions. Should you wish to alter this arrangement at any time, five (5) working days' notice is required.

OFFICE USE ONLY

Date		Arrangement Approved	Yes / No
Officer Signature		EMCS Signature	

It should also be noted that ratepayers also have the option of paying rates by four instalments. The first instalment must be made by the due date on the original notice. Full information is included on the annual Rates Information Flyer, which is distributed with the Annual Rates Notice.

11.3 Health Services Advisory Group (Cr Gordon Houston)

11.3 MOTION / COUNCIL RESOLUTION 240618

Moved Cr Houston / Seconded Cr Ross

1.a. That before consideration is given to the allocation of funding to any health service including the use of Ferguson House (or any other establishment) for aged day care respite, the Health Services Advisory Group be asked to complete their investigations into and provide as a priority to Council its findings on the needs analysis work it is undertaking in regards to health services provision in the Shire.

1.b. That as part of the health services needs analysis, or beforehand if appropriate, the Health Services Advisory Group be asked to provide comment in regard to the budget proposal as submitted by Cr Gibson for an allocation of \$30,000 to be included in the 2018/19 annual budget for the engagement of a part time nurse manager to operate Ferguson House as a day aged care respite facility two days a week.

THE MOTION WAS PUT AND DECLARED CARRIED 4/3
CRS ROSS, OSBORN, HOUSTON AND TILBURY VOTED IN FAVOUR
CRS KING, ANGUS AND GIBSON VOTED AGAINST

10:20PM

Cr Houston provided the following information

As the newly formed Health Services Advisory Group (HSAG) has been engaged in discussing a range of matters associated with the provision of health services in the Chittering Shire, including the conduct of a properly researched needs analysis as the very first step, it is considered appropriate for that group to be engaged in relation to any matter involving the provision of health services within the Shire, prior to Council making any budget allocation for that purpose.

Council is having ongoing discussions on the issue of the provision of health services to the community and while there appear to be gaps in service provision, HSAG should be given the opportunity to collect and collate background information for the needs analysis to properly define the levels of service need in the Chittering community including any requirement for high or respite care.

This will allow Council to make informed decisions on budgetary matters relating to health service provision, rather than reacting emotively to issues which should be assessed within the context of a holistic and sustainable plan of action.

In the interim, one alternative to this recurring request for alternative respite care, while the HSAG researches and presents its findings, may be to advertise for expressions of interest for the centre to be occupied in the short term by an appropriate health services provider on a nominal and casual rent basis.

However, before this alternative is considered, it would be appropriate for Council to seek initial advice from the Health Services Advisory Group on its current position around this issue. It is important (and an expectation of the ratepayers and residents of the community) that Council considers matters such as this based on all the facts so that decisions are made which are in the best interests of all the community.

Chief Executive Officer provided the following comments

The proposal should be referred to the Health Services Advisory Group for comment prior to initiating any new project or making a corresponding budget allocation.

Council would also need to consider other costs associated with such a proposal, as \$30,000 would be consumed very quickly with pure staffing costs, leaving little room to meet other essential costs such as insurances and equipment to enable the delivery of service. Additionally there would need to be consideration to the development of appropriate policies and procedures to support the work undertaken including the determination of the target group and services provided.

Council should not be reactionary or rush to put something in place that we are ill equipped to support from a Shire perspective and where there is little evidence from our community to support the proposal. It is imperative that we first understand what priority needs exist then direct resources accordingly.

11.4 Acquisition of 6138 Great Northern Highway, Bindoon (Cr George Tilbury)**11.4 MOTION / COUNCIL RESOLUTION 250618****Moved Cr Tilbury / Seconded Cr Osborn****That Council directs the Chief Executive Officer to investigate and report on the costs and circumstances pertaining to the purchase of 6138 Great Northern Highway, Bindoon by the Shire of Chittering.****THE MOTION WAS PUT AND DECLARED CARRIED 7/0****CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

10:29PM

Cr Tilbury provided the following information

Residents have approached me and expressed concern about the acquisition of this particular property, specifically in relation to the process, price paid and the subsequent cost of renovation. Some of the things that I have been told concern me, but as the acquisition was well before my time on Council, this matter needs further exploration so that the facts can be established.

Chief Executive Officer provided the following comments

Based on a preliminary review of the relevant files, the following information is provided regarding the purchase and renovation (for use as a day care / respite centre) of the Council owned property at 6138 Great Northern Highway.

The resolution to purchase the property occurred at a Special Council Meeting at Stringybark Winery on 14 January 2009. A motion was raised at the meeting that Council obtain an official valuation prior to proceeding with the purchase. The motion lapsed for want of a seconder. The motion is copied below:

*Moved Cr Tomlinson**"That Council obtain an official valuation prior to proceeding with the purchase of 6138 Great Northern Highway, Bindoon".**The motion lapsed for want of a seconder**010109**Moved Cr Douglas, seconded Cr Johnston**"That Council purchase 6138 Great Northern Highway, Bindoon for an amount of \$350,000 plus a block of land in the future development of Lot 979, Bindoon.**CARRIED [6 – 0]"*

For clarification, Lot 797 Bindoon is the old golf course site near the Medical Centre.

Details of the purchase were clarified in a letter from the Chief Executive Officer to the real estate agent dated 20 January 2009; that the offer consisted of a cash component of \$350,000 plus a block of between 350m² and 450m² in the future subdivision of Lot 979. The letter further stated that the *"block is to be provided within 3 years of the date of this letter otherwise a cash component of \$100,000 will be paid in lieu of the land"*. The purchase of the property would also have attracted Stamp Duty of around \$10,000. It is noted that \$460,000 in 2009 has the same buying power as \$548,000 in 2018, accounting for inflation and cost of living increases (using the RBA Inflation indicator).

Settlement occurred on 19 February 2009 in the sum of \$450,000 - with \$100,000 of that being a deferred payment (as per the 20 January 2009 letter). A Contract of Sale which outlined these terms was executed on 28 January 2009. The subdivision of the Council Lot 979 did not proceed and the balance of \$100,000 was paid at the end of January 2012. However, there does not appear to have been a Council resolution authorising the payment of \$100,000 in lieu of the provision of land.

At the time of purchase, the parcel of land was a triangular block of around 3,600m² with a hardi-plank clad three bedroom kit home (purchased in 1987 for \$28,500). There appears to have been a small extension to the home in 1992 to create a sitting room and larger dining area (valued at \$7,000). The owners applied for a three lot subdivision in 1995. The application was eventually approved, but does not appear to have been acted on. The approval would have lapsed in August 1998.

It is unlikely that the purchase price of \$450,000 represented market value at the time. However, this could only be determined through an historical valuation. Regardless, the Council should have obtained a formal valuation prior to proceeding with the purchase. Further, there does not appear to have been a proper assessment undertaken at the time regarding the condition of the building or the costs involved in converting it for use as a respite centre. For comparison purposes, other relevant land purchases / sales in Bindoon are provided as follows:

- Portion Lot 62 Great Northern Highway (sold to WA Retirees on 3 Nov 2014) - 36,510m² zoned townsite R10: \$530,000.
- Lot 215 Great Northern Highway (Parkinson land) - 24,072m² zoned townsite R10: \$250,000.
- 6169 Great Northern Highway - 1,011m² plus brick house in good condition: Currently on the market for \$275,000
- 6208 Great Northern Highway – 3,646m² plus hardi-plank clad three bedroom house in fair condition: Currently on the market for \$329,000.
- 1,000 sq m parcels of serviced (electricity and water) land in the Bindoon Vista Estate are currently selling for \$90,000.

Regarding the house located on Lot 6138, it was a very basic transportable / kit home some 22 years old at the time of purchase. As the intended use of the building was for a respite centre, significant works were necessary to comply with the relevant standards, particularly those relating to disabled access. In March 2010, a report to Council regarding the conversion of the house resulted in a budget allocation of \$65,000. A subsequent memo in August 2010 estimated the cost of works at \$102,000. A revised budget allocation was included in the following year's budget.

There appears to have been a Lotterywest grant for \$166,000 in 2010 for works associated with establishing the facility. The grant comprised of \$22,000 for internal chattels, \$109,000 for renovating the property and \$35,000 for Shire of Chittering works. On 14 December 2011 a tender was awarded to CPD Pty Ltd in the sum of \$157,630 (\$177,000 in today's dollars) to renovate the building for use as a day care centre.

Other issues subsequently emerged during the renovation – problems with electrical cables and insulation being chewed through (by vermin) and water damage within the existing bathroom. These resulted in a number of costly variations including the rewiring of the house and removal of the roof to replace the insulation. The final cost to renovate the property, as evidenced by the May 2012 Contract Claim, was \$179,000 (\$197,000 in today's dollars).

A 2012 grant under the Country Local Government Fund provided an additional \$40,000 (\$44,000 in today's dollars) for construction of the day centre car park. It is likely that other purchases were made to fit-out the centre, but there has been insufficient time to research this more thoroughly.

With the total price of establishing the respite centre now being \$679,000 (\$789,000 in today's dollars), it would have been significantly more cost effective for Council to have constructed a new purpose built facility on its own land. Had a proper assessment been undertaken prior to the purchase, including a valuation, this may have emerged as a viable, and most likely, the preferred outcome.

The way this matter was handled raises a number of issues:

- Council failed to obtain a formal property valuation prior to proceeding with the purchase. Moreover, Council deliberately chose not to obtain a valuation.
- The Council resolution specified the purchase price as \$350,000 plus a block of land in a future subdivision. There was no mention of a \$100,000 additional payment should the subdivision not proceed. There does not appear to be a Council resolution supporting the payment of \$100,000 in lieu of the land.
- From the information which is available regarding recent sales of R10 zoned land and other properties which are currently on the market, the price paid (\$450,000 in 2009) does not appear to reflect market value. However, this could only be verified through a formal "historical" valuation.
- There does not appear to have been a proper pre-purchase assessment of the condition of the building or of the cost of converting it for use as a respite centre. The house located on the site was a "transportable" style hardi-plank clad kit home some 22 years old and in no better than fair condition.
- The cost of converting the existing building for use as a respite centre was very high (\$179,000 including variations). From a whole of life / asset management perspective, it would have been preferable to demolish the building and to build something new in its place.
- It would have made much more sense, and would have been significantly more cost effective, for Council to have constructed a new facility on its own land.
- While this preliminary review does not represent an audit or a detailed review of all relevant documents, it is clear that the management of this project from start through to finish, including Council's involvement, leaves a lot to be desired.

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

12.1 Lot 12 (RN 1201) Chittering Road, Bullsbrook (DA-66/2016) City of Swan – Cr Aaron King

Can the Chief Executive Officer advise of the extent of the Shire of Chittering consultation in the proposed site remediation at Lot 12 (RN 1201) Chittering Road, Bullsbrook (DA-66/2016) City of Swan?

12.2 Lot 713/2929 (RN 299) Brand Highway, Muchea – Cr Aaron King

Can the Chief Executive Officer advise of the extent of the proponents of Lot 713/2929 (RN 299) Brand Highway, Muchea compliance to the Council Resolution 110313 and Resolution 030815?

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

Nil

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

14.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 260816

Moved Cr Tilbury / Seconded Cr Osborn

That Council moves into a confidential session to discuss Item 14.1 'Request to Waive Cemetery Burial Fees' 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—*
- (b) *the personal affairs of any person;*

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

10:38PM

14.1.1 **CONFIDENTIAL ITEM:** Request to Waive Cemetery Burial Fees

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	24/08/0001; 12/07/4
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Reason for confidentiality

Local Government Act 1995, s5.23(2)(b)

5.23 Meetings generally open to public

- (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 —*
- (b) the personal affairs of any person;*

Executive Summary

Council is requested to consider a request to waive fees associated with the burial of the late Mr Kevin Read.

14.2 Public reading of resolution that may be made public

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 270618

Moved Cr King / Seconded Cr Ross

That Council:

1. Waives the burial fees in respect of this particular matter and refund as appropriate.
2. Develops a new Shire policy for the waiving of cemetery burial fees that includes appropriate guidelines.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR

10:39PM

15. CLOSURE

The Presiding Member declared the meeting closed at 10:40PM.

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