

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

WEDNESDAY 21 MARCH 2018

**Wannamal Hall
Lot R9751 Bindoon-Moora Road
WANNAMAL**

Commencement: 7.00pm

Closure: 9.14pm



**Shire of
Chittering**

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 4 April 2018.



Alan Sheridan
Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 18 April 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.

TABLE OF CONTENTS

1.	DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS.....	1
2.	RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE.....	1
2.1	Attendance.....	1
2.2	Apologies.....	1
2.3	Approved leave of absence.....	1
3.	DISCLOSURE OF INTEREST.....	1
4.	PUBLIC QUESTION TIME	2
4.1	Response to previous public questions taken on notice	2
4.2	Public question time	2
4.2.1	Max Smith, Wannamal	2
4.2.2	Clint O’Neil, Chittering.....	3
4.2.3	Michelle Rossouw, Lower Chittering	4
4.2.4	Doug Fleetwood, Wannamal	5
5.	PRESENTATIONS / PETITIONS / DEPUTATIONS	5
5.1	Petitions	5
5.2	Presentations	5
5.3	Deputations.....	5
5.3.1	Item 9.1.1 “Section 31(1) of the State Administrative Tribunal Act 2004 (WA): Reconsideration of Development Approval for a Transport Depot and Warehouse/Storage Land Use on Lot 609 (formerly 195) Great Northern Highway, Chittering”	5
6.	APPLICATIONS FOR LEAVE OF ABSENCE	6
6.1	Cr Don Gibson	6
	CONFIRMATION OF MINUTES.....	6
7.1	Ordinary Meeting of Council: Wednesday 21 February 2018.....	6
8.	ANNOUNCEMENT FROM THE PRESIDING MEMBER	6
9.	REPORTS.....	7
9.1	DEVELOPMENT SERVICES.....	7
9.1.1	Section 31(1) of the State Administrative Tribunal Act 2004 (WA): Reconsideration of Development Approval for a Transport Depot and Warehouse/Storage Land Use on Lot 609 (formerly 195) Great Northern Highway, Chittering*	7
9.1.2	Withdrawal of Deed of Indemnification: Lot 841 (RN 2470) Chittering Road, Lower Chittering*	26
9.2	TECHNICAL SERVICES	29
9.3	CORPORATE SERVICES.....	29
9.3.1	Muchea Cricket Practice Nets.....	29
9.3.2	List of accounts paid for the period ending 28 February 2018*.....	34
9.3.3	Initiation for Disability Access and Inclusion Plan*	36

9.4	CHIEF EXECUTIVE OFFICER	40
9.4.1	Initiation of Repeal Local Law 2018*	40
9.4.2	Initiation of Shire of Chittering Fencing Local Law 2018*	43
9.4.3	Updates to Council Committees and Advisory Groups Booklet*	47
9.4.4	Action List: Ongoing Strategic Planning and Operational Matters*	50
10.	REPORTS OF COMMITTEES	53
10.1	Chittering Local Emergency Management Committee*	53
11.	MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	55
12.	QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	55
13.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	55
13.1	Extractive Industry (sand) Revised Traffic Management and Amendment to Development Approval: Lots 2233 and 2238 Byrne Road, Muchea*	56
13.2	Compliance Audit Return for 2017*	66
14.	MEETING CLOSED TO THE PUBLIC	69
14.1	Matters for which the meeting may be closed	69
15.	CLOSURE.....	69

* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

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

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

2.1 Attendance

The following Members were in attendance:

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

Quorum – 4 members

The following Shire staff were in attendance:

Staff	Rhona Hawkins	Executive Manager Corporate Services
	Peter Stuart	Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Natasha Mossman	Executive Support Officer (Minute Secretary)

Members of
the public 3

Media 0

2.2 Apologies

Alan Sheridan Chief Executive Officer

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

Nil

4.2 Public question time

Note: All submitted public questions have been reproduced without amendment, or correction to any typing errors. The following questions were submitted prior to the Council meeting and responses are provided:

4.2.1 Max Smith, Wannamal

(as supplied)

Question 1 In relation to North Rd and West Point Road I would like to know when we can expect to get some overhanging tree branches pruned as it is almost impossible for two LVs to pass let alone two trucks. In early November 2016 and again in November 2017 I phone the engineers dept at the shire expressing my concern about this problem. I was sent a reply letter (copy attached) dated 10/11/2017 explaining that the matter was being looked into. To date no action appears to have been taken. I and many others consider this to be a matter of urgency as millions of dollars worth of farm produce and farm requirements are transported along this road, including grain, livestock, wool, fertilizer, chemicals and lime sand to name a few. I also intend to move farm machinery, some of it oversize, from my home property located on Great Northern Highway to my other property on West Point Road. Having travelled on many other shire road throughout the state, broadacre famers in these shires are not generally subject to the hazards outlined above.

Response 1 A crew has been to North Road on two occasions to prune trees along the Road. The first time was on the 16, 17 and 18 August 2017. They were pruning more trees on the road again on the 29 January 2018. Some trees have not been done as the Shire does not have the equipment to prune higher than four metres. Due to the cost of the extra pruning for a contractor to carry out the works, a budget amount will be put in the 18/19 draft budget for Councils consideration.

Question 2 Also in relation to North Rd, the section past Monty Driessen's is very dangerous, as the road surface is 'wavy' causing unsuspecting drivers vehicles to drift sideways. I noted that portions of the road was graded last week, but all this did was shift loose dirt into the trough of the corrugations, by now this dirt will have been displaced and the road will be back to its poor condition. In my opinion this section of the road needs ripping up and redoing as it is an accident waiting to happen. My question to council is when can we expect to see some response from the shire in relation to the above two matters.

Response 2 As part of the Shires annual road works program, North Road had three kilometres of gravel re-sheeting works carried out in 16/17 financial year. As part of the Shires annual gravel sheeting road program other roads within the Shire require work it

should be noted that there is 140 kilometres of gravel roads within the shire which require works. In the 17/18 financial year, Spillman Road has money allocated to gravel sheet. As part of the 18/19 draft budget, the section of North Road as mentioned above will be included for Councils consideration.

4.2.2 Clint O'Neil, Chittering

(as supplied)

Question 1 It is my understanding the Shire's Town Planning Scheme No6 makes provision for special control areas ('SCA'). It is also my understanding that the land area encompassing the Muchea employment node ('MEN') industrial area is an SCA to preserve and protect the area for industrial/commercial type development. When considering the boundaries of the MENSACA, a submission was lodged, strongly suggesting that given the industrial/commercial type development activities in place or proposed north of the WAPC approved MEN structure plan (2011) guidance statement, that relied on a northern cadastral boundary, it was and remains in the public interest, consistent with orderly planning and development management, for the MENSACA to have hard boundaries. It was submitted that those hard boundaries be based on existing identifiable physical constraints, being Northlink Freeway to the west-south of Brand Highway, Great Northern Highway to the west – north of Brand highway, Wandena Road to the east and the MRS boundary to the south. Given the scope and nature of the current development application before Council, is it timely and appropriate for SAT to reach a determination on the following issues?

As a first issue, the SAT determines whether it is in the public interest, consistent with orderly planning and development, for the MENSACA to be bounded by hard, identifiable physical boundaries, being Northlink Freeway to the west-south of Brand Highway, Great Northern Highway to the west – north of Brand Highway, Wandena Road to the east and the MRS boundary to the south, inclusive of the land area the subject of the SAT appeal. In the event that the SAT rules to the favour of a submission for the creation of hard physical boundaries encompassing an expanded MENSACA, then; As a second issue, the SAT determines whether the proposed industrial/commercial type development can be appropriately managed under the constraints and limitations of the MENSACA.

Response 1 The subject matter of the State Administrative Tribunal appeal is whether or not a Transport Depot/Warehouse Storage land use is able to be approved on the subject lot. The State Administrative Tribunal has no jurisdiction whatsoever to determine SCA boundaries and has no authority to alter the MENSACA area. The subject land has two SCAs over the property. One being the Landscape Protection SCA and the other being Basic Raw Materials SCA. The development has been assessed and modified in response to the requirements of both SCAs.

The MENSACA does not apply to this development, as stated previously.

Question 2: My question relates to the CEO strategic and operational statement summary. I appreciate the work and effort that has gone into the summary, providing ratepayers with a transparent accounting of the work being undertaken for their benefit. Using this document as a benchmark start point and for the purpose of continuing transparent accounting for ongoing projects;

‘Will Council give consideration to updates being provided on a regular quarterly or six monthly basis, with a further update being provided in or about June 2018, providing a reasoned summary of Council’s budget deliberations that would in the main relate to Council’s strategic and operational plan?’

Response 2 As noted in the report, many of the activities are ongoing initiatives which came out of the Strategic Community Planning process and all have been the subject of previous discussion with Council; a number being specifically funded as part of the 2017/18 budget. Spreading the word is not always easy and in part relies on the Councillors (and the CEO/Senior Employees) having a conversation with residents when they attend events on either an official or unofficial basis or simply when they are out and about in the community.

The priority at this time however, is to focus on the finalization of the Corporate Business Plan – which is a five year plan that sits under the Strategic Community Plan (a 10 year plan). The Corporate Business Plan is quite a detailed document including consolidated information from the Asset Management Plans, 10 Year Road Network Program, 10 Year Buildings Program, 10 Year Fleet Program and Five Year Capital Projects Schedule. Council intends finalizing the Corporate Business Plan as part of the upcoming budget process.

Having noted the above, I would be more than happy to provide an updated summary document following the adoption of the 2018/19 Budget in July 2018. Significant information will be made available to the community when the Corporate Business plan is finalised and this should be the focus of staff attention (along with the upcoming budget process) at this time.

4.2.3 Michelle Rossouw, Lower Chittering

(as supplied)

Question 1 Thank you for your response provided to my question submitted to the Ordinary Council Meeting on the 21st February 2018. While I appreciate your response I believe my question wasn’t answered in that the information I requested was not provided, although you advised it was possible. In your response you advised that the Presidents diary bookings (but not all) are coordinated through the CEO’s ESO, and that relevant information is also available from travel claims which are submitted at the end of each quarter. I therefor[e] ask that the administration please provide a list of committee meetings (including WALGA Zone, AROC, LEMC, Landcare), invitations etc, attend by the President, including those that he was unable to attend, as accurately as possible, for the 12 months January-December 2017, together with a copy of the travel claims that the President has made over the same period?

Response 1 The question will be taken on notice as the information requested will take some time to compile.

4.2.4 Doug Fleetwood, Wannamal

The following is a summary of the questions asked during the meeting:

Question 1 Mr Fleetwood acknowledged the help that the Shire has done to maintain the Wannamal Hall and to assist the community groups in running events. First question is regarding Hay Flat Road, where a resident submitted a formal request about two years ago; since this time the section of the Road has been declared 'dangerous'. To maintain the section I know that the Shire does not have the necessary equipment, my question therefore is that maybe the Shire can purchase the necessary equipment that can ensure the Shire staff are able to undertake necessary road issues in a timely manner.

Response 1 The President took Mr Fleetwood's question on notice.

Question 2 Snakes Spring Road Bridge is very dangerous, especially after the recent rains the road has been washed away. When is the bridge going to be updated to withstand all weather conditions?

Response 2 The President directed the question to the Shire's Executive Manager Corporate Services; who advised that the Shire is now currently calling for 18/19 Budget Requests from the community. All received budget requests will be included for Council deliberations prior to adopting the 18/19 Annual Budget.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Item 9.1.1 "Section 31(1) of the State Administrative Tribunal Act 2004 (WA): Reconsideration of Development Approval for a Transport Depot and Warehouse/Storage Land Use on Lot 609 (formerly 195) Great Northern Highway, Chittering"

The applicant (Joe Douglas) made a Deputation to Council in support of Item 9.1.1 "Section 31(1) of the State Administrative Tribunal Act 2004 (WA): Reconsideration of Development Approval for a Transport Depot and Warehouse/Storage Land Use on Lot 609 (formerly 195) Great Northern Highway, Chittering".

6. APPLICATIONS FOR LEAVE OF ABSENCE

6.1 Cr Don Gibson

6.1 MOTION / COUNCIL RESOLUTION 010318

Moved Cr Tilbury / Seconded Cr King

That Council grants Cr Don Gibson 'Approved Leave of Absence' for the period inclusive of Saturday 17 March 2018 until Monday 9 April 2018.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
7:47PM

CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council: Wednesday 21 February 2018

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020318

Moved Cr Osborn / Seconded Cr Tilbury

That the minutes of the Ordinary meeting of Council held on Wednesday 21 February 2018 be confirmed as a true and correct record of proceedings.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
7:53PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Local Government Professionals Australia WA Finance Award 2018

Congratulations to the Shire's Executive Manager Corporate Services, Rhona Hawkins, who was the recipient of the "Local Government Professionals Australia WA Finance Award 2018" at the recent Finance Professionals Conference. This Award originated from a system of honours that was introduced in 2009 with the aim of formally recognizing significant contributions made by Local Government Finance Professionals in the Western Australia community and the Local Government finance sector. Rhona was nominated by the IT Vision User Group for her collaboration and involvement in the development of a new Chart of Accounts for the Local Government sector.

9. REPORTS

9.1 DEVELOPMENT SERVICES

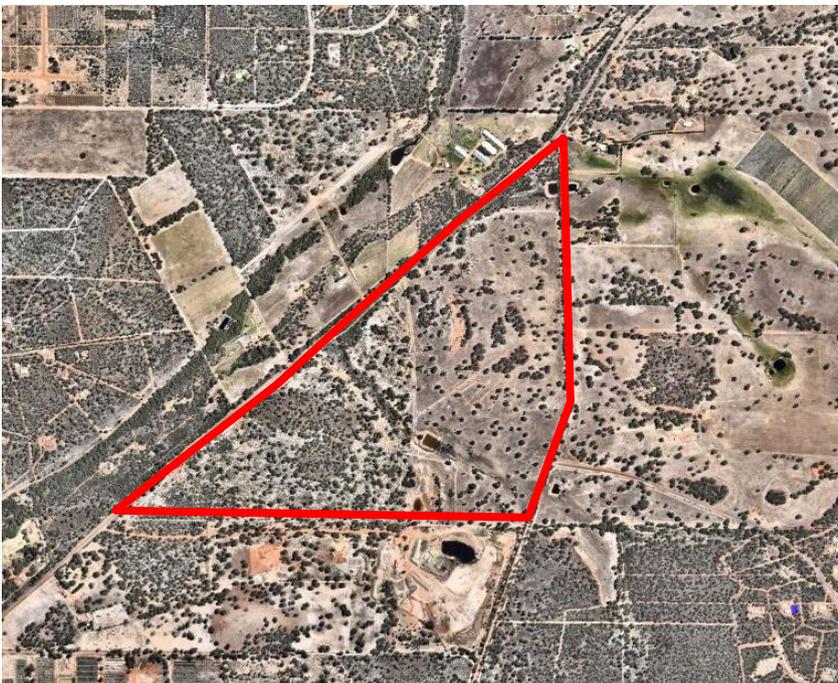
9.1.1 Section 31(1) of the State Administrative Tribunal Act 2004 (WA): Reconsideration of Development Approval for a Transport Depot and Warehouse/Storage Land Use on Lot 609 (formerly 195) Great Northern Highway, Chittering*

Report date	21 March 2018
Applicant	Exurban on behalf of Instant Products Group
File ref	A11555
Prepared by	Acting 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. Original Application, Clearing Permit and Determination by DEE2. SAT Ordered Modified Plans3. Bushfire Management Plan4. Schedule of Submissions from 2015 (updated officer comments)5. Submissions received from 2018 advertising

Executive Summary

Council's consideration is requested in order to reconsider, pursuant to Section 31(1) of the *State Administrative Tribunal Act 2004 (WA)*, an application for a Transport Depot and Warehouse/Storage land use on Lot 609 (formerly Lot 195) Great Northern Highway, Chittering. This application is proposed to be located on land located on the northern end of Muchea, at the southern boundary of the subject property. The application has been lodged since 2015, though has stagnated as a result of a need to gain clearing permits from both State and Federal Governments.

IMAGE: LOCALITY MAP



Background

Lot 609 is zoned “Agricultural Resources” under the Shire’s *Local Planning Scheme No 6* (LPS6) and is approximately 96.51ha in size. The property is also located within the Basic Raw Materials Special Control Area (BRMSCA) and the Military Considerations Special Control Area (MCSCA). This means the property is located within the original Brikmakers lots, and is located on the western side of Wandena Road. The southern adjoining lot has had an extractive industry in operation for over 10 years.

An application for development approval for a Transport Depot and Warehouse/Storage land use was received by the Shire on 7 July 2015. At this time, these land uses were “A” and “D” uses, respectively.

The application comprised an approximately 3.94ha hardstand and smaller warehouse/transport depot building in the south western corner of the property and an approximately 3.84ha hardstand and large transport depot and warehouse/storage building approximately 104m south of the existing creek line on the property.

Modified plans were received by the Shire on 5 November 2015 due to the relocation of the existing Great Northern Highway alignment. These plans included the relocation of the large transport depot and warehouse/storage structure to the south western corner of the property. This building is approximately 8,000m² and has an additional area of 6.4ha for the hardstand.

The modified plans also include two smaller transport depot structures and 1.6ha of hardstand to the north east of the larger building and approximately 100m from the creek line.

It was found by Shire officers that there is significant vegetation on the property and further information was subsequently sought. This resulted in the requirement for the applicant to submit a clearing permit application to the Department of Water and Environmental Regulation and an assessment under the *Environment Protection and Biodiversity Conservation Act 1999*. Assuming that a determination was likely to be issued within weeks of the referral, the application was placed on hold via mutual agreement, rather than being refused.

The applicant was successful in obtaining a clearing permit in November 2017 for a modified footprint area – this was some 2.3 years after the initial lodgement of the application. This permit allowed for the clearing of 12.37ha of vegetation with the condition that 15ha be rehabilitated and planted out by way of offset. Attached and marked **Attachment 1** is the original proposal, clearing permit and determination issued by Department of the Environment and Energy.

On 17 May 2017, Council initiated an Omnibus Scheme Amendment which would change the permissibility of the land uses of Transport Depot and Warehouse/Storage from discretionary land uses to “X” land uses. This would mean that these land uses would become unable to be approved on this property.

The Omnibus Amendment was adopted by Council on 13 December 2017 and was forwarded to the Department of Planning on 4 January 2018 for final adoption by the Minister.

Given the lengthy timeframe for the Shire to make a decision (due to the requirement for a clearing permit) and the pending change to land use permissibility, the applicant sought to have the matter determined by the State Administrative Tribunal (SAT) as a “deemed refusal”. Hence while Council has not previously considered this matter, the referral order made by SAT deems this application a ‘reconsideration’.

Mediation of the SAT appeal took place on 14 February 2018 and involved lengthy discussions in relation to the layout of the proposed development. It was ordered by SAT that amended plans be submitted to the Shire, advertising of the amended plans be undertaken by the Shire and the matter reconsidered at the next available Ordinary Council Meeting, being 21 March 2018.

As ordered by SAT, final amended plans were received. These plans are attached and marked **Attachment 2**.

A Bushfire Management Plan has been received in relation to the property and is attached at **Attachment 3**. It demonstrates that the development can achieve a BAL rating of up to BAL-29. Particular fire management practices will be implemented for the structures via the building permit stage.

Consultation/Communication Implications

Local

During the initial application, advertising to adjoining landowners was undertaken. A Schedule of Submissions is attached and marked **Attachment 4**.

As ordered by SAT, further advertising took place to adjoining landowners. No submissions were received during this time. It should be noted, however, that there was very little time given by SAT in relation to opportunity to comment, given the status of the Omnibus Scheme Amendment.

State

Various agencies were consulted during both advertising stages. The Schedule of Submissions received during the first round of advertising is included in **Attachment 4**. Two responses of non-objection received. These responses are comprised within **Attachment 5**.

Legislative Implications

State

- Planning and Development (Local Planning Schemes) Regulations 2015

The relevant matters to be considered under the Regulations are as follows:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*

The applicable aims of LPS6 are as follows:

- (b) *To protect good quality agricultural soils suitable for sustainable farming and horticulture from inappropriate subdivision and development for non-agricultural purposes.*

It is considered that the area proposed to be occupied by the development to be insufficient quality to sustain any agricultural or horticultural land use. Therefore, this provision is met via developing upon land that has poor soil quality.

- (c) *To ensure all developments comply with the principles of catchment management.*

Drainage and water management strategies are included as part of this application to ensure contaminants do not enter any waterways or ground water.

(g) *To protect and improve areas of remnant vegetation and, waterways from further degradation.*

Although the proposal is for the removal of approximately 12.06ha of good quality vegetation, the landowner, as a condition of clearing permission, is required to revegetate 15ha of the site in order to offset this clearing. It is, therefore, considered that, although it will take some time to re-establish the new vegetation, there will be, given time, no significant loss of vegetation.

(i) *To protect the landscape values of any designated landscape present/area/zone.*

As a result of the mediation process, the development has been moved further east to allow for the retention of approximately 70m wide strip of good quality vegetation along the new Great Northern Highway alignment to screen the development. There is also a 30m strip of vegetation to the south which will also aid in screening the development.

There will also be a requirement to landscape the grounds immediately surrounding the development structures and hardstand areas. Therefore, landscape protection has been satisfied.

(j) *To identify and protect basic raw materials resources for extraction and set standards for management and rehabilitation.*

There are basic raw materials identified on site, however is limited to the rear of the property, being along-side Wandena Road. The development has been positioned such that the BRM is not affected, and may be extracted in the future.

(k) *To promote employment opportunities to by setting aside land for light and service industry development.*

Although the property is not zoned light or general industry, the proposal may generate employment opportunities for the local community.

The objectives of the Agricultural Resource zone are to:

- (a) *Preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*
- (b) *Protect the landform and landscape values of the district against despoliation and land degradation;*
- (c) *Encourage intensive agriculture and associated tourist facilities, where appropriate;*
- (d) *Allow for the extraction of basic raw materials where it is environmentally and socially acceptable.*

In this instance, the property is not able to sustain productive agricultural uses. The proposed development will protect landscape values as well as contribute to replanting of areas that are otherwise barren. The positioning of the development footprint will also allow for the future extraction of basic raw materials present on the property.

- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*

Council has adopted in final an Omnibus Amendment in relation to the permissibility of land uses within the Shire area. This Amendment would convert the land uses of Transport Depot and Warehouse/Storage to "X" uses for Agricultural Resource zoned land. The Amendment is now with the DPLH for final adoption by the Minister of Planning.

Despite the above, the land uses of Transport Depot and Warehouse/Storage are able to be considered in this instance due to the lengthy time that the development application was with the Shire and the now SAT appeal process. It is also considered to be acceptable to consider the land uses as the Amendment process has been placed on hold by the Department of Planning Land and Heritage (DPLH) pending the outcome of this development application.

- (c) *any approved State planning policy;*

State Planning Policy 2.5 - Rural Planning is most relevant to this application. The specific requirements of this SPP will be discussed later in the report.

- (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;*

- (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;*

Generally speaking, the property is surrounded by rural land and smaller land holdings to the west on the opposite side of Great Northern Highway but no Rural Residential subdivisions.

There is an extractive industry and landfill site directly to the south of the property and an approved Transport Depot and Warehouse/Storage land use directly to the east of the property. A commercial plant nursery is also located to the south of the extractive industry and landfill site.

Given its context with the adjoining properties, it is not considered that a well screened Transport Depot and Warehouse/Storage land use would be out of character for the area. Hence the bulk, scale, positioning and size of the development, together with the retention of and future regeneration of vegetation, is not likely to negatively impact upon the surrounding area.

- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*

Water management and stormwater management plans will be required to be prepared and submitted as part of any conditional approval issued. Given the proximity of the development to the existing creek-line, it is not anticipated that the development will have any significant impact to the water course. Ground water management will also be addressed via stormwater management procedures outlined in any water management plan for the property.

- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*

Although the proposal is to remove significant vegetation, adequate provisions have been implemented via the development proposal as well as the requirement for the revegetation of 15ha under the clearing permit issued by Department of Water and Environmental Regulation.

- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*

It is considered that the land is suitable to accommodate the proposed development and a bushfire management plan will be conditioned as part of any approval.

- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*

It is not considered that there will be any risk to health or safety in relation to the proposal.

- (s) *the adequacy of—*

(i) *the proposed means of access to and egress from the site; and*

(ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

As part of the realignment of Great Northern Highway, a new access point will be constructed. This will be to MRWA standards. It is considered that this would be an adequate access point. Vehicle manoeuvring and parking will be addressed as part of the development application via the hardstand areas to be constructed. No access is proposed onto Wandena Road.

- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

Access to and from the site will be via Great Northern Highway which is currently a RAV 7 network road and capable of receiving the vehicles associated with the land use.

- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*

As a whole, it is not considered that there will be significant impact to the community. Rather it may be that the proposal could provide employment opportunities for the local community.

- (y) *any submissions received on the application;*

Submissions received during both period of consultation have been considered within the attached schedules of submissions. There are no submissions received that suggest that the proposal is detrimental to the locality.

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

Agency submissions have also been considered and are attached at **Attachment 4**.

Local

- Shire of Chittering Local Planning Scheme No 6

The aims and objectives of LPS6 have been addressed above.

The land uses of Transport Depot and Warehouse/Storage are, currently, “A” and “D” uses respectively.

Despite the lodgement of the Omnibus Amendment with DPLH, advice has been received from DPLH that the amendment has been placed on hold pending the outcome of the SAT appeal on this matter.

Given that the length of time the development application has been with the Shire, the fact that the Omnibus Amendment has been placed on hold by the DPLH and the SAT appeal, the development application is able to be considered under the existing LPS6 framework.

Policy Implications

State

- State Planning Policy 2.5 - Rural Planning

Policy Objectives:

- Support existing, expanded and future primary production through the protection of rural land, particularly priority agricultural land and land required for animal premises and/or the production of food.*
- Provide investment security for existing, expanded and future primary production and promote economic growth and regional development on rural land for rural land uses.*
- Outside of the Perth and Peel planning regions, secure significant basic raw material resources and provide for their extraction.*
- Provide a planning framework that comprehensively considers rural land and land uses, and facilitates consistent and timely decision-making.*
- Avoid and minimise land use conflicts.*
- Promote sustainable settlement in, and adjacent to, existing urban areas; and*
- Protect and sustainably manage environmental, landscape and water resource assets.*

The proposal is considered to be generally in accordance with the above objectives given the land is not capable of sustaining viable agricultural land uses. There is adequate separation distances (as outlined in the EPA’s Separation Distances Between Industrial and Sensitive Land Uses guidelines) between the proposal and Rural Residential properties to the west and the proposal will be conditioned with suitable management plans for any environmental impact.

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Economic Growth

Objective: S4.1 Economic Growth

Strategy: S4.1.1 Support private investment which stimulates significant and sustainable jobs growth

Objective: S4.2 Local Business Growth

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

An approval granted for the proposed Transport Depot and Warehouse/Storage may encourage sustainable income and employment opportunities for the Shire and would therefore be consistent with the above points.

Site Inspection

Site inspection undertaken: Yes. Mediation was initially held on site with the applicant, landowner, Executive Manager Development Services, Acting Senior Planner and Planning Officer together with the SAT member. At that site meeting, the applicant provided a demonstration of the precise siting of the buildings. The impacts were assessed in relation to the visual aspect to the Great Northern Highway, Wandena Road, and surrounding properties.

While the development is most likely to be visual from the Highway, the natural topography of the property means there is unlikely to be any visual impact from Wandena Road, or any surrounding residences.

Triple Bottom Line Assessment

Economic implications

Supporting businesses in the Shire can have the effect of increasing spending within the Shire and encourage other businesses to locate within the vicinity.

Social implications

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

Environmental implications

Any environmental implications can be remedied by appropriate management plans. It is not considered that there are any significant environmental implications that are not able to be managed.

Officer Comment/Details

Original Application

The application for development approval received in 2015 comprised a large transport depot and a smaller additional transport depot together with warehouse/storage hardstand area (see **Attachment 1**).

At that time, it was agreed that inadequate information was available to make a determination because significant vegetation was identified as being required to be removed.

Further information was required in relation to the clearing of vegetation and this resulted in the requirement for a referral under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) and a subsequent requirement for the landowner to obtain a clearing permit from the Department of Water and Environmental Regulation (DWER). Unbeknownst to anyone, this was a lengthy process which took approximately two years to complete.

A clearing permit was issued which requires the landowner to rehabilitate and revegetate 15ha of land. This is the offset required in order to clear the footprint area for the development.

Due to the lengthy period of time that it took to obtain the assessment from the Federal Department of Environment and Energy under the EPBC Act and the subsequent clearing permit from DWER, the applicant applied for review via the SAT process on the basis of a deemed refusal.

In addition to the above, the applicant considered the lodgement of the Omnibus Amendment - which would convert Transport Depot and Warehouse/Storage to "X" uses within the "Agricultural Resource" zone and preclude the landowner from applying for such a land use – be sufficient reason to lodge an appeal against the deemed refusal through SAT.

Modified Application as a Result of SAT Mediation

Following mediation of the appeal, the applicant lodged modified plans with the Shire. The modifications are outlined in **Attachment 2**.

Essentially, the overall footprint area has been reduced slightly which results in the removal of less vegetation. The development has also been moved further towards the east and north which will allow for the retention of screening vegetation.

It is proposed that an 8,000m² comprising 4,000m² enclosed structure and an additional 4,000m² open area be constructed surrounded by an 9.4ha hardstand area. This structure is to be utilised as a Transport Depot and Warehouse/Storage use for the storage and transportation of transportable structures such as toilet and shower units, site offices and sea containers.

The proposed smaller transport depot structures have been relocated towards the larger structure and this will effectively reduce the overall impact of the development as a whole. The development has also been moved towards the rear of the property to allow for additional retention of vegetation which will effectively screen the development from the view from the new alignment of Great Northern Highway. All access to and from the site will be via the entrance to the adjoining property, albeit in the short term. Once completion of the realignment of Great Northern Highway has occurred, an access way will be constructed directly onto the Highway. No access, other than emergency egress, will be permitted from Wandena Road.

In relation to the BRMSCA, from the modified plans received, it is quite possible that the structures will be constructed outside of the BRMSCA and will, therefore, not sterilise any resource that may be present on the property. The hardstand would be constructed within the BRMSCA but would be considered removable and would not sterilise any resource located underneath.

In relation to the MCSCA, as the development is not proposing residential land uses, it is considered to be an acceptable land use for the MCSCA. In relation to height and materials relative to reflective qualities, suitable conditions will be imposed in relation to the materials being non-reflective in nature and the structures themselves are not considered to be of a height which would pose any risk to flight paths.

Acceptability of the Land Use in Context with Zoning

Consideration should be given to whether the land use is suitable for the zoning of "Agricultural Resource" and whether it is considered to be too industrial in scale to be accommodated on the land.

Given that the overall land size for Lot 609 is 96.5192 ha and the proposed development area is 12.06 ha, the percentage area proposed by the development is approximately 12.5% of the entire property size. It could be considered that 12.5% of the overall landholding and given that it is proposed to contain the development within one specific, consolidated areas, is not an overindustrialisation of the site as a whole.

Effectively, the operation, whilst being of considerable size, bulk and scale, could possibly take place with very minimal impact to the locality in general. In particular, given the requirement for retention of significant vegetation and the requirement for replanting and revegetation, it may be possible for the development to be undertaken without being seen to any significant degree from Great Northern Highway or Wandena Road.

It should also be noted that there is no industrial zoned land available immediately within the Shire that would be suitable for the location of such a development as proposed by the applicant.

Given the context and proximity to a recently approved Transport Depot and Warehouse/Storage land use on the eastern and opposite side of Wandena Road and relative proximity to other Transport Depots within the general area, it is not considered that the proposed development would be out of place or context within its setting.

Therefore, it is recommended that Council issue development approval for the proposed Transport Depot and Warehouse/Storage land use on Lot 609 Great Northern Highway, Muchea subject to appropriate conditions.

OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Ross

That Council issue development approval for the land use and development of a Transport Depot and Warehouse/Storage on Lot 609 Great Northern Highway, Muchea subject to the following conditions:

1. The development of the Transport Depot and Storage/Warehouse shall be constructed and operated in accordance with the stamped approved plans and supporting documentation. The hardstand area is not to increase in size area or location without the prior approval of the Shire.
2. Within three months following the date of this approval, a Management Plan relating to the operations of the land use must be lodged with the Shire for approval. The Management Plan must, without limitation:
 - a. Confirm the type and frequency of vehicles used in conjunction with the land use;
 - b. Describe any incidental maintenance, repairs or wash downs which may be carried out;
 - c. Describe the construction specifications for any incidental maintenance, repairs or wash down areas including filtration systems and impermeable surface;
 - d. Describe spill management and hydrocarbon management procedures for vehicles; and
 - e. Describe what plant, equipment, structures or materials will be stored on site and where including maximum numbers and any incidental repairs to each category of item.

3. No hardstand area is to be used for general storage of any materials, plant or equipment other than those being listed within Point 3 of the applicant's report dated 20 February 2018, without further approval.
4. No mining industry equipment, plant, materials or machinery are permitted to be stored on the property.
5. A Landscaping Plan shall be submitted within three months of the date of approval which addresses the following:
 - a. Visual vegetation screening in relation to property boundaries and streetscape values from roads;
 - b. Identification of areas to be revegetated and rehabilitated;
 - c. Car parking landscaping;
 - d. Landscaping surrounding structures and any features;
 - e. Planting for filtration purposes for all drainage infrastructure;
 - f. Types of indigenous plant species to be planted;
 - g. Planting regime in consultation with Chittering Landcare; and
 - h. Maintenance of plants.
6. The Landscaping Plan shall be implemented by September 2019 and rehabilitation/revegetation areas shall be progressively implemented in accordance with any clearing permit issued by the Department of Water and Environmental Regulation.
7. A copy of any modified clearing permit issued by the Department of Water and Environmental Regulation shall be provided to the Shire.
8. All hardstand areas are to be designed, constructed and drained so as no area is permeable.
9. Within 60 days following the date of this approval a Water Management Plan must be lodged with the Shire for approval. The Water Management Plan must as a minimum include:
 - a. A plan/drawing showing the proposed ultimate stormwater management strategy for the land, which ensures the maintenance of surface and groundwater quality leaving the land which is reflective of the approved activities within the land;
 - b. Details as to how acceptable stormwater management outcomes will be achieved during construction work and until the proposed stormwater management works are fully implemented;
 - c. Proposed methods for nutrient and hydrocarbon filtering (including the type and make of the filtration system proposed), water quality testing, and reporting;
 - d. The location of any proposed sub-surface drainage, retention basins, exit points and connections to an external drainage network; and
 - e. Confirmation the plan is in accordance with any relevant water quality protection note.
10. The approved Water Management Plan is to be implemented and maintained in perpetuity.
11. Water quality testing is to occur on a yearly basis of the creek-line traversing the property in the locations where the water flow enters and exits the property.
12. The Shire is to be provided with the results of any water quality monitoring undertaken in accordance with the Water Management Plan.

13. The submitted Bushfire Management Plan dated 7 March 2018 is to be implemented and held into perpetuity.
14. Approval being sought and obtained from the Shire for the design of the crossover onto Wandena Road for emergency egress purposes only.
15. Any lighting of the property is to be installed in accordance with Australian Standard *AS1158.3.1* (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or adjoining land to the satisfaction of the Shire.
16. No fuel is permitted to be stored on site and no vehicle refuelling is permitted to take place without further approval.
17. In order to minimise impacts on the existing and future amenity of the locality, the following measures are to be undertaken and maintained for the life of the use:
 - a. Dust suppression is to be subject to a Dust Management Plan which is required to be submitted to the Shire for approval within three months of the date of this approval and which stipulates measures to be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties;
 - b. The operations shall comply with the requirements of the Environmental Protection (Noise) Regulations 1997 in respect to noise; and
 - c. Oversize vehicles are to be located such that visibility is minimised when not in use.
18. The operating times shall be limited to:
 - a. Monday-Friday 6:00am to 6:00pm;
 - b. Saturday 9:00am to 5:00pm; and
 - c. Sunday 10:00am to 4:00pm.Additional, exceptional operating times may be permitted in emergency circumstances only.
19. Staff and visitor car parking bays are to be designed, constructed, marked and sealed in accordance with *AS2890.1*.
20. Appropriate fencing is to be installed on the property within six months of the date of this approval.

Advice Notes

1. Hydrocarbon treatment is recommended to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".
2. The applicant is advised that the Shire's Principal Environmental Health Officer would like to undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.

MOTION / COUNCIL RESOLUTION 030318

Moved Cr Osborn / Seconded Cr King

That Council suspended *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 6/0

7:55PM

MOTION / COUNCIL RESOLUTION 040318

Moved Cr Osborn / Seconded Cr Ross

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

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

8:21PM

AMENDMENT

Moved Cr King / Seconded Cr Ross

That Condition “2.” of the Officer Recommendation is to be amended by deleting the word “three” and replacing with the word “six”, so that it reads as follows:

- “2. Within six months following the date of this approval, a Management Plan relating to the operations of the land use must be lodged with the Shire for approval. The Management Plan must, without limitation:
- a. Confirm the type and frequency of vehicles used in conjunction with the land use;
 - b. Describe any incidental maintenance, repairs or wash downs which may be carried out;
 - c. Describe the construction specifications for any incidental maintenance, repairs or wash down areas including filtration systems and impermeable surface;
 - d. Describe spill management and hydrocarbon management procedures for vehicles; and
 - e. Describe what plant, equipment, structures or materials will be stored on site and where including maximum numbers and any incidental repairs to each category of item.”

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:23PM

AMENDMENT

Moved Cr King / Seconded Cr Osborn

That Condition "4." of the Officer Recommendation is to be amended to read as follows:

- "4. That no mining industry equipment, plant, materials or machinery other than those listed within Point 3 of the applicant's report dated 20 February 2018 are permitted to be stored on the property".

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:26PM

AMENDMENT

Moved Cr King / Seconded Cr Tilbury

That Condition "5." of the Officer Recommendation is to be amended by deleting the word "three" and replacing with the word "six" , so that it reads as follows:.

- "5. A Landscaping Plan shall be submitted within six months of the date of approval which addresses the following:
- a. Visual vegetation screening in relation to property boundaries and streetscape values from roads;
 - b. Identification of areas to be revegetated and rehabilitated;
 - c. Car parking landscaping;
 - d. Landscaping surrounding structures and any features;
 - e. Planting for filtration purposes for all drainage infrastructure;
 - f. Types of indigenous plant species to be planted;
 - g. Planting regime in consultation with Chittering Landcare; and
 - h. Maintenance of plants."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:27PM

AMENDMENT

Moved Cr King / Seconded Cr Ross

That Condition "8." of the Officer Recommendation is to be deleted and the substantive motion renumbered accordingly.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:29PM

AMENDMENT

Moved Cr Osborn / Seconded Cr Tilbury

That Condition "9." of the Officer Recommendation is to be amended by deleting "60" and replace with "90"; and that a new Condition "9.f." be added to read as follows "All hardstand areas are to be designed, constructed and drained in accordance with the Water Management Plan."; so that Condition "9." now reads as follows:

- "9. Within 90 days following the date of this approval a Water Management Plan must be lodged with the Shire for approval. The Water Management Plan must as a minimum include:
- a. A plan/drawing showing the proposed ultimate stormwater management strategy for the land, which ensures the maintenance of surface and groundwater quality leaving the land which is reflective of the approved activities within the land;
 - b. Details as to how acceptable stormwater management outcomes will be achieved during construction work and until the proposed stormwater management works are fully implemented;
 - c. Proposed methods for nutrient and hydrocarbon filtering (including the type and make of the filtration system proposed), water quality testing, and reporting;
 - d. The location of any proposed sub-surface drainage, retention basins, exit points and connections to an external drainage network;
 - e. Confirmation the plan is in accordance with any relevant water quality protection note; and
 - f. All hardstand areas are to be designed, constructed and drained in accordance with the Water Management Plan."

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION**

8:32PM

AMENDMENT

Moved Cr King / Seconded Cr Ross

That Condition "16." of the Officer Recommendation is to be amended to read as follows:

- "16. Storage of fuel on the property for the purposes of the approved site operational activities is not to exceed 1,000 litres."

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION**

8:36PM

AMENDMENT

Moved Cr Tilbury / Seconded Cr Ross

That Condition "17.a." of the Officer Recommendation is to be amended by deleting the word "three" and replacing with the word "six", so that Condition "17.a." reads as follows:

"17.a. Dust suppression is to be subject to a Dust Management Plan which is required to be submitted to the Shire for approval within six months of the date of this approval and which stipulates measures to be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties;"

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:38PM

AMENDMENT

Moved Cr King / Seconded Cr Osborn

That Condition "18." of the Officer Recommendation is to be deleted and the following added as new Advice Note 3:

"3. Council recognises that the operation is potentially required to operate 24hrs a day seven days a week; however also notes that the operation is still required to comply with the legal statutes particularly in relation to noise and other environmental emissions."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:47PM

AMENDMENT

Moved Cr Tilbury / Seconded Cr King

That Condition "20." of the Officer Recommendation is to be amended by deleting the word "Appropriate" and replacing with the words "Sufficient boundary", so that Condition "20." reads as follows:

"20. Sufficient boundary fencing is to be installed on the property within six months of the date of this approval."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:49PM

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 030318

Moved Cr King / Seconded Cr Ross

That Council issue development approval for the land use and development of a Transport Depot and Warehouse/Storage on Lot 609 Great Northern Highway, Muchea subject to the following conditions:

- 1. The development of the Transport Depot and Storage/Warehouse shall be constructed and operated in accordance with the stamped approved plans and supporting documentation. The hardstand area is not to increase in size area or location without the prior approval of the Shire.**
- 2. Within six months following the date of this approval, a Management Plan relating to the operations of the land use must be lodged with the Shire for approval. The Management Plan must, without limitation:**
 - a. Confirm the type and frequency of vehicles used in conjunction with the land use;**
 - b. Describe any incidental maintenance, repairs or wash downs which may be carried out;**
 - c. Describe the construction specifications for any incidental maintenance, repairs or wash down areas including filtration systems and impermeable surface;**
 - d. Describe spill management and hydrocarbon management procedures for vehicles; and**
 - e. Describe what plant, equipment, structures or materials will be stored on site and where including maximum numbers and any incidental repairs to each category of item.**
- 3. No hardstand area is to be used for general storage of any materials, plant or equipment other than those being listed within Point 3 of the applicant's report dated 20 February 2018, without further approval.**
- 4. That no mining industry equipment, plant, materials or machinery other than those listed within Point 3 of the applicant's report dated 20 February 2018 are permitted to be stored on the property.**
- 5. A Landscaping Plan shall be submitted within six months of the date of approval which addresses the following:**
 - a. Visual vegetation screening in relation to property boundaries and streetscape values from roads;**
 - b. Identification of areas to be revegetated and rehabilitated;**
 - c. Car parking landscaping;**
 - d. Landscaping surrounding structures and any features;**
 - e. Planting for filtration purposes for all drainage infrastructure;**
 - f. Types of indigenous plant species to be planted;**
 - g. Planting regime in consultation with Chittering Landcare; and**
 - h. Maintenance of plants.**
- 6. The Landscaping Plan shall be implemented by September 2019 and rehabilitation/revegetation areas shall be progressively implemented in accordance with any clearing permit issued by the Department of Water and Environmental Regulation.**
- 7. A copy of any modified clearing permit issued by the Department of Water and Environmental Regulation shall be provided to the Shire.**

8. Within 90 days following the date of this approval a Water Management Plan must be lodged with the Shire for approval. The Water Management Plan must as a minimum include:
 - a. A plan/drawing showing the proposed ultimate stormwater management strategy for the land, which ensures the maintenance of surface and groundwater quality leaving the land which is reflective of the approved activities within the land;
 - b. Details as to how acceptable stormwater management outcomes will be achieved during construction work and until the proposed stormwater management works are fully implemented;
 - c. Proposed methods for nutrient and hydrocarbon filtering (including the type and make of the filtration system proposed), water quality testing, and reporting;
 - d. The location of any proposed sub-surface drainage, retention basins, exit points and connections to an external drainage network;
 - e. Confirmation the plan is in accordance with any relevant water quality protection note; and
 - f. All hardstand areas are to be designed, constructed and drained in accordance with the Water Management Plan.
9. The approved Water Management Plan is to be implemented and maintained in perpetuity.
10. Water quality testing is to occur on a yearly basis of the creek-line traversing the property in the locations where the water flow enters and exits the property.
11. The Shire is to be provided with the results of any water quality monitoring undertaken in accordance with the Water Management Plan.
12. The submitted Bushfire Management Plan dated 7 March 2018 is to be implemented and held into perpetuity.
13. Approval being sought and obtained from the Shire for the design of the crossover onto Wandena Road for emergency egress purposes only.
14. Any lighting of the property is to be installed in accordance with Australian Standard *AS1158.3.1* (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or adjoining land to the satisfaction of the Shire.
15. Storage of fuel on the property for the purposes of the approved site operational activities is not to exceed 1,000 litres.
16. In order to minimise impacts on the existing and future amenity of the locality, the following measures are to be undertaken and maintained for the life of the use:
 - a. Dust suppression is to be subject to a Dust Management Plan which is required to be submitted to the Shire for approval within six months of the date of this approval and which stipulates measures to be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties;
 - b. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise; and
 - c. Oversize vehicles are to be located such that visibility is minimised when not in use.
17. Staff and visitor car parking bays are to be designed, constructed, marked and sealed in accordance with *AS2890.1*.

18. Sufficient boundary fencing is to be installed on the property within six months of the date of this approval.

Advice Notes

1. Hydrocarbon treatment is recommended to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".
2. The applicant is advised that the Shire's Principal Environmental Health Officer would like to undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.
3. Council recognises that the operation is potentially required to operate 24hrs a day seven days a week; however also notes that the operation is still required to comply with the legal statutes particularly in relation to noise and other environmental emissions.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0

8:50PM

9.1.2 Withdrawal of Deed of Indemnification: Lot 841 (RN 2470) Chittering Road, Lower Chittering*

Report date	21 March 2018
Applicant	H Elkington
File ref	A11435
Prepared by	Executive Manager Development Services
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council's consideration is requested in relation to the execution of a withdrawal of Deed of Indemnification on Lot 841 Chittering Road, Lower Chittering. The purpose of the document is to indemnify the Shire of Chittering against any damage to any proposed structures developed at the subject property as a result of flooding or damage, hazard or erosion by way of water to the land and/or development. Withdrawal, or more pertinently 'lifting', of the deed is required to allow modifications to the Certificate of Title such as placing mortgage notification and adding an additional name to the holder. Once completed, the Deed will be replaced onto the Title.

Background

On 21 May 2014, Council resolved to uphold a condition of planning approval for development on the subject lot to indemnify the property against the Shire from liability as a result of flood damage. This indemnification took the form of a Caveat.

The Shire recently received an application for a new home on the property in addition to the existing shed and water tank. The approval for the shed and water tank contained the following condition of approval:

- 5. Prior to submitting a building permit, the landowner shall enter into an agreement with the Shire which shall indemnify the Shire of Chittering of liability of any damage to the shed and water tank as a result of flooding and a caveat to be placed on the property.*

Through the assessment of both applications it was sighted that the structures were proposed in a low lying area subject to water inundation. However as the flood levels are not mapped, there is no way of knowing precisely if flooding is a risk to the property owners. Put simply, the Shire is unable to deny the use of the land as residential on an assumption of flooding. However, the Shire can indemnify against the assumption.

While the owners' clear preference is to have the Caveat removed entirely, legal advice from the Shire's solicitors is equally clear on recommending retention of the Caveat. Notwithstanding, the Caveat refers to the shed being non-habitable. In this instance, the landowners are upstanding and of good integrity. There is no inference or evidence that suggests the shed would be inhabited. Accordingly, the Shire's solicitors have been instructed to remove any reference to the shed. In any event, the Health Act, among other legislature prevents the habitation of a shed building without approval from the local authority.

Accordingly, this determination is required for the lifting of the caveat and replacing it with modifications.

IMAGE: LOCALITY PLAN



Consultation/Communication Implications

Not applicable

Legislative Implications

State

- *Transfer of Land Act 1893* (as amended)
- *Land Administration Act 1997*

Local

Nil

Policy Implications

State

Nil

Local

- *Policy 1.5 Execution of Documents*
This Policy provides the guidelines for the execution of legal documents.

Financial Implications

There are no financial implications for the Shire. All costs associated with the legal works have been agreed to be borne by the applicant.

Strategic Implications

State

Nil

Local

Nil

Site Inspection

Shire officers have previously attended the site with the applicant and the applicant's builder.

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

In order to allow development of a home on the subject property, the applicant requires the deed to be temporarily lifted, pursuant to the *Transfer of Land Act 1893* (as amended). In addition, there is no requirement to place a limitation on the Title for inhabiting a shed building as this is already covered under planning, building and health legislation. The execution of this document requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040318

Moved Cr Osborn / Seconded Cr Tilbury

That Council authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal in relation to the withdrawal of Deed of Indemnification regard to the proposed development at Lot 841 Chittering Road, Lower Chittering.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:51PM

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Muchea Cricket Practice Nets

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	15/01/15
Prepared by	Community Development Officer
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	Nil

Executive Summary

Council is requested to endorse an application to the Community Sporting and Recreation Facilities Fund (CSRFF) Winter round - Small Grants through the Department of Local Government, Sport and Cultural Industries for the construction of new cricket training nets at the Muchea Hall and Oval. The total cost of project being \$73,520 requiring an allocation of \$28,962 in the Shire of Chittering 2018-2019 Annual Budget and will be contingent on the successful application to the CSRFF Small Grants for one third of the costs.

Background

The existing cricket practice nets found at the Muchea Oval no longer meet requirements for the senior and junior cricket teams housed at the Muchea Hall and Oval. Currently there are two senior cricket teams playing in the Swan Helena Districts Cricket Association as well as Milo in2Cricket, Milo T20 Blast programs and an Under 11 Team playing in the Midland Guildford Junior Competition.

There are presently two senior sized cricket practice nets at the facility positioned on the north-western side of the netball courts. As these are not enclosed, the existing nets pose a safety issue if other clubs are utilising the netball courts or children are playing on the adjoining playground, when the balls are hit directly towards them. Additionally the current nets are not safe for Cricket Club members utilising the nets as the poles inside the net cause cricket balls to ricochet at bowlers and fielders causing injuries.

Access to and use of the practice nets for all the teams is becoming increasingly challenging with the increasing membership to both the senior and junior cricket clubs, leading to occasions where the Junior Cricket Club do not have access to the training nets as there are too many players for the current facility.

At the commencement of the 2017-2018 Cricket Season the Muchea Junior Cricket Club came out of recession after several years in an effort to provide a summer sports alternative to the some 240 Chittering Junior Football Club members and 80 Muchea Netball Club members. Throughout the 2017-2018 season the Chittering Junior Cricket Club has realised this goal and now boasts 45 junior cricketers with the aim of expanding the junior teams in the 2018 -2019 season to fill all grade levels including boys u/10, u/13 and u/14 teams and girls u/10 and u/15 teams. The expected increase in membership will place increased demand on existing facilities and will necessitate the need for upgrades to the practice nets to accommodate the growth of the club.

The proposed upgrades to the cricket nets will occur on the existing site for the practice nets but will be expanded to include a third practice wicket. The three practice wickets will be enclosed in a cricket net system that will prevent balls impacting on other facility users and will enable the Cricket Club to pull back the centre nets to form a larger training area for fielding practice within the nets.

Consultation/Communication Implications

Local

Existing Annual Users to the Muchea Hall and Oval have been informed of the proposed project and were asked to provide their support and/or their endorsement to the project:

- The Muchea Senior Cricket Club were approached by the Chittering Junior Cricket Club seeking support and endorsement for upgrades to the existing cricket practice nets at the 17 January General Meeting.
- The Muchea Netball Club provided endorsement for the upgrade to the cricket practice nets via email on 20 February 2018.

Consultation was also undertaken with the Shire's Building Coordinator.

State

- A meeting was held between the Chittering Junior Cricket Club representative Lachlan Chilman and Jenifer Collins, Manager Wheatbelt – Sport and Recreation, Department of Local Government, Sport and Cultural Industries discussing the proposed project and the application process for the CRSFF Small Grants Program on 15 February 2018.
- Additionally the Western Australian Cricket Association – State Infrastructure Manager, Stuart Dart provided support to the proposed upgrades via letter on 7 February 2018.

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

The proposed project will cost a total of \$73,520 (including 10% contingency for cost escalations) and will be contingent on the successful application to the CSRFF Small Grants for 1/3 of the costs and Club contributions as outlined below:

Organisation / Contribution	Amount
Shire of Chittering	\$28,962 (including 10% contingency for project)
Department of Local Government	\$22,279
Club Cash Contribution (Chittering Junior Cricket Club and Muchea Senior Cricket Club)	\$ 5,778
Club Sponsorship contributions	\$14,221
Club in-kind (labour)	\$ 2,280
TOTAL PROJECT	\$73,520

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community
 Objective: S1.1 An active and supportive community
 Strategy: S1.1.2 Develop and enhance existing recreation and social facilities for local and communities.

Objective: S1.2 Strong sense of community
 Strategy: S1.2.1 Actively support community, volunteer groups and networks and;
 S1.2.3 Activate our local centres and towns

Focus area: Our built environment
 Objective: S3.1 Development of local hubs
 Strategy: S3.1.1 Plan for new and enhanced community facilities and;

Objective: S3.3 Improved infrastructure and amenities
 Strategy: S3.3.1 Improved asset management across all asset classes

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

Objective: S5.2 Strong partnerships and relationships
 Strategy: S5.2.1 Encouraged and promote community engagement

- Sport and Recreation Plan 2012-2022

The Shire's facility audit that was undertaken in 2012 identified the following needs for the Muchea Senior Cricket Club:

- i) Resurface cricket pitch;
- ii) New cricket pitch on the oval, included in the 10 Year Maintenance Plan; and
- iii) Replace carpet to cricket net.

- Youth Strategy 2015-2018

The survey that was undertaken to implement the Strategy revealed that young people felt that there was a lack of things to do and requests were made for more youth activities and other sporting facilities. The Action Plan within the Strategy listed that Priority Area 1 was listening to young people. The Shire will be able to achieve this by building better connections between youth and their local community through Community and Club development activities. To increase youth participation within sporting groups, clubs and community groups the Shire needs to improve the facilities that these clubs access.

State

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

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

Key Priority 4. Promoting partnerships

Site Inspection

Site inspection undertaken: Yes

The Shire Building Coordinator and Community Development Officer met with a representative of the Chittering Junior Cricket Club/Muchea Senior Cricket Club on 19 January 2018 to discuss the proposed project and potential site implications.

Triple Bottom Line Assessment

Economic implications

This project requires an allocation of \$28,962 in the Shire of Chittering 2018-2019 Annual Budget and will be subject to successful application for a CSRFF Small Grant to the Department of Local Government, Sport and Cultural Industries.

Social implications

With the anticipated population increase to the southern localities of the Shire due to State Government Projects, namely NorthLink and the Muchea Employment Node (MEN) comes the potential for Clubs within the Muchea area to see increasing membership numbers, necessitating a need for Shire investment in developing and upgrading existing facilities to meet population demands over the next 10 years and beyond.

Environmental implications

Ground water issues at Muchea have previously caused issues for the netball courts and will need to be considered as part of any upgrades to existing infrastructure.

Officer Comment/Details

The expected increase in membership will place increased demand on existing facilities and will necessitate the need for upgrades to the practice nets to accommodate the growth of the Clubs.

Completion of the project will also assist the Shire to partially meet the needs of increased population demands over the next 10 years as a result of two significant State Government Projects occurring in the Shire, namely the NorthLink - Ellenbrook to Muchea and the Muchea Employment Node (MEN).

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 050318

Moved Cr Tilbury / Seconded Cr Ross

That Council endorses the application to the Community Sporting and Recreation Facilities Fund (CSRFF) Winter Round - Small Grants through the Department of Local Government, Sport and Cultural Industries for the construction of new cricket training nets at the Muchea Hall and Oval. The total cost of project being \$73,520 requiring an allocation of \$28,962 in the Shire of Chittering 2018-2019 Annual Budget contingent on the successful application to the CSRFF Small Grants for one third of the costs.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0

8:51PM

9.3.2 List of accounts paid for the period ending 28 February 2018*

Report Date	21 March 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 28 February 2018

Executive Summary

Council is requested to receive the Accounts Paid for the period ending 28 February 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

Local

Nil

State

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

Council is requested to receive the List of Accounts Paid as at 28 February 2018 as presented.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060318

Moved Cr King / Seconded Cr Osborn

That Council endorses the List of Accounts Paid as follows:

- a. PR4109, PR4127;
- b. EFT15377 – EFT15508;
- c. Municipal Fund Cheques 14325 – 14330;
- d. Direct Debits and Transfers as listed; and
- e. Trust Fund payments as listed.

totalling \$857,031.43 for the period ending 28 February 2018.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0

8:52PM

9.3.3 Initiation for Disability Access and Inclusion Plan*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	03/01/0008
Prepared by	Executive Support Officer
Supervised by	Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. "Draft" Disability Access and Inclusion Plan 2018-2022 2. Online survey questionnaire

Executive Summary

Council's consideration is requested to proceed with advertising the "draft" Disability Access and Inclusion Plan 2018-2022 (**Attachment 1**) in accordance with the *Disability Services Act 1993, Part 5 "Disability access and inclusion plans by public authorities"*.

Background

Since 1995 it has been a requirement under the *Disability Services Act 1993* (the Act) that all public authorities prepare and implement a Disability Access and Inclusion Plan. The Act requires that all public authorities lodge a Disability Access and Inclusion Plan (DAIP) to the Disability Services Commission. Local Governments are required to report on their DAIP in their Annual Reports.

The Shire's current *Disability Access and Inclusion Plan 2012-2017* expired on 30 June 2017.

Consultation/Communication Implications

Local

It is a requirement under the *Disability Services Act 1993* that each public authority must undertake public consultation in accordance with the procedure specified in the regulations when preparing, reviewing or amending a Disability Access and Inclusion Plan.

To date the *Draft Disability Access and Inclusion Plan 2018-2022*, and community consultation survey has been prepared for review and comment by the public.

Upon resolution of this agenda item the *Draft Disability Access and Inclusion Plan 2018-2022* and Community Consultation Survey are to be advertised in the local newspaper, on the Shire of Chittering website and Facebook Page for a period of not less than six weeks. In addition, hard copies and copies in alternate formats are to be made available in the Library and on request from the Shire administration building.

State

Consultation has been provided with Department of Communities who have reviewed the document in full and provided comment and recommendation for some amendments.

Legislative Implications

National

- *Commonwealth Disability Discrimination Act 1992*
- *National Disability Insurance Scheme Act 2013*

State

- *Disability Services Act 1993*
- *Equal Opportunity Act 1984*
- *Building Act 2011*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Internal budget

In the event that funding is required to deliver projects a budget will be proposed and requested through existing budget processes. Partnerships and funding opportunities outside budget will be sought to deliver projects.

Total Asset Management

The Shire owned facilities may be upgraded and renovated to comply with universal standards that will also be applied to all future built environment and other infrastructure projects.

Strategic Implications

Local

- *Strategic Community Plan 2017-2027*

Focus area: Our community

Objective: S1.1 An active and supportive community

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

Focus area: Our built environment

Objective: S3.1 Development of local hubs

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

Focus area: Our built environment

Objective: S3.2 Safe access

Strategy: S3.2.2 Improved pedestrian and cycle access

Focus area: Our built environment
Objective: S3.3 Improved infrastructure and amenities
Strategy: S3.3.1 Improved asset management across all asset classes

State

Nil

Site Inspection

Site inspections will be undertaken by the Shire's Building Coordinator and Building Surveyor as and when required.

Triple Bottom Line Assessment

Economic implications

Increasing opportunities for all people in the Chittering community and the perception that the Shire of Chittering as an inclusive and accessible organisation and community.

Social implications

Shire residents and visitors have equal opportunity to experience everyday life activities of their choice. The Shire of Chittering is a part of that community that will provide for all members of the community.

Environmental implications

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

Officer Comment/Details

The draft Disability Access and Inclusion Plan has been developed to be a strategic guiding document for the Shire of Chittering to address access and inclusion issues impacting on the community. It identifies the Strategies and the approach that the Shire of Chittering will take to address these.

The Disability Access and Inclusion Plan list the following Strategies to improve access and inclusion:

- Outcome 1 People with disability have the same opportunities as other people to access the services of, and any events organised by, the Shire of Chittering as other people.
- Outcome 2 People with disability have the same opportunities as other people to access the buildings and other facilities of the Shire of Chittering as other people.
- Outcome 3 People with disability have the same opportunity as other people to access information in a format that will enable them to access the information as readily as other people are able to access it.
- Outcome 4 People with disability receive the same level and quality of service from the employees and Councillors of the Shire of Chittering as other people receive.
- Outcome 5 People with disability have the same opportunities as other people to make complaints to the Shire of Chittering.
- Outcome 6 People with disability have the same opportunities as other people to participate in any public consultation conducted by the Shire of Chittering.
- Outcome 7 People with disability have the same employment opportunities as other people at the Shire of Chittering to obtain and maintain employment.

An Implementation Plan that identifies initiatives to address the seven outcomes has been developed and forms part of the Disability Access and Inclusion Plan. Progress against the outcomes in the Plan will be reported to the Disability Services Commission and to the Shire of Chittering Councillors.

Council is therefore requested to release the draft Disability Access and Inclusion Plan 2018-2022 for public for a seven week period. The feedback that is received will be duly noted, and where appropriate, update/modify the Plan.

9.3.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070318

Moved Cr Osborn / Seconded Cr Tilbury

That Council releases the draft Disability Access and Inclusion Plan 2018-2022 for public comment for a period of seven weeks.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:53PM

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Initiation of Repeal Local Law 2018*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	19/04/0004
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. Draft "Repeal Local Law 2018"

Executive Summary

Council's consideration is 'requested' to proceed with advertising of the Shire's intention to make the Shire of Chittering Repeal Local Law 2018 (**Attachment 1**) in accordance with s3.12 of the *Local Government Act 1995*.

Background

At the Ordinary Council Meeting held on 15 February 2017 Council resolved to commence the review process of the Shire of Chittering's "*By-law relating to Signs, Hoardings and Bill Posting*". Following the Local Law process, the Shire advertised for public comment and at the Ordinary Council Meeting held on 21 June 2017 Council resolved to adopted the *Repeal Local Law 2017*.

Upon sending the Explanatory Memorandum Checklist and supporting documents to the Joint Standing Committee on Delegated Legislation, the Shire was advised that the *Repeal Local Law 2017* did not repeal the original "*By-law relating to Signs, Hoardings and Bill Posting*". The original By-Law was Gazetted on 7 August 1992; and an amendment was Gazetted on 20 August 1993 – which is what the *Repeal Local Law 2017* in fact repealed.

IMAGE 1: EXTRACT FROM REPEAL LOCAL LAW 2017

1.3 Repeal

The following local law is repealed—

- (a) By-laws relating to Signs, Hoardings and Bill Posting, published in the *Government Gazette* on 20 August 1993.

Accordingly, the Joint Standing Committee on Delegated Legislation have advised that as the Shire's initial intent was to repeal the original By-Law, the Shire is now required to start the s3.12 process and create a new Repeal Local Law that repeals both the "*By-Law relating to Signs, Hoardings and Bill Posting*" and "*Repeal Local Law 2017*".

Consultation/Communication Implications

When a local government considers reviewing a local law with the intent to revoke the following procedure is to be followed:

(i) Statewide and Local Public Notice

The local government is to give statewide public notice stating that the local government proposes to review the local law; and that a copy of the local law may be inspected or obtained at any place specified in the notice; and that any submissions about the local law may be made to the local government before a day to be specified in the notice, being a day that is not less than six weeks after the notice is given.

Notification will also need to be sent to the relevant Ministers.

Consultation with the local community will be in accordance with the Shire's *Community Engagement Plan 2012*.

- (ii) Review submissions received and a report submitted to Council.
(iii) Council to revoke the local law by an absolute majority.

Legislative Implications

State

- Local Government Act 1995, s3.16. Periodic review of local laws
(4) When its council has considered the report, the local government may determine* whether or not it considers that the local law should be repealed or amended.

* Absolute majority required

Policy Implications

State

Nil

Local

Nil

Financial Implications

There will be costs for publishing the public notice in The West Australian and The Advocate, which will be charged to GL 1040820.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Objective: S5.1 An engaged community

Strategy: S5.1.1 Encouraged and promote community engagement

Objective: S5.3 Accountable governance

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

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Council is requested to approve for advertising the Repeal Local Law 2018.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080318

Moved Cr Osborn / Seconded Cr Angus

That Council resolves:

- 1. To commence the review process of the Shire of Chittering By-Law Relating to Signs, Hoardings and Bill Posting (gazetted on 7 August 1992) and the Shire of Chittering Repeal Local Law 2017 in accordance with s3.16 of the *Local Government Act 1995*.**
- 2. Gives public notice of the proposed Shire of Chittering Repeal Local Law 2018 in accordance with section 3.12(3)(a) of the *Local Government Act 1995*.**
- 3. Forwards a copy of the proposed Shire of Chittering Repeal Local Law 2018 to the Minister for Local Government and Minister for Planning in accordance with section 3.12(3)(b) of the *Local Government Act 1995*.**
- 4. Requests the Chief Executive Officer prepare a further report at the conclusion of the public advertising period to enable the Council to consider any submissions made.**

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY**

8:54PM

9.4.2 Initiation of Shire of Chittering Fencing Local Law 2018*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	19/04/0012
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. OCM Minutes 14 December 2016 (Item 9.1.4 "Proposed Fencing Local Law 2017") 2. "Draft" Shire of Chittering Fencing Local Law 2018

Executive Summary

Council's consideration is 'requested' to support the proposed Shire of Chittering Fencing Local Law 2018 (**Attachment 2**) in accordance with s3.12 of the *Local Government Act 1995*.

Background

At the Ordinary Council Meeting held on 14 December 2016 (**Attachment 1**) Council resolved the following:

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 051216

Moved Cr Osborn / Seconded Cr Angus

It is recommended that the Council:

- 1. Gives public notice of the proposed Shire of Chittering Fencing Local Law 2017 in accordance with section 3.12(3)(a) of the Local Government Act 1995.*
- 2. Forward a copy of the proposed Shire of Chittering Fencing Local Law 2017 to the Minister for Local Government and Minister for Commerce in accordance with section 3.12(3)(b) of the Local Government Act 1995.*
- 3. Request the Chief Executive Officer prepare a further report at the conclusion of the public advertising period to enable the Council to consider any submissions made.*

*THE MOTION WAS PUT AND DECLARED CARRIED 5/1
8:31PM*

Accordingly the Shire gave public notice and forwarded a copy of the proposed local law to the relevant State Government agencies.

Following the consultation period, numerous changes were required to be discussed with Shire officers. WALGA also recommend that if it has been over 12 months since the initial report and public notice that the local law process should commence from scratch.

Consultation/Communication Implications

Local

Councillors

Development Services Unit

State

- Local Government Act 1995, s3.12(3)

Section 3.12(3) of the Act requires a local government to give state-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarised in the notice for a period of 50 days after it first appears.

In addition, as part of the process, local governments are required to send a copy of proposed local laws to the Minister for Local Government and in relation to this local law to the Minister for Commerce as well, being the Minister responsible for the *Dividing Fences Act 1961*.

Legislative Implications

State

- Local Government Act 1995 – Section 3.12: Procedure for Making Local Laws
- Local Government (Functions and General) Regulations 1996 – Regulation 3: Prescribed manner of giving notice of purpose and effect of the proposed local law.

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting and that the minutes of the meeting include the purpose and effect of the proposed local law:-

Purpose: The purpose of the proposed Fencing Local Law is to provide a ‘sufficient fence’ for the purposes of the *Dividing Fences Act 1961* and to prescribe the materials to be used and safety measures to be undertaken in relation to certain types of fencing.

Effect: Fencing in the Shire will need to comply with the definition of a ‘sufficient fence’ as stipulated in the proposed Fencing Local Law and its other provisions.

Local

Nil

Policy Implications

State

Nil

Local

- Local Planning Policy No 22 - Fences

The proposed Local Law is intended to sit alongside *Local Planning Policy No. 22 “Fences”* (LPP22). Clause 1.6 of the Local Law provides guidance where any conflict between other legislation occurs.

Financial Implications

Costs for advertising have been included in the Shire's 2017-18 annual budget and will be charge to GL 1040820.

Costs for Gazettal will be included in the Shire's 2018-19 annual budget.

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

The local law will ensure fencing is appropriately maintained and constructed in appropriate materials in order to ensure the amenity and safety of the Shire is upheld.

Environmental implications

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

Officer Comment/Details

The intent of this local law is to ensure that fencing throughout the Shire, particularly with rural fencing and industrial fencing is sufficient. For rural fencing, the local law will allow the Shire to enforce controls to prevent the trespass of stock onto public thoroughfares. For any industrial development, the local law will enable the Shire to strictly control the type of fencing that may be considered offensive or inappropriate such as razor wire atop three metre high vertical rail fencing. Finally, the local law will provide the Shire with additional ability to control fencing in Rural Residential estates and town centres per the definitions of a 'sufficient fence'.

Where a fence satisfies the local law, no approval is required. Generally, a fence will only be submitted for approval where sufficient justification for a fence beyond the measures of the local law is available. This will allow Ranger Services to better uphold the requirements of the local law without having to check every fence in Shire.

Finally, in relation to Council's existing *Local Planning Policy No.22 "Fences"*, the local law contains a clause which suggests that the Policy would hold hierarchy. However should Council resolve to support the Officer Recommendation to progress this local law, with the ultimate intention of formally adopting it, officers recommend once this process is completed that the Shire of Chittering *Local Planning Policy 22 – Fences* then be revoked to ensure the measures of the local law are able to be applied consistently.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090318

Moved Cr King / Seconded Cr Osborn

It is recommended that the Council:

- 1. Gives public notice of the proposed Shire of Chittering Fencing Local Law 2018 in accordance with section 3.12(3)(a) of the *Local Government Act 1995*.**
- 2. Forwards a copy of the proposed Shire of Chittering Fencing Local Law 2018 to the Minister for Local Government and Minister for Commerce in accordance with section 3.12(3)(b) of the *Local Government Act 1995*.**
- 3. Requests the Chief Executive Officer prepare a further report at the conclusion of the public advertising period to enable the Council to consider any submissions made.**

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY**

8:56PM

9.4.3 Updates to Council Committees and Advisory Groups Booklet*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	04/06/0001
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. Amended Council Committees and Advisory Groups booklet, track changes shown in red

Executive Summary

Council's consideration is 'requested' to amend the Council Committees and Advisory Groups booklet by removing the Chittering Health Advisory Group (as this is no longer an Advisory Group of Council) and updating Shire Officer details where required. The booklet is also updated to include reference to any Shire Policies.

Background

Established in the first instance by the Shire of Chittering as a response to concerned community members regarding the lack of information and the level of service delivery to residents within the Shire seeking health service options.

WACHS, Manager Western Wheatbelt Primary Health Service commenced chairing the Group as at 27 February 2018 with Shire of Chittering Community Development Officer providing administrative support to the group. The major focus for the group will be to develop a Terms of Reference (TOR) in March 2018 that sits under the District Health Advisory Group.

Expressions of interest from residents and rate payers will be sought.

Consultation/Communication Implications

Local

Community Development Officers

State

WA Country Health

Wheatbelt Primary Health Service

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Focus area: Our community

Objective: S1.1 An active and supportive community

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

Focus area: Our community

Objective: S1.3 A safe and healthy community

Strategy: S1.3.2 Advocate for improved education and health services

Focus area: Strong leadership

Objective: S5.1 An engaged community

Strategy: S5.1.1 Encourage and promote community engagement

Focus area: Strong leadership

Objective: S5.2 Strong partnerships and relationships

Strategy: S5.2.1 Build effective partnerships with stakeholders

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

Council's consideration is 'requested' to amend the Council Committees and Advisory Groups booklet by removing the Chittering Health Advisory Group (as this is no longer an Advisory Group of Council) and updating Shire Officer details where required. The booklet is also updated to include reference to any Shire Policies.

9.4.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100318

Moved Cr Ross / Seconded Cr King

That Council endorses the updated Council Committees and Advisory Groups booklet as attached (Attachment 1).

**THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY**

8:57PM

9.4.4 Action List: Ongoing Strategic Planning and Operational Matters*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	04/01/1
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Action List – Ongoing Strategic Planning and Operational Matters (Updated January 2018)

Executive Summary

Council's consideration is requested to receive the Chief Executive Officer's "Action List – Ongoing Strategic Planning and Operational Matters" dated January 2018.

The Action List (**Attachment 1**) outlines those priority strategic planning and operational initiatives (as at January 2018) which are the focus of Executive Staff resource allocation at this time.

Background

Councillors will recall that the Chief Executive Officer provided an update on Priority Strategic and Operational initiatives at the Briefing Session on 1 November 2017. At the Ordinary Council Meeting held on 15 November 2017 a Notice of Motion was raised for the Chief Executive Officer to provide a report on the background and status of Council's strategic projects.

In the supporting comments the Chief Executive Officer advised that these activities (many of which are not strategic) had been the subject of previous discussions with Council and a number had been specifically funded as part of the 2017/18 budget. It was also noted that Council has been previously briefed regarding these initiatives and that Council, as a whole, has been satisfied with the manner and form of those briefings.

While the Notice of Motion was lost, the Chief Executive Officer gave a commitment to provide a written update to Council regarding those matters. The Action List (**Attachment 1**) has been prepared with this in mind. The List was provided to Councillors on 12 January 2018 and is now presented to Council so that the same information is also available to the community.

Consultation/Communication Implications

Local

Councillors

Executive Management Team

State

Nil

Legislative Implications

State

Nil

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Items listed on the Action List are incorporated into the Shire's Annual Budget.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

The projects on the attached list (51 in total) cover a range of strategic priorities as detailed in the Community Strategic Plan. It is not practical to list all of the CSP priorities which relate to such a diverse range of projects.

State

Nil

Site Inspection

Site inspection undertaken: Yes – where applicable

As projects are actioned and a site inspection is required to be undertaken these are undertaken as and when required.

Triple Bottom Line Assessment

The projects on the attached list cover a range of issues, all of which have different levels of economic, social and environmental implications; it is not practical to list all of them in a single report

Officer Comment/Details

That the Action List attached to this report which outlines priority strategic planning and operational initiatives as at January 2018 be noted.

9.4.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110318

Moved Cr King / Seconded Cr Osborn

That Council notes the “Action List – Ongoing Strategic Planning and Operational Matters” dated January 2018.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:59PM

10. REPORTS OF COMMITTEES

10.1 Chittering Local Emergency Management Committee*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	09/02/1
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Absolute Majority
Attachments	1. "Unconfirmed" Local Emergency Management Committee meeting minutes from 28 February 2018

Executive Summary

Council's consideration is requested to endorse the appointment of the three local schools to the Committee, and to receive the "unconfirmed" minutes from the Chittering Local Emergency Management Committee meeting that was held on 28 February 2018.

Background

Following the Chittering Local Emergency Management Committee meeting held on 22 November 2017 the Committee requested that the Shire contact the local schools (Bindoon Primary School, Edmund Rice College and Immaculate Heart College) seeking their interest in joining the Committee. The three local schools were contacted and invited to attend the meeting on 28 February 2018.

At the Committee meeting held on 28 February 2018 the Committee recommended the following:

OFFICER / COMMITTEE RECOMMENDATION

Moved Dave Carroll / Seconded Jim Garrett

That the Local Emergency Management Committee membership be amended to include a representative from:

- 1. Edmund Rice College;*
- 2. Bindoon Primary School; and*
- 3. Immaculate Heart College.*

CARRIED UNANIMOUSLY

Shire officers have also requested copies of their emergency management arrangements so that they can be incorporated in the Shire's Local Emergency Management Arrangements.

Consultation/Communication Implications

Local

Chittering Local Emergency Management Committee

State

Nil

Legislative Implications

State

- *Local Government Act 1995 – Sections 5.8 and 5.11*
- *Emergency Management Act 2005, Section 39*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

- *Strategic Community Plan 2017-2027*
 - Focus area: Our community
 - Objective: S1.3 A safe and healthy community
 - Strategy: S1.3.1 Improve the safety of our community

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

Incorporating the local schools on the Local Emergency Management Committee will ensure that the Committee and the schools emergency management arrangements are coordinated effectively.

Environmental implications

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

Officer Comment/Details

Following the Chittering Local Emergency Management Committee meeting held on 28 February 2018 there was one formal recommendation to Council. Council is requested to endorse the appointment of the three local schools to the Committee and to also receive the unconfirmed minutes from the meeting.

10.1 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION 120318

Moved Cr Tilbury / Seconded Cr Osborn

That Council:

1. endorses the appointment to the Chittering Local Emergency Management Committee and update the Council Committees and Advisory Groups booklet accordingly:
 - a. Bindoon Primary School
 - b. Edmund Rice College
 - c. Immaculate Heart College.
2. Receives the unconfirmed minutes from the Chittering Local Emergency Management Committee meeting held on 28 February 2018.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
BY AN ABSOLUTE MAJORITY

9:00PM

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

MOTION / COUNCIL RESOLUTION 130318

Moved Cr King / Seconded Cr Ross

That Council, in accordance with c5.4(2) of *Local Government (Council Meetings) Local Law 2014* deal with Items:

1. 13.1 Extractive Industry (sand) Revised Traffic Management and Amendment to Development Approval: Lots 2233 and 2238 Byrne Road, Muchea; and
2. 13.2 Compliance Audit Return for 2017,

as the matters are unable to be dealt with administratively by the local government and must be considered and dealt with by Council before the next meeting.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9:01PM

13.1 Extractive Industry (sand) Revised Traffic Management and Amendment to Development Approval: Lots 2233 and 2238 Byrne Road, Muchea*

Report date	21 March 2018
Applicant	PMR Quarries Pty Ltd
File ref	A11718; P041/17; P025/18; Part Lots P119592 and P121737
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 amendment documents2. Applicant's original report3. Received submission

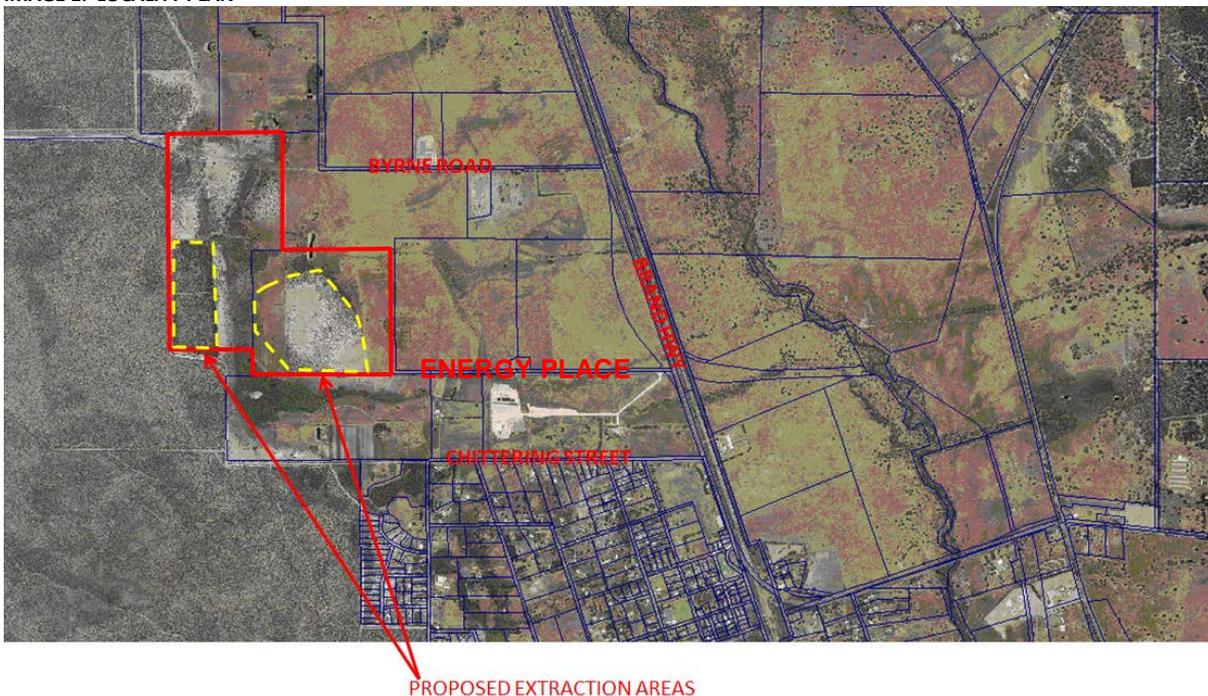
Executive Summary

Council's consideration is requested in relation to a proposed amendment to the development approval granted in June 2017 for sand extraction at Lots 2233 and 2238 Byrne Road.

The application originally sought to access the site via Byrne Road and Council subsequently conditioned the approval as such. However, the applicant is now seeking to amend this condition, in particular "Condition 6", to allow for access to the site via Energy Place. This Road is a mostly unsealed road located to the south of the subject site.

In addition to this, the applicant also requests an amendment to the approved application in order to increase the number of heavy vehicle movements from 10 per hour to 60 vehicles (i.e. 30 vehicles in and 30 vehicles out) per hour (VPH) during peak hour. The application to amend Condition 6 is required to be determined by Council as Shire officers do not have Delegated Authority to change Council's resolution.

IMAGE 1: LOCALITY PLAN



Background

Lots 2233 and 2238 Byrne Road, Muchea form part of RN757 Brand Highway and is located approximately 600 metres north of the Muchea Townsite. The subject properties, currently predominantly used for cattle grazing, are 80.96 and 64.73 hectares in area respectively.

The original application outlined that extracted sand was to be carried north of the pits and exit onto Brand Highway via Byrne Road.

The sand is proposed to be used for the construction of the NorthLink WA Project. Due to the presence of the Dampier to Bunbury National Gas Pipeline (DBNGP) and the requirement to cross it to access Byrne Road, the exact route that vehicles would use through the property to access the road was to be confirmed by the applicant prior to the issue of an Extractive License.

In relation to the sites internal and external access, Council's recommendation included the below Condition:

6. Byrne Road

Access and egress to the site via Byrne Road is subject to the following:

- a. *Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of Byrne Road to the satisfaction of the Shire;*
- b. *A levy of 0.50c 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;*
- c. *The two existing crossings on Byrne Road and any new crossings will need to be formally assessed to the satisfaction of DBP with the cost of investigation and any additional protection measures identified being at the cost of the applicant;*
- d. *Prior to the issuing of an extractive industry license, the applicant is to provide the Shire and the DBP with a Traffic Management Plan displaying the proposed routes that vehicles will be taking to access the extractive pits from Byrne Road, in accordance with Transport Impact Guidelines and including any legal agreements pertaining to access and egress for the lots from Byrne Road;*
- e. *The applicant is to maintain the crossover to Brand Highway to the satisfaction of the Shire and Main Roads Western Australia;*
- f. *Prior to the issue of an extractive industry license the applicant shall enter into an agreement with the Shire for payment of fees for the upgrade and maintenance of Byrne Road.*

It should be noted that Council's Resolution did not specifically prohibit the use of Energy Place to transport the material. Notwithstanding, the applicant's original report specified that only Byrne Road would be used to haul sand and as such, Shire Officers assessed the application and made a recommendation to Council on this basis.

The current application to amend the Development Approval requests that access to Brand Highway be via Energy Place as opposed to Byrne Road. The amendment documents outline the change in access is as a result of correspondence received from the Australian Gas Infrastructure Group (AGIG), who manages the pipeline traversing the property. The email from AGIG (**Attachment 1**) states that new pipeline crossings on the lot will not be supported because there an existing, alternative crossover located at Energy Place.

Energy Place is generally utilised by DBNGP associated employees undertaking maintenance and monitoring works on the pipeline as well as landowners of the southern property adjacent to Brand Highway. The Road is sealed for a portion of 109 metres with the remaining road being gravel. While Energy Place is surrounded by rural properties, it should be noted that it is approximately 1.2 km closer to the Muchea townsite than Byrne Road.

In addition to the above, the previous Council Resolution restricts vehicle movements to no more than 10 per hour:

7. *In addition to Condition "6.d.", vehicle movements relating to the extractive industry is limited to ten (10) heavy vehicle movements per hour. Additional movements may be permitted provided a traffic management plan is submitted and approved by the Shire identifying how the road network is capable of managing the impacts of additional traffic in accordance with the Transport Impact Assessment (TIA) guidelines prepared by the Department of Planning.*

The applicant is now seeking permission to increase heavy vehicle movements to up to 60 per hour (30 in and 30 out) during peak periods but not exceeding 252 Vehicles per day. A Transport Impact Statement (TIS) (**Attachment 1**) has been provided by the applicant. It is not considered, however, that Condition 7 is required to be amended, given that it allows Shire Officers, under Delegated Authority, to assess the TIS and subsequently grant approval if the number of vehicles is considered acceptable.

Consultation/Communication Implications

Local

Three landowners directly south of Energy Place were referred the amendment to the application as it is considered that these are the properties directly affected by the modification. During the consultation period, the Shire received one submission responding to the proposal. The one response was submitted on behalf of two of the three lots and is attached in **Attachment 3**.

State

No additional State consultation was undertaken.

Legislative Implications

State

- *Planning and Development Act (2005)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
 - Cl. 67 *Matters to be considered by Local Government*

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application

 - (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
 - (c) *any approved State planning policy;*
 - (g) *any local planning policy for the Scheme area;*

- (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;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (s) *the adequacy of—*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*

The amendment relates to increased traffic and an alternate haulage route for the carrying of sand. Increased dust and noise exposure to southern adjoining landowners as well as the Muchea Townsite as a result are possible impacts associated with amending the approved application.

The submission received during the consultation period also raised concern for the impact the amended haulage route may have on the existing, adjoining organic market garden. The submitter highlighted that increased dust in proximity of the market garden may have detrimental effects to crops.

The previous application approved in July 2017 outlined dust control measures within a Dust Management Plan. Specific measures include suppression via a water truck and other water usage methods. The Dust Management Plan lodged with the previous application states:

“When excessive dust is noted dust management measures will be implemented to treat the dust or manage the situation. A water truck will be available when required as deemed by the site manager. The haul road will be watered as necessary to reduce the generation of dust in the drier months.” In addition to this, *“liaison with the closest sensitive premises who are in a position to alert the operators as required. Liaison with the closest residents assist residents who feel they have an effective voice, when it is used well. People within the program will be provided with a copy of the Dust Management Plan and phone and email contacts that can be used in the event that visible dust is noticed crossing the site boundary.”*

The report advises the complaints record will be available to officers at the Shire. These same measures are proposed in the amendment documents to reduce excessive dust.

The dust control procedures were previously approved at the July 2017 Ordinary Council Meeting. The Dust Management Plan has not altered since this time and appears to be sufficient in managing the proposed amended haulage route. Along with the dust control measures, a number of trees along the Energy Place road reserve may also act as a buffer for dust and noise. Furthermore, the applicant's approved plans propose a 25 metre (increased to 50 metres by Council) vegetation buffer along a portion of the southern boundary. This may also assist in minimising spreading of dust produced during operations.

The applicant's Traffic Impact Statement (TIA) advises extraction of sand from Lots 2233 and 2238 is to take place for approximately 12 months. Given this, it is anticipated that any impacts to surrounding property will be short term.

One lot south of the lots containing the proposed haulage route appears to access Brand Highway via Energy Place. Given the current land uses as well as the access road running through the property, towards Energy Place is sealed, it would be assumed that significant traffic is generated from the property. The applicant's TIS outlines current traffic on Energy Place is low and that a safe gap in oncoming traffic should be available to enter safely. Further to this, the length of road which both parties will both be using is relatively short (approximately 70m), therefore minimising the level of traffic management required as vehicles will be travelling at a lower speed to prepare to access Brand Highway. The TIS states temporary traffic management and speed reductions can be implemented to cope with increased heavy vehicle numbers on Energy Place.

The revised access plan shows only small portions of Energy Place being used, this being a 125m section of the pipeline crossing as well as the 109m section of where the access route intersects with Energy Place.

In addition to the above, it should be noted the applicant's main reasoning for altering the approved route is to avoid crossing the gas pipeline easement traversing the site in a location other than the existing Energy Place crossing. *Draft Development Control State Planning Policy 4.3 – Planning for High-Pressure Gas Pipelines* requires that all development affecting land within the pipeline be accompanied by evidence of consultation with any relevant pipeline owner/operator. In this case, AGIG have not supported crossing the pipeline in the applicant's desired location (near Byrne Road) given an existing crossing is available on Energy Place. Consequently, the applicant has proposed an alternate route.

77. *Amending or cancelling development approval*

(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 approved must be substantially commenced;*
- (b) *to amend or delete any condition to which the approval is subject;*

- *Dampier to Bunbury Pipeline Act 1997 (DBPA)*

The above legislation requires referral of all development applications to the governing body for the pipeline. As a Condition of the June 2017 approval, the applicant was required to outline the proposed haulage route through the property and refer this to the pipeline operators. As stated above, AGIG were not supportive of an additional pipeline crossing.

Local

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

Under LPS6, 757 Brand Highway is zoned “Agricultural Resource”. The objectives of this zone are, per Clause 3.2.5, to:

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

The proposal can be considered consistent with point four. This is providing adequate dust control measures are undertaken in accordance with the approved Dust Management Plan. Failure to implement adequate controls may result in detrimental effects to abutting rural land uses.

While movements may still seem a large amount, it is acknowledged the applicant has limited options in relation to access and the increase in traffic will only be for a period of 12 to 18 months.

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

- 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;*
- 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;*
- Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;*
- 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.*

Part “c)” is particularly relevant in assessing this amendment. In this instance the proposed dust management measures are sufficient to allow the abutting rural land uses, such as an organic market garden, to continue operating without significant impact to produce.

- Shire of Chittering Extractive Industries Local Law 2014

Clause 3.2 (1)(a) *Transport of materials* of the Local Law allows the local government to determine alternative routes to be taken by the licensee for the transport of materials from the site through the roads within the district.

Further to this, the Shire is also able to require the licensee to pay all or part of the costs of any road upgrade. Energy Place is currently a RAV 4 network, while Brand Highway is a RAV 7. The Traffic Impact statement (TIS) states the intersection of the two roads may need to be upgraded. Additionally, Energy Place is required to be widened to handle RAV 4 access. Upgrading of the road networks may also assist in minimising excessive dust in the locality.

Policy Implications

State

- Transport Impact Assessment Guidelines (Department of Planning Lands and Heritage)
The previous approval required a Traffic Management Plan be lodged in accordance with the abovementioned guidelines if the number of heavy vehicle movements were to exceed 10 per hour. The applicant has satisfied this condition. The recommendations of the TIS are for the redesign and upgrade of the Energy Place and Brand Highway intersection, as well as the widening of Energy Place to suit RAV 4 vehicles.
- Draft Development Control State Planning Policy 4.3 – Planning for High-Pressure Gas Pipelines
Draft Development Control State Planning Policy 4.3 – Planning for High-Pressure Gas Pipelines requires that all development affecting land within the pipeline be accompanied by evidence of consultation with any relevant pipeline owner/operator. In this case, AGIG have not supported crossing the pipeline in the applicant's desired location (near Byrne road) given an existing crossing is available on Energy Place. Consequently, the applicant has proposed an alternate route.
- State Planning Policy 2.5 Agricultural and Rural Land Use Planning (SPP 2.5)
Section 5.9 of the policy measures within the document do not specifically relate to the proposed amendments to the approved application. However, the fact sheet outlines in further detail matters decision makers are to consider when making a determination, these being transport management, noise and vibration, dust and management plans.

Local

- Local Planning Policy 10 - Basic Raw Materials and Extractive Industries (LPP 10)
Section 5.4(a)(vii) states Council prefers extractive industries that have direct access to Brand or Great Northern Highways. With the exception of a small portion of Energy Place, the proposed alternate route allows for material to travel almost directly from the site onto Brand Highway.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

A site inspection was undertaken in late February. During the inspection it was noted a number of heavy vehicles were already accessing the subject property via Energy Place. It is understood the access road has already commenced construction.

Triple Bottom Line Assessment

Economic implications

The proposal is unlikely to benefit the local economy in the short term. The proposal is intended to provide material for the construction of the new highway alignment with a local material which will serve to improve the economics of the construction.

Social implications

The submission received from neighbouring landowners raised concerns for the amount of dust generated from the proposed amendment to the haulage route and the affect the dust would have on crops and employees.

In addition to dust, increased traffic along the lower portion of the lots will cause vibrations and noise during operating hours.

Environmental implications

Dust can be detrimental to surrounding rural land uses if too excessive. As mentioned throughout the report, the neighbouring organic market gardens have the potential to be impacted if dust is not effectively managed.

Officer Comment/Details

The Extractive Industry at Lots 2233 and 2238 was initially approved at the July Ordinary Council Meeting in 2017. The applicant now wishes to amend the approval, namely Condition 6, to allow for vehicles to access the site via Energy Place rather than Byrne Road. The applicants reasoning for requesting the change is due to AGIG not being supportive of the proposed crossing of the pipeline to access Byrne Road.

Condition 6 is recommended to be amended in order to allow for the proposed haulage route to access Energy Place. The amended haulage route attempts to somewhat avoid close proximity to southern, adjoining lots where possible however, it is considered that some impacts may be felt on these properties as a result of the proposed amended route, these being increased dust, noise and vibration.

The applicant has provided an extensive Dust Management Plan outlining various procedures and methods for dealing with the issues. This includes a water truck to suppress dust generated from the haulage road as well as a complaints program available to nearby landowners. The Dust Management Plan remains approved under the previous planning application and is also deemed to be sufficient for the proposed amended haulage route.

In relation to noise, the applicant is still required to comply with the *Environmental Protection (Noise) Regulations 1997*.

It is acknowledged that some impact will be felt by adjoining and nearby land owners as a result of the amended haulage route. However, the applicant is limited as to where materials can be transported, given AGIG will not support an additional crossing of the pipeline. The increased traffic will also be for a relatively short period of approximately 12 to 18 months and is necessary to source local resources for the purpose of the construction of the new highway.

OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Tilbury

That Council amend Condition "6." of the previous development approval (P041/17 dated 21 June 2017) for Extractive Industry (sand) at Lots 2233 and 2238 Byrne Road to read as follows:

Conditions:

6. Access and Egress to the site via Energy Place is subject to the following:
Energy Place between Brand Highway and the access point to Lots 2233 and 2238 must be maintained by the proponent until all pits are decommissioned and rehabilitated satisfactorily in accordance with this approval.

In order to ensure compliance with this Condition, the applicant must:

- a. pay to the Shire on a monthly basis a levy of \$0.50c per tonne of material extracted, which the Shire may use to maintain and upgrade the roads used for access to the pit; or
- b. 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 \$100,000 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; or
- c. provide proof of currency with a government authority of a pre-existing and current legal requirement for the purpose of maintaining and upgrading the access roads in default by the applicant.

AMENDMENT

Moved Cr Osborn / Seconded Cr Ross

That the following Condition "24." be added to the previous development approval (P041/17 dated 21 June 2017) for Extractive Industry (sand) at Lots 2233 and 2238 Byrne Road to read as follows:

- "24. No use of Shire owned local roads other than the specific portion of Energy Place outlined in the approved Traffic Impact Statement is permitted for the purposes of carting road building material from the subject site."

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

9:13PM

13.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 140318

Moved Cr King / Seconded Cr Tilbury

That Council amend Condition "6." and add a new Condition "24." of the previous development approval (P041/17 dated 21 June 2017) for Extractive Industry (sand) at Lots 2233 and 2238 Byrne Road to read as follows:

Conditions:

6. Access and Egress to the site via Energy Place is subject to the following:
Energy Place between Brand Highway and the access point to Lots 2233 and 2238 must be maintained by the proponent until all pits are decommissioned and rehabilitated satisfactorily in accordance with this approval.

In order to ensure compliance with this Condition, the applicant must:

- a. pay to the Shire on a monthly basis a levy of \$0.50c per tonne of material extracted, which

- the Shire may use to maintain and upgrade the roads used for access to the pit; or
- b. 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 \$100,000 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; or
 - c. provide proof of currency with a government authority of a pre-existing and current legal requirement for the purpose of maintaining and upgrading the access roads in default by the applicant.

24. No use of Shire owned local roads other than the specific portion of Energy Place outlined in the approved Traffic Impact Statement is permitted for the purposes of carting road building material from the subject site.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0
9:13PM

13.2 Compliance Audit Return for 2017*

Report date	21 March 2018
Applicant	Shire of Chittering
File ref	04/02/0002
Prepared by	Executive Support Officer
Supervised by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	1. Compliance Audit Return for 2017

Executive Summary

Council's consideration is requested to adopt the completed Compliance Audit Return for 2017 that was presented to the Chittering Audit Committee on 21 March 2018.

Background

A meeting of the Audit Committee was held on 21 March 2018, where there was one formal recommendation to Council as follows:

6.2 OFFICER/COMMITTEE RECOMMENDATION

That the Audit Committee reviews the Local Government Compliance Audit Return for the period 1 January 2017 to 31 December 2017 and presents to Council for adoption.

Consultation/Communication Implications

Local

Chittering Audit Committee
Chief Executive Officer
Executive Manager Corporate Services
Executive Manager Technical Services

State

Moore Stephens

Legislative Implications

State

- *Local Government Act 1995*
- *Local Government (Functions and General) Regulations*
- *Local Government (Administration) Regulations*
- *Local Government (Rules of Conduct) Regulations*
- *Local Government (Elections) Regulations*
- *Local Government (Audit) Regulations*

Local

Nil

Policy Implications

State

Nil

Local

Nil

Financial Implications

Nil

Strategic Implications

Local

Nil

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

The CAR for the 2017 calendar year has been completed by the Chief Executive Officer, Executive Manager Corporate Services, Executive Manager Technical Services and the Executive Support Officer.

The CAR for 2017 continues in the reduced format introduced in 2011, with the areas of compliance restricted to those considered high risk.

The areas of compliance for 2017 are as follows:

Commercial Enterprise by Local Governments

No noted areas on non-compliance.

Delegation of Power/Duty

No noted areas of non-compliance.

Disclosure of Interest

No noted areas of non-compliance.

Disposal of Property

No noted areas of non-compliance.

Elections

No noted areas of non-compliance.

Finance

No noted areas of non-compliance.

Integrated Planning and Reporting

No noted areas of non-compliance.

Local Government Employees

No noted areas of non-compliance.

Official Conduct

No noted areas of non-compliance.

Tendering for Providing Goods and Services

No noted areas of non-compliance.

The Compliance Audit Return is required to be adopted by Council and submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2018.

The unconfirmed minutes from the Audit Committee meeting will be presented to at the Ordinary Meeting of Council scheduled for 18 April 2018.

13.2 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION 150318

Moved Cr Tilbury / Seconded Cr Osborn

That Council:

- 1. endorses the Local Government Compliance Audit Return for the period 1 January 2017 to 31 December 2017 as detailed in Attachment 1.**
- 2. authorises the Shire President and Chief Executive Officer to sign the Local Government Compliance Audit Return for the period 1 January 2017 to 31 December 2017 as detailed in Attachment 1 and submit it to the Department of Local Government, Sport and Cultural Industries.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0

9:14PM

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 9:14PM.



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