



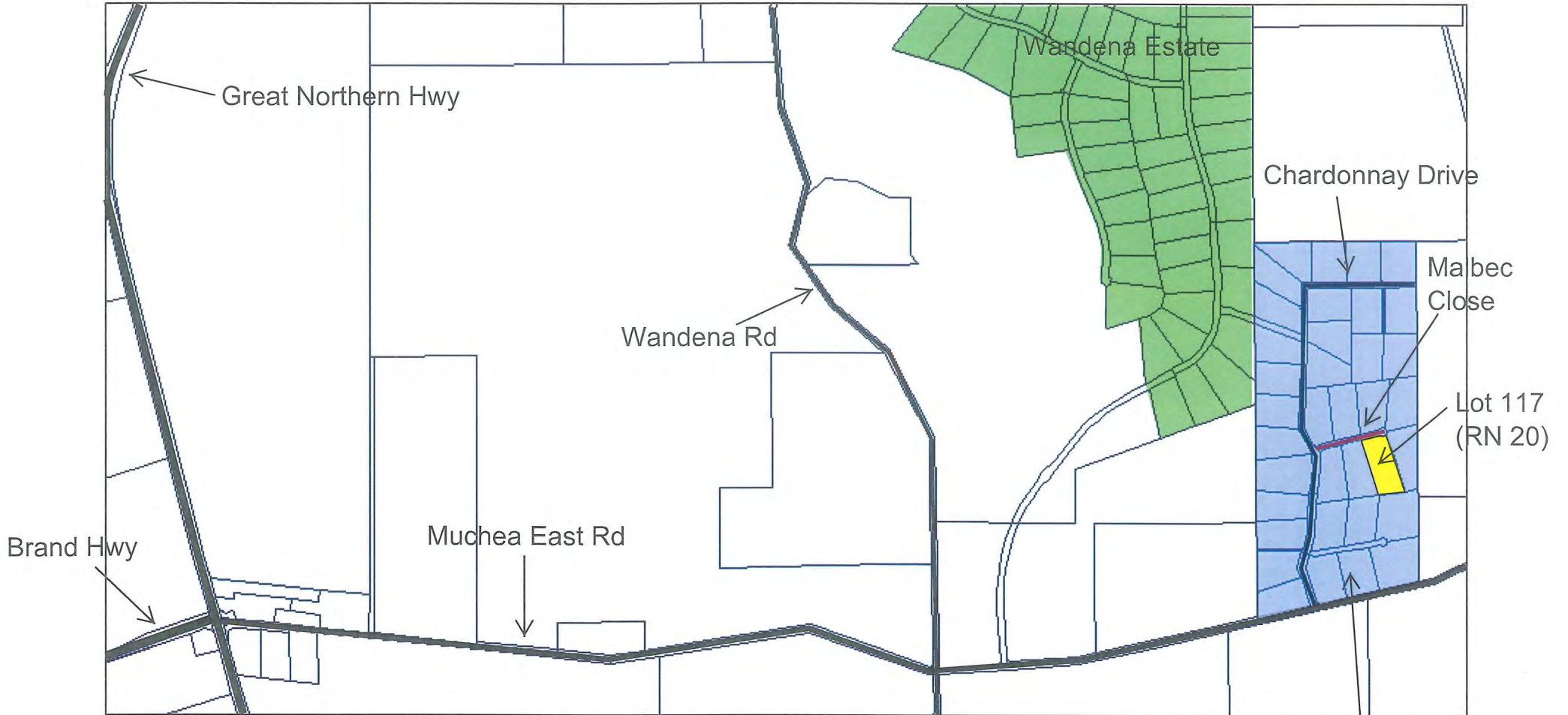
Development Services Attachments
Wednesday, 16 April 2014

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
9.1.1	Proposed Building Envelope Relocation – Lot 117 (RN 20) Malbec Close, Lower Chittering 1. Locality Plan 2. Site Plan 3. Aerial Photograph 4. Old Winery Estate Building Envelope Plan 5. Schedule of Submissions 6. Consultation Plan 7. Site Photographs 8. Required Screening	1
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9.1.4	Section 70A Notification and Grant of Easement WAPC 146568 – Lot 9002 Morley Road, Lower Chittering 1. Section 70A Notification documents 2. Grant of Easement documents 3. Draft Deposited Plan 401246	35

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9.1.5	Scheme Amendment No.49 – Shire of Chittering Town Planning Scheme No.6 1. Scheme Amendment document 2. Council minutes 9.1.1 - 18 December 2013	49
9.1.6	Application for retrospective approval for conversion of outbuilding to dwelling - Laid on the table Lot 388 (RN 145) Santa Gertudis Drive, Lower Chittering* 1. Council Minutes 19 March 2014	86

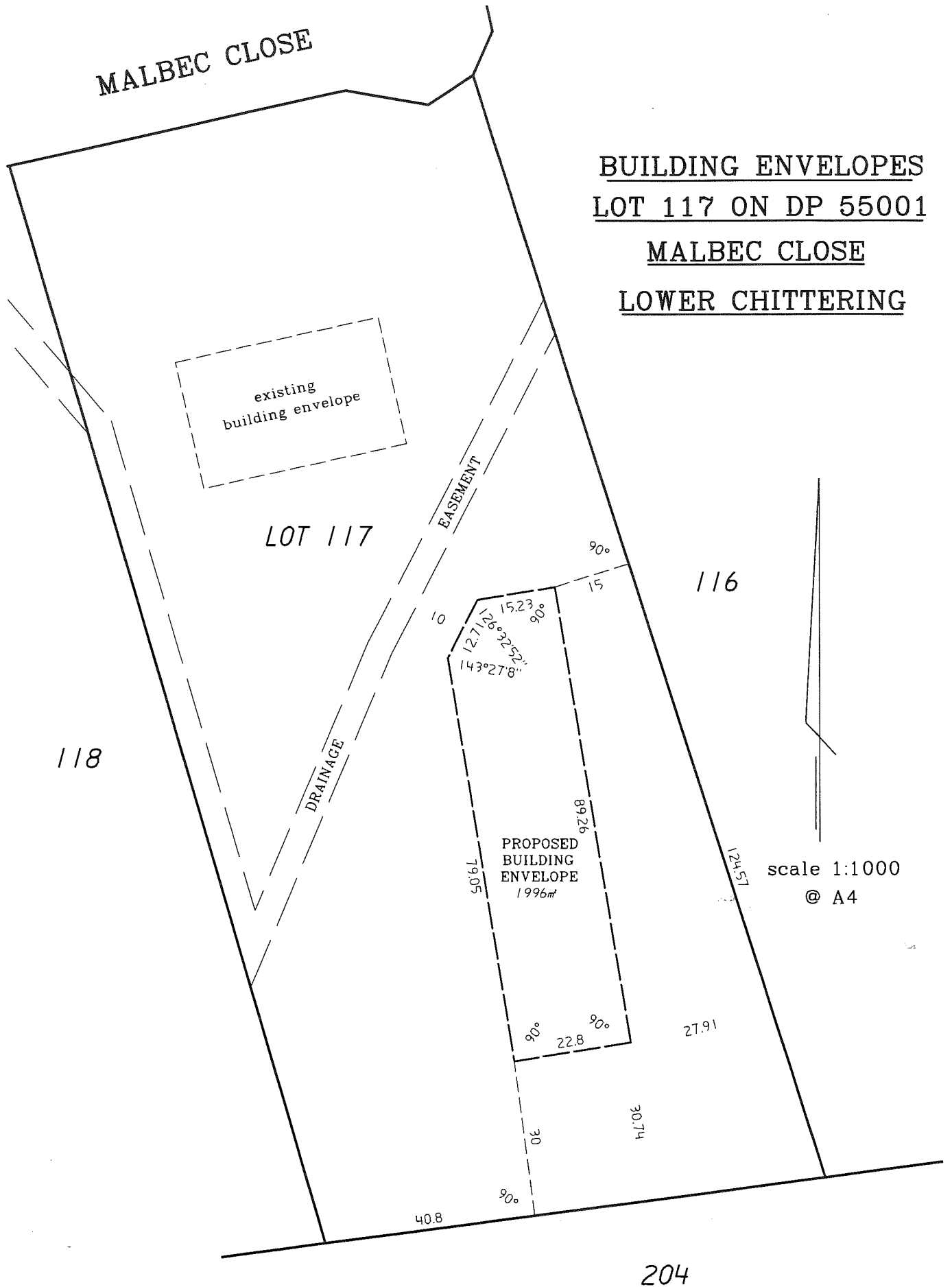
Attachment 1 Locality Plan

Lot 117 (RN 20) Malbec Close, Lower Chittering

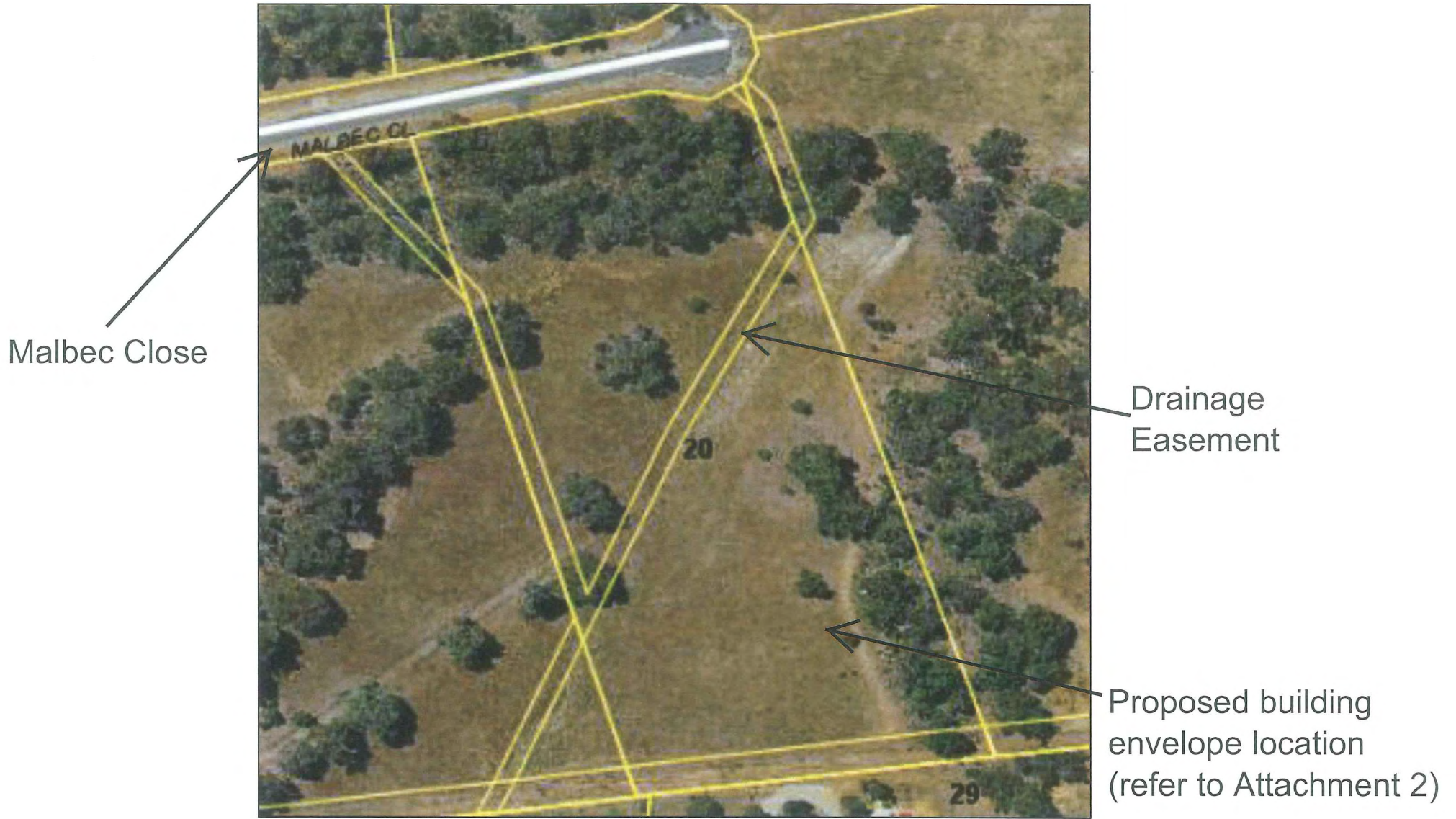


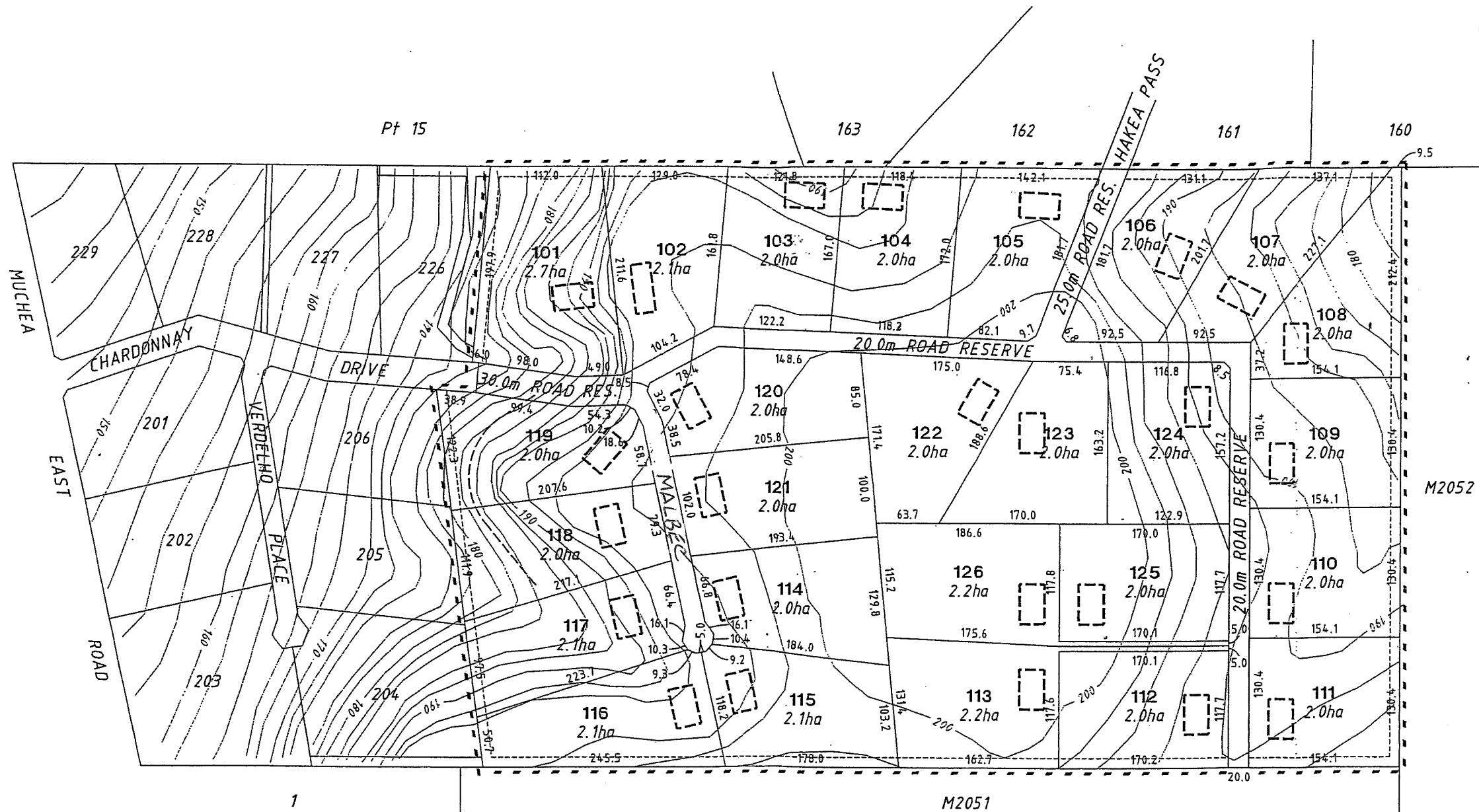
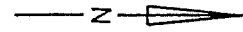
The subject property is highlighted yellow. Malbec Close is highlighted red

Old Winery Estate



Attachment 3 Aerial Photograph
Lot 117 (Rn 20) Malbec Close, Lower Chittering





LEGEND

- - - APPLICATION AREA
- 200 — EXISTING CONTOUR LINE
- - - EXISTING BANK LINE
- - - STRATEGIC FIREBREAK
- [] BUILDING ENVELOPE

NOTES:

1. CONTOURS DERIVED FROM DOLA 5.0m CONTOURS, 2.0m CONTOURS INTERPOLATED.
2. BUILDING ENVELOPES, NO GREATER THAN 1000m², ROAD SETBACK 20m MIN. & LOT BOUNDARY SETBACK 15m MIN.

No.	DATE	BY	DESCRIPTION
4	03-06-04	PMS	AMEND TO SHOW CUL-DE-SAC EXTENDED TO DELETE BATTLE-AXE BLOCKS.
3	19-01-04	PMS	AMEND TO SHOW AERIAL PHOTO & REDUCE BUILDING ENVELOPES TO 1000m ² .
2	17-07-03	PMS	AMEND TO SHOW CONTOURS, BUILDING ENVELOPES, STRATEGIC FIREBREAKS & VEGETATED AREAS.
1	29-01-03	PMS	AMEND TO SHOW CURRENT LOT LAYOUT.
AMENDMENTS			

W.A.P.C. No. TO BE ISSUED 121305	DESIGNED BY: CIVIL TECHNOLOGY CONSULTING CIVIL AND STRUCTURAL ENGINEERS UNIT 11/22 PARRY AVENUE BATEMAN W.A. 6150 PH: (08) 9332 2532 FAX: (08) 9332 2533
DRAWN: P. SUMMERS	SCALE: A3 1:5000
APPROVED:	

JARO PTY. LTD. & D.B.B. PTY. LTD.			
PROPOSED SUBDIVISION OF LOT M1955 MUCHEA EAST ROAD, LOWER CHITTERING APPLICATION PLAN SHIRE OF CHITTERING			
FILE NAME: 506-000.DGN	DATE: 8-07-02	DRAWING No.: 506/00-000	AMDT No.: 4

SCHEDULE OF SUBMISSIONS

Building Envelope Relocation - Lot 117 (RN 20) Malbec Close, Lower Chittering

	Submission Comments	Applicant Response Comments	Officer Response Comments
Public Submission A	<p>1. Further to the proposed building envelope relocation application for Lot 117 (Number 20) Malbec Close, Lower Chittering 6084 I would like to express that I do NOT SUPPORT the proposed location for the following reasons.</p> <p>2. The proposed new location would adversely effect the privacy of all occupants at Lot 116 Malbec Close due to the new location allowing a dwelling to be constructed in an area of little or in fact no natural privacy barriers such as trees or bushes so would allow the occupants of LOT 117 Malbec Close to freely observe all activities at LOT 116 and vice versa which would cause myself and my family great upset.</p>	<p>2. The location of the original envelope and proposed has same visibility and the distance from where the dwellings is actually further on the proposed new envelope. With the direction the dwelling will be facing if located to the proposed envelope the occupants of Lot 116 will have more privacy as the houses will not be in direct line of site unlike the original envelope. The owners of Lot 116 have actually moved their envelope closer to any useable building area on Lot 117 to gain better views from their property. As the owners of Lot 117 we plan to plant a natural privacy barrier to allow privacy for ourselves and to also limit normal noise pollution.</p>	<p>1. Noted.</p> <p>2. Noted. The proposal is in accordance with the prescribed setbacks outlined by Council's <i>Local Planning Policy 18 Setbacks</i>. This includes the 50m separation which is required between dwellings which is considered sufficient to achieve privacy. However, given the lay of the land the subject property is significantly higher than the adjoining properties to South. Therefore, recommendation will be made to Council for requirement of natural vegetation screening to be implemented to provide further privacy.</p>

3. The proposed new building envelope in my opinion will not only adversely effect what is currently a natural valley area of beauty but also have a large impact on the natural environment by way of having to either cut or fill a large area of the slope of the valley to create a flat building pad for the proposed dwelling as well as the environmental damage to the area that will be caused by the additional excavations required to supply services from Malbec Close to the proposed dwelling. As the existing building envelope is located on a cleared almost flat area of the block, close to all services and in an area of the block that provides a good degree of natural privacy amongst all neighbours and would have a minimal environmental impact on the area and retain the natural beauty of the area if the dwelling were to remain within that location.

3. Regardless of the location of the building envelope, due to the lay of the land on Lot 117 Malbec the land in preparation for a house pad will need to be built up or cut out like most have down in the area. We propose to mainly build up as this causes less disruption to the natural environment, less dust and less noise for our neighbours. We see no further damage to the environment by running our services an extra 100m as the area they are running is not natural bush etc.

3. Noted. Earthworks will be required given the lay of the land of the subject property regardless of whether development is located in the existing envelope or the proposed envelope. Earthworks within the proposed building envelope is not considered to undermine the objectives of the zone, including amenity of the area. The running of services to the proposed building envelope would have a minimal impact on the landscape as it would be a simple process of burying the services.

4. The access for the proposed dwelling would further impose additional impact on the natural environment by not only destroying the natural beauty of the valley landscape by way of the required excavations and civil works for a road but also disrupt the potential flow of the drainage easement which would have to be crossed to access the proposed dwellings parking area, as well as potentially increasing traffic noise and discomfort to the residents at Lot 116.

4. The development of a driveway will cause no more disruption to the owners of Lot 116 than the building of a new dwelling. Due to the easement location this is unavoidable. Due to shire regulations for fire breaks and slashing we will still require an access road to this part of the property regardless of where the building envelope is.

4. Noted. The development of an access driveway to the proposed building envelope is not considered to require extensive earthworks that would impact the landscape. The applicant is restricted from impeding the drainage through the drainage easement present at the property. This will be reflected through recommendation made to Council. The applicant accessing the proposed building envelope is not considered to pose a noise issue.

5. My last and final concern over this proposed relocation of the building envelope is the proposed location the owner has for a septic facility as the proposed location is within a few meters of a drainage easement and as such could potentially cause seepage into the natural watercourse of the area and I personally believe this possibility should be further investigated as to the requirements for a septic system positioning.

5. Regardless of the location of the building envelope the lay of the land on Lot 117 means all areas run to the easement. We plan to put the septic in the best possible position and adhere to strict council guidelines to ensure this is not an issue. Eco friendly septic system to also be used as per council requirements.

5. Noted. the proposal was referred to the Shire's Principal Environmental Health Officer (PEHO) regarding the requirements for a effluent disposal system. The PEHO advised that a high performance system would not be required in the proposed building envelope. In addition, the PEHO advised that a generic septic system would not impact on the drainage easement and/or local groundwater systems given that it is not washed out by surface water. This is an issue that is addressed through the effluent disposal system approval process. Therefore, it is not an issue that would result from the approval of this application.

	<p>6. Whilst I appreciate that the owners of LOT 117 Malbec Close are potentially requesting the movement of the building envelope purely to maximize the views across the valley area, I strongly object to this been allowed to be approved over the long-term damage that will be caused not only to other residents enjoyment of the area due to privacy and increased noise issues but it will greatly impact on the areas natural environment and beauty.</p>	<p>6. We understand the concerns of Lot 116 however they have actually moved their envelope closer to Lot 117, which in turn is to take advantage of the view in which we purchased our property. We do not feel that we are "damaging" the natural valley as we are not proposing to build in the valley area. We understand that Lot 116 may feel that their views may be blocked, however the proposed area we would like to build the dwelling is not in their direct path and will not disadvantage them any more than if we were to build on the original envelope.</p>	<p>6. Noted. Refer to responses A1 - A5.</p>
<p>Public Submission B</p>	<p>1. We wish to express of view of the relocation of the building envelope on the above mentioned location.</p> <p>2. When we were purchasing our property we viewed the building envelopes of the surrounding lots to ascertain how close future dwellings would be to ours, and we were satisfied that any dwelling on its recommended building envelope would be far enough away not to impinge on our privacy.</p>	<p>2. Actual dwelling is the be located at furthest point North of the proposed building envelope, and no more than 50m closer to the boundary fence for this property.</p>	<p>1. Noted.</p> <p>2. Noted. Development is required to comply with the setbacks prescribed by Council's <i>Local Planning Policy 18 Setbacks</i>, including the location of building envelopes. Thereby, building envelopes are able to be shifted given they're setback in compliance with the prescribed setbacks. Refer to A2.</p>

<p>3. We respect the right of other landholders to build in a position that suits their needs but feel this relocation is purely for a view aspect and not considerate of the privacy of other dwellings already in the immediate vicinity.</p>	<p>3. We do understand the concerns of the property owners however as the owners of Lot 117 we have the right to apply for this re-location to enjoy our property just as much as others do. We propose to plant a small privacy barrier along boundary to avoid any privacy issues.</p>	<p>3. Noted. Refer to A2.</p>
<p>4. If this relocation is approved we feel our privacy would definitely be invaded and if we had wanted neighbours looking over our fence we would have moved into a residential area instead of this beautiful rural environment.</p>	<p>4. Also the dwelling for this block can not be seen from proposed new envelope and is well over 100m from our future dwelling site.</p>	<p>4. Noted. Given the 2 hectare size of properties within the area and natural clearing of the subject property, development on adjoining properties will be frequently visible. Refer to A2. The proposal is not considered to negatively impact the amenity of the area.</p>
<p>5. Please note that we do not approve this relocation when considering the application.</p>		<p>5. Noted.</p>

<p>Public Submission C</p>	<p>1. Having purchased our property some 9 + years ago, with plenty of space and neighbours at a respectable distance away, we feel the location of the proposed building envelope will seriously encroach on our privacy, considering it is well within 100 meters from our home, on a rise with 100% view of our backyard, deck area and all windows to the rear of our home.</p> <p>2. Further to this invasion of privacy, we are concerned about the earthworks that will be required to take place to prepare for building and the effect it will have on the drainage to the easement, and to the south of the proposed building envelope.</p>	<p>1. We propose to build our future dwelling well over 100m from this block and also to include a natural privacy barrier along the boundary fence to eliminate any views into the back yard of this property. As we propose to build up rather than cut out the land we actually look over the roof top of this property and with a natural privacy barrier in place this will eliminate noise and also any concerns the property owners may have.</p> <p>2. Unfortunately due to the lay of the land of our block regardless of the location extensive earthworks will need to take place. This will have no more impact of the easement than the original envelope.</p>	<p>1. Noted refer to A2 and B4.</p> <p>2. Noted. Any development at any property within the proximity of the drainage easement will result in water being directed in the drainage easement. It is the purpose of the drainage easement to capture and direct this run-off water. As a dwelling has been developed at the end of a drainage easement it is responsibility of the owner to ensure the water flowing out of the easement does not impact upon their dwelling through redirecting the water around the dwelling .</p>
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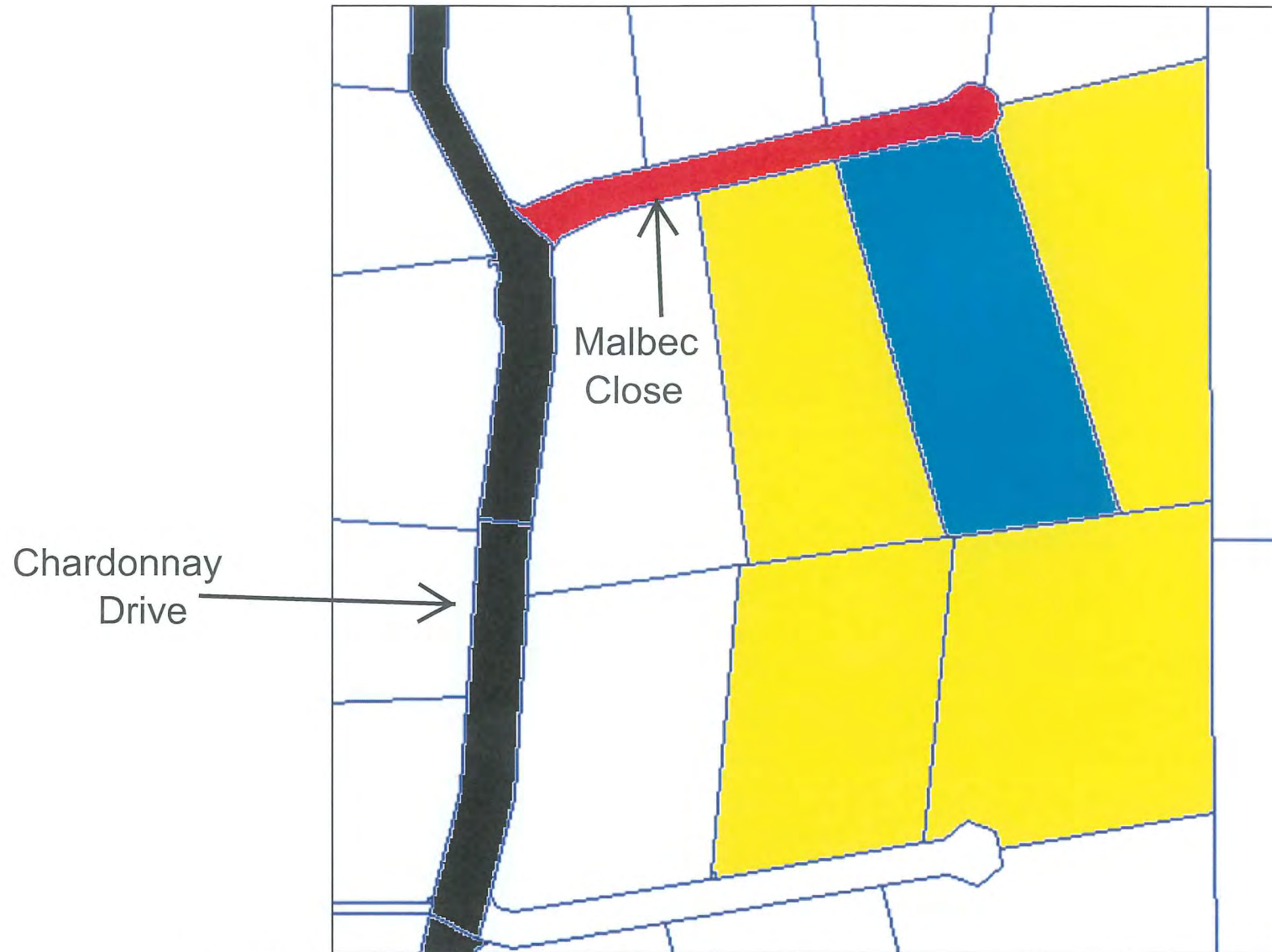
<p>3. Due to the lay of the land, when we have heavy or constant rain, there can be an overload of water that races down the easement and across the fire access road from Lot 117, causing flooding into our property, over the rear retaining wall and into our backyard. This has happened previously and even the Fire Access road being graded incorrectly has caused an increased amount of water to flood into our property/backyard.</p>	<p>3. This issue will not be affected by the relocation of the envelope to the proposed new site however as the owners of Lot 117 we are happy to work with our neighbours to find a solution that may help this problem.</p>	<p>3. Noted. the dwelling has been developed at the end of a drainage easement. Therefore, it is inevitable that water will flow out of the drainage easement towards the dwelling. Refer to C2.</p>
<p>4. We would also like an explanation as to why the building envelope size has almost doubled, from 1000 square metres, to 1996 square metres. Are the owners planning on running a business from their property and if so, what type of business?</p>	<p>4. With the council now approving 2000m2 we were told to apply for an area this big however this is not required and we will not be utilising the southern end of the envelope that is closest to both submissions B & C. We understand that by applying for an envelope this large we may have increased the concern from these submissions and would like them to understand we do not wish to utilise the entire area and could possibly look at revising size if location was to be approved. We do not intend to run a business from the property.</p>	<p>4. Noted. The applicant has not proposed to run any business from the property. There are no restrictions regarding the maximum size of a building envelope. Generally building envelopes are supported to a maximum size of 2000m squared on properties covered in remnant bush to prevent overclearing. The applicants have proposed a building envelope of 1996m squared. Therefore, the proposed increase in size is not considered undesirable.</p>

	<p>5. Therefore, we do not support the application to relocate the building envelope fro Lot 117 (RN20) Malbec Close, Lower Chittering.</p>	<p>5. Please note, we have actually met and discussed with these neighbours our plans for the property. They are happy for us to discuss further and we understand there may have been some confusion over the size applied for etc. We wish to maintain an excellent relationship with our neighbours and would like the council to know that the concerns were more of a misunderstanding than anything else.</p>	<p>5. Noted.</p>
<p>Public Submission D</p>	<p>1. We hereby support the proposed envelope relocation at Lot 117 (RN 20) Malbec Close, Lower Chittering as indicated in the adjoining diagram.</p>		<p>1. Noted.</p>

As an additional response for the council to consider: We purchased our property last year in good faith we would be able to re-locate our building envelope to utilise the phenomenal views from the property. We do not wish to invade on anyone's privacy or to make any of our neighbours feel uncomfortable. This is why we plan to put privacy barriers in place and to discuss any other matters with our neighbours. We feel that Lot 116 moved their envelope to gain better views and we feel that by allowing this it is only fair that we are given the same opportunity. We also feel that our adjoining neighbours would have been overwhelmed by the application for such a large envelope and are happy to reconsider the size if this is

viewed in a positive way for our application. In addition to this we feel our neighbours may have felt differently if we had of taken the opportunity to speak with them to explain better and discuss any concerns prior to submitting the application. We have since done this with our major adjoining neighbour and feel this had a positive impact. We are a young family with 3 small children, we plan to make this property our home for the unforeseeable future and to maintain a good relationship with our neighbours as we feel this is very important. We ask the council to please consider our application on the grounds our neighbours may have been confused with our initial plans and to also ensure we are given a fair opportunity to make the most of the property that we intentionally purchased for these fantastic views and the peace and quiet this area has to offer.

Attachment 6 Consultation Plan - Envelope Relocation
lot 117 (RN 20) Malbec Close, lower Chittering



The subject property is highlighted blue. The properties referred the application are highlighted yellow.

Lot 117 (RN 20) Malbec Close, Lower Chittering



View of proposed building envelope location from the South West

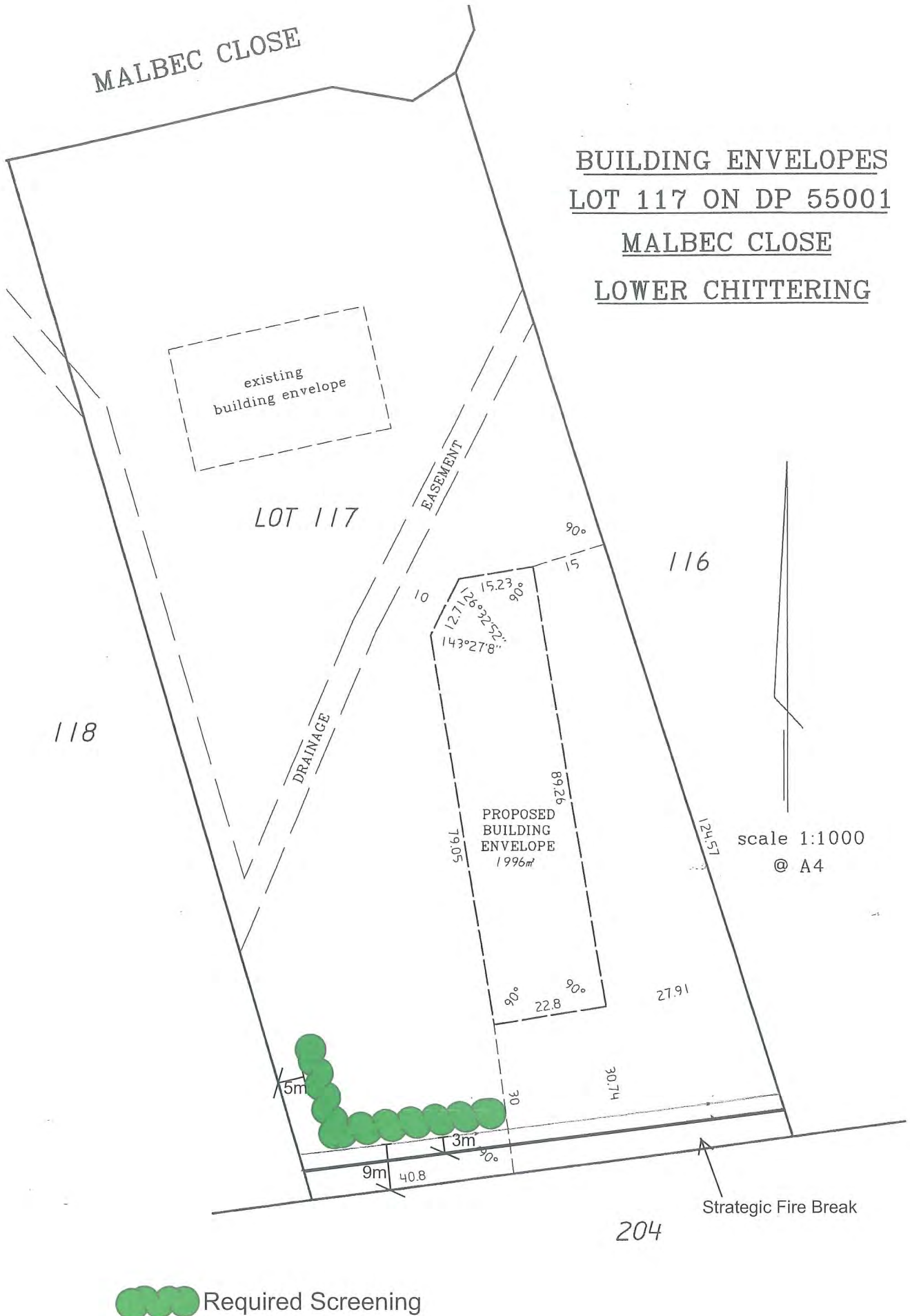


View of the proposed building envelope location from the North



Proposed building envelopes impact on Southern adjoining properties

Attachment 8 Required Screening





— Proposed Pedestrian Route

Submittor	Submission comments	Officer response comments
Public A	Support the initiative.	Support noted.
	The roads in Maryville Downs are unsafe to ride horses or for children riding their horses/ponies.	Noted.
	Current road side is not sufficient either.	Noted.
	Increasing vehicles in the area makes it unsafe to ride on the road.	Noted.
	Many road users do not consider courtesy when passing horses.	Noted.
Public B	In favour.	Support noted.
	We have young children who ride horses but find it too dangerous to ride on the road.	Noted.
Public C	In favour.	Support noted.
	We have a daughter who rides horses and would prefer that she ride on a trail rather than on the road.	Noted.
	We are also walkers and would utilise the trail.	Noted.
Public D	We still support the bridle and pedestrian trail from Guernsey Rise to the brook and along the brook as it will make a lovely ride/walk.	This is noted.
	We no longer support the bridle/pedestrian route from Santa Gertrudis Drive to Guernsey Rise along the present fire access road. The new extension of Guernsey Rise opens up a suitable alternative access route.	Noted. This section was proposed to provide west-east access for pedestrians.
	We suggest an additional pedestrian route coming up from the brook to connect with Dexter Chase.	Noted.
	Any trail opened up should not be available to motor bikes or off-road vehicles.	Noted.
Public E	The proposed bridle/pedestrian trail is a good idea and would be an asset to the area and benefit to residents.	Support noted.

	Concerned that it may be used by riders of motor bike and similar vehicles, which cause disturbance and annoyance and could pose significant risks. Warning signage may assist.	Noted. Signage would likely be required should Council support the proposal.
Public F	The PAW which runs north-south adjacent the Marbling Brook is currently only fenced on the western boundary, along the rear of the lots. If the PAW's were to be used for bridle trails both the horses and other groups using the open PAW's (i.e. trail bikes) could access the Marbling Brook and stage 11 land. Accordingly we do not support the PAW's being used other than for pedestrian use.	Comment noted.
	When the rural residential lots were created in Maryville the condition of subdivision approval as issued by the WAPC required the creation of the PAW's to accommodate access for emergency vehicles in the event of a bushfire event. The resident's purchased these lots on the basis the PAW's would be used for pedestrians or in a bushfire event, emergency vehicles. At no stage were the use of the PAW's for horses proposed or envisaged in the implementation of the subdivision condition.	It is noted the PAW's were created for the purpose of fire emergency access.
	We were advised by the Shire staff on numerous occasions when we queried the need for 25m road reserves at Maryville that they could also accommodate bridle trails. Accordingly the demand for bridle trails can be accommodated within the road verge as originally intended.	The Shire notes the potential for existing road reserves to accommodate bridle trails. This proposal provides other alternatives, that if supported, would have minimal up front costs to Council to provide to the public.
Public G	Strongly oppose.	Objection noted.
	Horse owners from outside of the estate, parking their horse floats which may be hazardous to other road users and residents.	Noted. Frequent parking of horse floats on the road would not be acceptable by the Shire.
	Introduction of weeds from animal droppings, which left unchecked, would add to the fuel load or render the access for emergency vehicles, impassable.	Noted. Maintenance of the trail would result in spraying of weeds.
	Higher risk of fire from discarded cigarette ends from non-residents visiting the area just to use the trail, who would not appreciate the fire dangers in this rural area. Homes and lives could be put at risk.	Noted.

	Higher security risk to properties through having a public access-way. It would give potential criminals freer access to properties and to be able to get in and out without being noticed. This is not acceptable.	This is noted and acknowledged in the report.
	This could also affect the value and saleability of the properties backing onto the trail. Insurance companies may also raise their premiums in view of the increased risk of claims.	Noted.
	Potential for the 'Bridle Path' being used by trail bikes. This would cause a noise disturbance to the residents abutting the trail. We did not choose to live in this rural estate to be troubled by noise. We value our peace and tranquility.	This is noted. It would be considered that appropriate signage could assist in minimising use of the trail by motorised vehicles.
	Dogs from visitors, or residents not using leashes, straying onto adjoining properties, which could attack local wildlife or livestock. Some breeds may also pose a threat to residents.	All landowners and persons must keep their dog restrained and on a leash in public areas.
	Littering could become a problem. Discarded glass bottles would pose a fire hazard and wildlife seriously affected by consuming man-made materials.	This is noted. The proposal was for a trial period. If the proposal is supported and littering was an issue, extending the trial period would allow for re-assessment.
	This is a strategic firebreak and should remain so, changing its use is putting the community at great risk. As residents of this beautiful estate for almost 17 years, we strongly oppose any proposal to utilise the firebreak for any other purpose other than to assist in aiding emergency services if the need arose.	Noted.
Public H	We support the proposal.	Noted.
	We would like to see the trail extended as part of Stage 12 should it go ahead in order to provide some variety and flat ground for trail users.	Extension of the trail would be considered subject to Stage 12 being developed (subdivided).
	My only concern is motorbikes using the trails thus putting pedestrians, horses, their riders and the safe condition of the trails at risk. How is this going to be managed?	The increase in maintenance and possible damage to the trail is to be considered by Council.
Public I	We strongly object to the proposal as the boundary of our property has a common boundary with the proposed bridle/pedestrian trail.	Objection noted.

	Horses, people and vehicles already pass most of the properties at the front boundary on Maine-Anjou Drive.	Maine Anjou Drive is a gazetted road. The proposed trail is a Pedestrian Access Way.
	The people riding horses and pedestrians have a good view of the layout of properties and road way if an animal or hazard arises the necessary action can be taken (i.e. cross the road if horse is shy/startled).	Noted.
	Being on the new proposed trail there is a greater risk of animals and people being startled or a hazard arising as the properties back onto this area are bush and the trail is not as wide as a normal road and verge.	Noted.
	I also feel that my backyard is my private part of the property. People travelling along my fence line loses that.	Noted.
	In the highly populated metro areas the properties all have high private fencing. Here we enjoy the freedom of not being enclosed by a six foot fence.	Solid fencing would not be considered appropriate.
	Constant flow of people, especially on weekends, would take this feeling away. It will also become a greater security risk.	Noted.
	I also have the understanding that Jersey Road is a gazetted road for future subdivision.	This is correct. Jersey Road is gazetted but not constructed.
	I hope all the above points are taken into consideration when making your decision and that my objection is taken into account.	All submissions are considered by Council.
Public J	Would like to object.	Objection noted.
	Our objection is not in regard to horses using the proposed trail, on the contrary we support horse trails and as we are not directly bordering the trail, our exposure would appear to be limited, hence I assume is why we were not notified of it.	This is noted. All landowners adjoining the existing PAW were notified directly by mail. Signage and newspaper advertisement was also undertaken.
	Our objection is based solely on the experience "all" other horse trails face throughout Australia and that they are used by motorcycles and as such we would be directly exposed.	The Shire is aware of this issue.
	No matter what deterrents are placed on the trails to exclude motorcycles, the conflicts between horse riders, motorcycles and the surrounding community is well documented.	Noted. The Shire is fully aware of the potential issue of motorcycle use of trails.

	If the Shire is prepared to offer a guarantee that the trail will only be used for non-motorised traffic, except in the case of emergency vehicles, we would then have no objections due to our proximity to the proposed trail.	A guarantee from the Shire would not be possible.
Public K	We strongly object to the proposal as our boundary of our property has a common boundary of over one kilometre with the proposed bridle/pedestrian trail. Where our home is situated on our 40 acres it is very close to the strategic firebreak (proposed bridle trail). We do not want a bridle trail/pedestrian walkway that passes our home and water tanks within about 40m.	Objection noted.
	We have animals on our property. We run livestock and have done so for 12 years. The fencing we have on that boundary is adequate for what we run as is, but would not be adequate to contain livestock with people walking dogs, people riding horses, riding bikes etc. on a common boundary.	It is not quite clear how a 'sufficient fence' (as per the Local Law) would be adequate to restrict animals but not pedestrians etc.
	Our pet dog keeps to our property but with horses and bikes and people going by in such a close proximity to our home - they would be very visible to her as she lies in her kennel on our front veranda. We can contain her to our property but what if she barks and spooks a horse that is riding along the barbed wire fence? Or even still we have five children that play and ride bikes on our property - what if they spook a horse near the barbed wire fence?	Noted. As per the Local Law relating to Fences, barbed wire would require to be fixed to the inside of the post.
	The fence along that proposed common boundary varies in height greatly. This is due to when the firebreak has been put in gravel has been pushed onto our fence line to get an even level for the firebreak resulting in the fence level on the firebreak side being a lot higher than our side. Horses and people could easily attempt to get over the fence on the firebreak side and may succeed, but getting back would be near impossible. The entire length of the fence line is rusty barbed wire. We cannot afford to re-fence this.	Noted.

	Also the gazetted road that enters the bottom south west of our property - Jersey Road that comes off Maine-Anjou Drive seems to be part of the bridle/pedestrian trail? If this is a gazetted road for future subdivision access how can this be part of a bridle/pedestrian trail? we have also looked into future subdivision of our property and this would be our access road.	Jersey Road is gazetted. The trail can be located on the road reserve and if constructed, could be located beside the road.
	We are strongly against this proposal and don't believe it is the right location for a bridle/pedestrian trail because of the above reasons and especially because of Jersey Road being overlooked as a gazetted road as a bridle/pedestrian trail. We truly hope you consider all our concerns and put a stop to this proposal.	This is noted.
Public L	We strongly opposed to the development of current firebreaks that bounds our property on two sides being turned into a public access way.	Objection noted.
	We feel the creation of this proposed public access way will adversely affect the lifestyle we have come to enjoy from our property.	Noted.
	We are also concerned that people will use this track for off road vehicles, quad bikes and motorbikes, which will further impact our lifestyle and cause unnecessary worry for us as parents of young children and also for the animals we keep on our property.	Noted.
	We would hope you take our concerns into consideration before allowing this development.	All submissions are considered by Council.
Public M	We strongly object to the proposal as the boundary of our property has a common boundary with the proposed bridle/pedestrian trail.	Objection noted.
	We have animals on our property and the fencing we have on that boundary is adequate as it is, although would not be adequate with people walking dogs, people riding horses, riding bikes etc. on our common boundary.	It is not quite clear how a 'sufficient fence' (as per the Local Law) would be adequate to restrict animals but not pedestrians etc.
	We have pets and children on our property that would easily startle a horse riding close to the barb wire fence.	Noted.

	The gazetted road, Jersey Road, that comes off Maine-Anjou Drive seems to be part of the proposed bridle/pedestrian trail? If this is a gazetted road for future subdivision how can this be part of a bridle/pedestrian trail?	This section of the proposed trail is located within a gazetted road reserve which currently has an accessible gravel track. In its current state it is perceived there are no issues with using this for a trail.
	We are strongly against this proposal and don't believe it is the right location for a bridle/pedestrian trail because of the above reasons and especially because of Jersey Road being overlooked as a gazetted road as a bridle/pedestrian trail.	Noted.
	We truly hope you consider all our concerns and put a stop to this proposal.	All submissions are considered by Council.
Public N	We feel that there is a risk of increased noise due to people accessing the trail, possibly even with motor and quad bikes. Unfortunately we have in the past witnessed residents cutting access into their back fences to ride their quad bikes on the firebreak, whereby the Ranger then had to repair the fencing. Even if access to the proposed bridle trail is restricted to persons/horses, there is no guarantee that residents wont try to ride motorised bikes on the trail again.	This is noted.
	We purchased our property with the strategic firebreak in place and feel unsettled that there could suddenly be an increase in 'traffic' at the back of our property i.e. no longer having our peace and privacy.	Noted.
	Any increase of activity on the firebreak could also score off the wildlife, which find refuge in the native forests adjoining the firebreak (including ours).	Residential development of the Estate would have likely reduced wildlife activity in the area. It is not considered the proposed trail would significantly impact the wildlife.
	There could be an increase in weed distribution along the firebreak, especially with allowing horse access. If the weeds are not controlled then there could not only be contamination along adjoining properties (i.e. native forest), but also the risk of fire if the weeds are not removed in time. Unfortunately there is already a lack of weed control around Maryville Downs (i.e. islands and verges).	This is noted as an environmental implication in the report.

	<p>We are concerned about the security to our property with people being able to freely access the firebreak (i.e. like a laneway) and track whether owners are home or not. There have already been a number of acts of vandalism in the estate lately and this could just be an open invitation for burglaries and fire starters.</p>	<p>Noted.</p>
	<p>We sincerely hope you can take our above points of view into account and note that we are not in favour of the proposal.</p>	<p>Objection noted.</p>

9.1.4 Proposal for Bridle/Pedestrian Use of Pedestrian Access Ways in Maryville Downs Estate*

Applicant	Shire of Chittering
File ref	04/08/0003; A11079
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Proposed Pedestrian Access route

Background

The Shire has received correspondence from landowners in the Maryville Downs Estate for the need for bridle trails in the area. The request has been made due to the high number of horse owners in the area and the lack of public land suitable for horse riding and pedestrian trails.

Council has discussed options in providing bridle/pedestrian trails in the area, which has resulted in the possible use of the strategic firebreaks in the Maryville Downs estate. Strategic firebreaks were provided in subdivisions in two ways; easements or Pedestrian Accessways (PAWs). An easement is shown on the Certificate of Title on a landowner's property and is not owned by the Shire, but is there for the benefit of the Shire to access for fire management. It is often referred to as being "a burden to the landowner and benefit to the Shire" as the landowner must maintain it but the Shire has rights to access it. A strategic firebreak as a Pedestrian Access Way is a separate lot owned and maintained by the Shire.

The proposal put forward for Council's consideration is to allow the use of the PAWs in Maryville Downs for bridle trails and pedestrian access.

Consultation

Should Council support the Officer's Recommendation, public consultation would be undertaken to gauge the public's view and position of property owners directly affected by the PAWs. It is also intended the Chittering Landcare Group will be consulted in this process. It is proposed a period of 42 days to be acceptable given the time of year and the likely timeframe following consultation for Council to consider the proposal at the February 2014 Ordinary Council Meeting.

Statutory Environment*Planning and Development Act 2005*

Section 152 of the *Planning and Development Act 2005* relates to the vesting of land for the purpose of Pedestrian Accessways.

Policy Implications

Nil

Financial Implications

For the purpose of this report to initiate the advertising process, there is considered to be minimal financial implications on Council.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

The proposed route was inspected by the Community Emergency Services Manager and Senior Planning Officer. The inspection revealed the accessibility and safety of the proposed route was acceptable for general pedestrian use, in particular for the use as bridle/pedestrian trails.

Triple Bottom Line Assessment

Economic implications

Should Council support the use of the PAWs as a bridle trails and for pedestrian use, the maintenance by the Shire of these PAWs will likely increase.

Social implications

The proposal to use the PAWs for pedestrian use was brought to the Shire's attention by residents of Maryville Downs Estate and is considered to be of social benefit for this reason. It may also be considered that the increase and change in use of the PAWs may impact adjoining property owners.

Environmental implications

The proposed use of the PAWs for horse riding and pedestrian access may cause some environmental issues such as weed infestation and accumulation of waste (both animal waste and general litter).

Comment

The PAWs are currently used for the intended purpose of fire management. This is stated on the approved Deposited Plan (plan of subdivision) and in the approved Fire Management Plan as strategic firebreaks. The PAWs are gated and only used in the case of an emergency,. The proposal to "open up" the use of the PAWs for pedestrian use is appropriate given a PAW is designated for pedestrian use (as the term suggests). The main implication of increasing the use of the PAWs is that to date they have only been established and used for a fire emergency; , hence the PAWs not being used other than for maintenance. The proposal to the Shire is for the PAWs to be used as bridle/pedestrian trails.

Proposed consultation

As mentioned in the 'Consultation' section of this report, it is considered a 42 day advertising period will allow sufficient time for landowners and Chittering Landcare Group to make a submission and for the Shire to address any concerns to prepare an agenda item for the February 2014 Ordinary Council Meeting.

The intended staging of the proposal is:

- Council provide support to initiate the consultation process for the proposed bridle/pedestrian trails.
- Shire undertakes 42 day consultation.
- All submissions will be tabled and presented to Council as an agenda for a formal decision to be made on a trial period.
- Once trial period expires Council may reconsider the matter.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 071213

Moved Cr Norton / Seconded Cr Rossouw

That Council:

- 1. Endorse the proposed Bridle/Pedestrian Trails in Maryville Downs Estate as per Attachment 1;**
- 2. Initiate the public consultation process for the proposed Bridle/Pedestrian Trails for a period of 42 days; and**
- 3. Acknowledges that all submissions will be tabled and presented to Council at the next available Ordinary Council Meeting.**

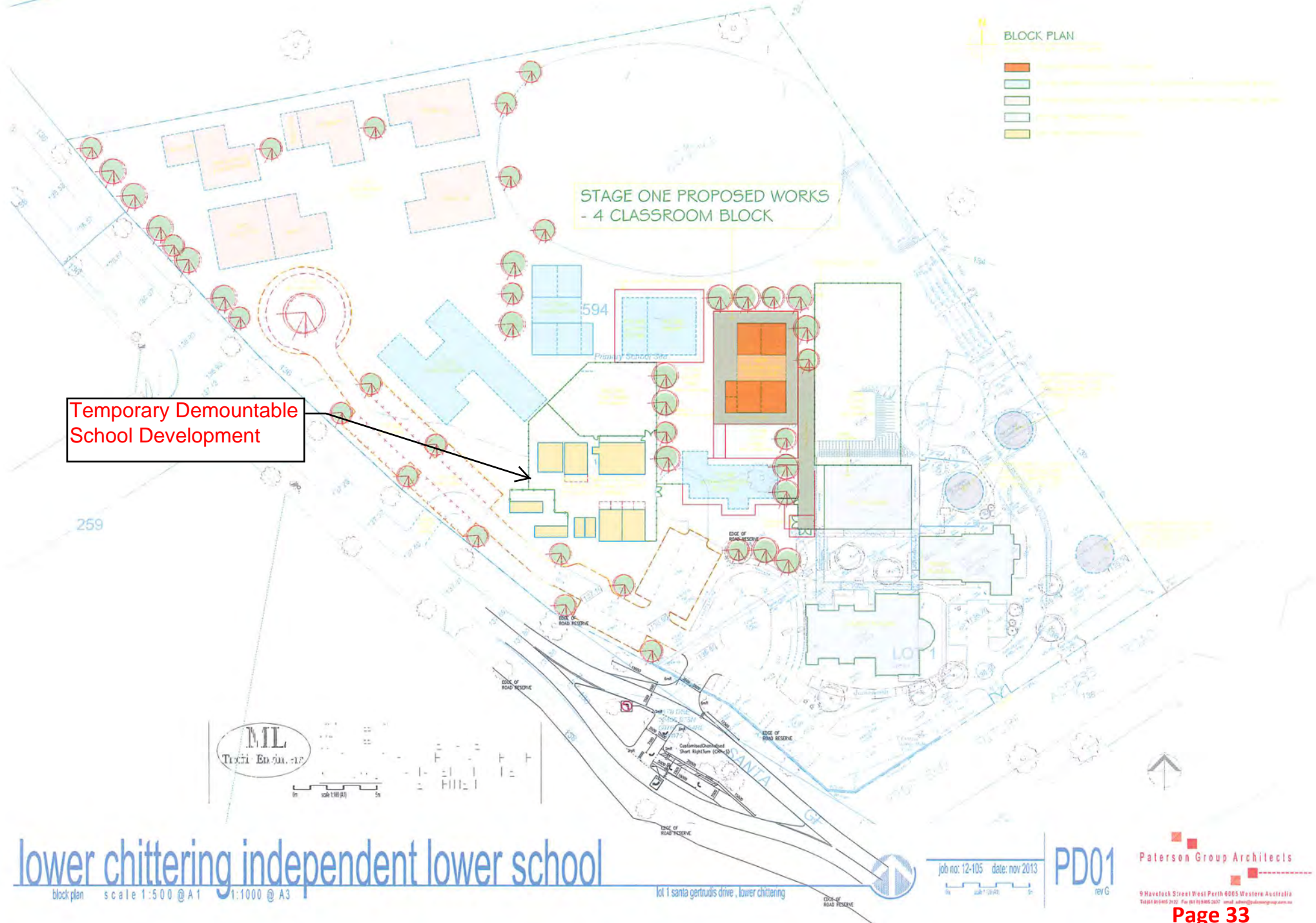
THE MOTION WAS PUT AND DECLARED CARRIED 6/0



— Proposed Pedestrian Route









12 March 2014

Immaculate Heart College

Through Mary to Jesus: "The Way, the Truth and the Life"
John 14:6

Azhar Awang
Executive Manager Development Services
Shire of Chittering
PO Box 70
BINDOON WA 6502

Dear Azhar

RE: DEMOUNTABLE BUILDINGS, as per your letter dated 26 February 2014

Thank you for the reminder about Planning Approval (P226/11) for the Demountable Buildings which is due to expire on 31 December 2014.

As you would be aware, we commenced operations with only 24 students in 2012 and have been steadily growing each year to the current level of 90 students, thus requiring the utilisation of classroom space, not only in the demountable buildings but also in the rooms onto the Assembly Hall.

Unfortunately, it is necessary to apply for an extension of the Planning Approval for the Demountable Buildings for a further three years until such time as permanent classrooms, administration block, library, toilet and other facilities can be established on site.

We have previously applied for Planning Approval for Permanent Classrooms (Applic. No. P278/12) but, due to circumstances beyond our control we haven't been able to proceed with this building programme thus far.

The demountable buildings are absolutely essential to the infrastructure of the College at present. They are maintained in excellent condition. The Department of Education Services inspected them during the process of the Registration of Immaculate Heart College and determined that we have provided excellent classrooms and facilities both in the demountable buildings and in the Assembly Hall.

As part of an ongoing planting program of trees, vegetation and shrubs to enhance the beauty of the natural setting, we will ensure that there is continual improvement to the appearance from the road, so that the demountables are suitably screened from passers-by.

Your kind consideration of this request would be greatly appreciated.

Yours faithfully

Father Paul Fox
Chair of Board of Directors
Immaculate Heart College

FORM N1

WESTERN AUSTRALIA
TRANSFER OF LAND ACT 1893 AS AMENDED

NOTIFICATION UNDER SECTION 70A

DESCRIPTION OF LAND (Note 1)

ALL LOTS ON DEPOSITED PLAN 401246

EXTENT

VOLUME

FOLIO

REGISTERED PROPRIETOR (Note 2)

CHITTERING ENTERPRISES PTY LTD (ACN 114 738 359) (MANAGING CONTROLLER APPOINTED) OF POST OFFICE BOX 428 KALAMUNDA WA 6926

LOCAL GOVERNMENT / PUBLIC AUTHORITY (Note 3)

SHIRE OF CHITTERING

FACTOR AFFECTING USE OR ENJOYMENT OF LAND (Note 4)

THE LAND IS SUBJECT TO A FIRE MANAGEMENT PLAN,
A MAINS POTABLE WATER SUPPLY IS NOT AVAILABLE TO THE LAND; AND
A RETICULATED SEWERAGE SERVICE IS NOT AVAILABLE TO THE LAND.

FURTHER INFORMATION IN RESPECT OF THE ABOVE AND A COPY OF THE FIRE MANAGEMENT PLAN
MAY BE OBTAINED FROM THE OFFICES OF THE SHIRE OF CHITTERING.

Dated this _____ day of _____ Year _____

LOCAL GOVERNMENT/PUBLIC AUTHORITY ATTESTATION (Note 5)

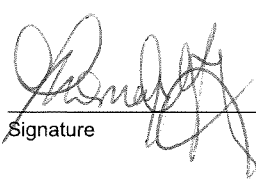
THE COMMON SEAL of the SHIRE OF CHITTERING was hereunto affixed in the presence of:

SHIRE PRESIDENT (PRINT FULL NAME)


CHIEF EXECUTIVE OFFICER (PRINT FULL NAME)

REGISTERED PROPRIETOR/S SIGN HERE (Note 6)

Executed by CHITTERING ENTERPRISES PTY LTD (ACN 114 738 359) (Managing Controller Appointed) by a duly appointed Managing Controller:



Signature



THOMAS MCCLUNG PETER GEOFFREY DACKER
Managing Controller (Print Full Name)

INSTRUCTIONS

1. If insufficient space in any section, Additional Sheet Form B1, should be used with appropriate headings. The boxed sections should only contain the words "see page....."
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialed by the persons signing this document and their witnesses.

NOTES

1. **DESCRIPTION OF LAND**
 Lot and Diagram/Plan/Strata/Survey-Strata Plan number or Location name and number to be stated.
 Extent - Whole, part or balance of the land comprised in the Certificate of Title to be stated.
 The Volume and Folio number to be stated.
2. **REGISTERED PROPRIETOR**
 State full name and address of the Registered Proprietors as shown on the Certificate of Title and the address / addresses to which future Notices can be sent.
3. **LOCAL GOVERNMENT / PUBLIC AUTHORITY**
 State the name of the Local Government or the Public Authority preparing and lodging this notification.
4. **FACTOR AFFECTING THE USE AND ENJOYMENT OF LAND**
 Describe the factor affecting the use or enjoyment of land.
5. **ATTESTATION OF LOCAL GOVERNMENT / PUBLIC AUTHORITY**
 To be attested in the manner prescribed by the Local Government Act or as prescribed by the Act constituting the Public Authority.
6. **REGISTERED PROPRIETOR'S EXECUTION**
 A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The full name, address and occupation of the witness must be stated.



OFFICE USE ONLY

NOTIFICATION

LODGED BY

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY McMullen Nolan Group Pty Ltd

PO Box 3526
 ADDRESS Success WA 6964

PHONE No. 6436 1599 FAX No. 6436 1500

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED HEREWITH

1. _____	Received Items
2. _____	Nos.
3. _____	
4. _____	
5. _____	Receiving Clerk
6. _____	

Lodged pursuant to the provisions of the *TRANSFER OF LAND ACT 1893* as amended on the day and time shown above and particulars entered in the Register.

EXAMINED

BLANK INSTRUMENT FORM

GRANT OF EASEMENT

(Note 1)

THIS DEED is made the _____ day of _____ 2014

BETWEEN :

CHITTERING ENTERPRISES PTY LTD (ACN 114 738 359) (Managing Controller Appointed) of Post Office Box 428, Kalamunda, Western Australia
(Grantor)

AND

SHIRE OF CHITTERING of PO Box 70, Chittering in the said State **(Grantee)**

OPERATIVE PART :

1. GRANT OF EASEMENT

The Grantor, being registered as the proprietor of an estate in fee simple in the land described in **Item 1** of the Schedule hereto (**Servient Tenement**) subject to the encumbrances notified hereunder in **Item 2** of the Schedule HEREBY TRANSFERS AND GRANTS to the Grantee for the use and benefit of the Grantee and the public at large under and by virtue of the provisions of sections 195 and 196 of the Land Administration Act 1997 an access easement in gross with the full and free right, liberty, power and authority from time to time and at all times hereafter for the Grantee, its authorized officers, employees, agents and other persons from time to time authorized by it to:

- (a) go, pass and repass for fire fighting and fire prevention purposes either with or without vehicles over, along and across that portion of the Servient Tenement as is shown delineated and marked with the letter "C" on Deposited Plan 401246; and

- (b) to go, pass and repass for fire emergency access purposes either with or without vehicles over, along and across that portion of the Servient Tenement as is shown delineated and marked with the letter "C" on Deposited Plan 401246.

(Easement)

2. GRANTOR'S COVENANTS

The Grantor HEREBY COVENANTS AND AGREES with the Grantee that:

(a) Grantor's Power

Notwithstanding anything made, done, omitted or knowingly suffered, the Grantor has full power to make the grant set out herein and assures the Grantee such grant shall remain to and be quietly held and enjoyed by the Grantee and the benefit thereof shall be received and taken accordingly without interruption or disturbance by the Grantor or any person claiming by, through, under or in trust for or in any way against the Grantor.

(b) Indemnity to Other Interest Holders

In the event that the grant set out herein or the lawful use of the Easement impinges on the rights of prior equitable interest holders in the Servient Tenement, the Grantor HEREBY INDEMNIFIES the Grantee against any claim that may arise out of such circumstances.

(c) Grantor to Perfect Grant Where Required

The Grantor and every other person having or rightfully claiming any estate or interest in the Servient Tenement will from time to time and at all times hereafter at the request of the Grantee do all such lawful assurances and things for more perfectly assuring the grant set out herein as the Grantee reasonably requires.

(d) No Obstruction of Easement

The Grantor will not construct erect or build or suffer to be constructed erected or

built any building structure or obstruction whatsoever on the Easement or any part thereof or use or permit the Servient Tenement to be used in such a way as to obstruct or interfere with the use of the Easement without the consent in writing of the Grantee first being obtained.

(e) Construction and Maintenance of Easement

The Grantor shall ensure that the Easement is constructed and maintained in a safe and trafficable condition. Further, the Grantor or its successors in title as may be appropriate shall bear the responsibility and cost for repair and maintenance of the Easement and the Grantor further assures the Grantee that the Grantee shall not be liable for any costs associated with such repair or maintenance.

3. **GRANTEE'S COVENANTS AND ACKNOWLEDGMENTS**

The Grantee acknowledges that:

- (a) the rights created in the Easement herein are not granted exclusively and are granted by the Grantor in common with the corresponding rights of the Grantor and other persons lawfully entitled to exercise such rights and that where the consent of the Grantee is required pursuant to the terms of this grant, such consent shall not unreasonably be withheld; and
- (b) in the event of the Grantor needing to obstruct a portion of the Easement temporarily for a purpose associated with the use of the Servient Tenement, the Grantee will not unreasonably withhold its consent PROVIDED THAT access through or to the Easement is not in the opinion of the Grantee unreasonably impeded.

4. **COSTS**

The Grantor shall pay the costs, including the Grantee's solicitors' costs, of and incidental to the preparation (including drafts), execution, stamping and registration of this Deed and all stamp duties and registration fees payable hereon.

5. INTERPRETATION

Reference to the parties includes their personal representatives, successors and lawful assigns.

Where a reference to a party includes more than one person the rights and obligation of those persons shall be joint and several.

Headings have been inserted for guidance only and shall be deemed not to form part of the context.

The Schedule forms part of this Deed.

SCHEDULE**ITEM 1: THE SERVIENT TENEMENT**

Lot 401 on Deposited Plan 401246 and being the whole of the land comprised in Certificate of Title Volume Folio ;

Lot 403 on Deposited Plan 401246 and being the whole of the land comprised in Certificate of Title Volume Folio ; and

Lot 404 on Deposited Plan 401246 and being the whole of the land comprised in Certificate of Title Volume Folio .

ITEM 2: ENCUMBRANCES

1. Mineral Reservation contained in Transfer 8763/1930;
2. Mineral Reservation contained in Transfer 15912/1947; and
3. Mortgage L446981.

MORTGAGEE'S CONSENT

DORADO LSWM SYNDICATE 11 PTY LTD being the Mortgagee under Mortgage L446981
HEREBY CONSENTS to this Deed and to the grant of the easement contained herein.

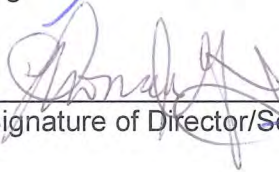
DATED the 17th day of March 2014

Executed by DORADO LSWM)
SYNDICATE 11 PTY LTD (ACN 145)
628 119) pursuant to Section 127(1))
of the Corporations Act:

PETER GEOFFREY PACKER
Full Name of Director


Signature of Director

THOMAS MCLUNG
Full Name of Director/Secretary
(Delete whichever designation is incorrect)


Signature of Director/Secretary

EXECUTED by the parties as a Deed:

Executed by CHITTERING)
ENTERPRISES PTY LTD (ACN 114)
738 359) (Managing Controller)
Appointed) by a duly appointed)
Managing Controller:)


Signature 

PETER GEOFFREY PACKER THOMAS MCCLUNG
Managing Controller (Print Full Name)

THE COMMON SEAL of the SHIRE OF)
CHITTERING was hereunto affixed in)
the presence of:)

SHIRE PRESIDENT (PRINT FULL NAME)

CHIEF EXECUTIVE OFFICER (PRINT FULL NAME)

INSTRUCTIONS

1. This form may be used only when a "Box Type" form is not provided or is unsuitable. It may be completed in narrative style.
2. If insufficient space hereon Additional Sheet Form B1 should be used.
3. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by the parties.
4. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the persons signing this document and their witnesses.

NOTES

1. Insert document type.
2. A separate attestation is required for every person signing this document. Each signature should be separately witnessed by an Adult Person. The address and occupation of the witness must be stated.

OFFICE USE ONLY

LODGED BY McLeods

ADDRESS 220 - 222 Stirling Highway
CLAREMONT WA 6010

PHONE No. 9383 3133

FAX No 9383 4935

REFERENCE No. 33840-1.03.10-RM-Easement

ISSUING BOX No. 346K

PREPARED BY McLeods

ADDRESS 220 - 222 Stirling Highway
CLAREMONT WA 6010

PHONE No. 9383 3133 FAX No. 9383 4935

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY.

TITLES, LEASES, DECLARATIONS ETC. LODGED HEREWITH

1. _____ Received Items
2. _____ Nos.
3. _____
4. _____
5. _____
6. _____ Receiving Clerk

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

EXAMINED

Item 9.1.4 AMENDMENTS TABLE

VERSION	AMENDMENT	AUTHORISED BY	DATE

INTERESTS AND NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
(A)	MINERAL RESERVATION		DOC T 15912/1947	LOTS 401, 403, 404 & 444		
(B)	MINERAL RESERVATION		DOC T 8763/1930	ALL LOTS		
(33a) (C)	EASEMENT (Drainage) EASEMENT	SEC 167 OF THE P. & D. ACT REG 33 (a) SEC 195 & 196 OF THE L. A. A.	THIS PLAN DOC	LOT 402 LOTS 401, 403 & 404	SHIRE OF CHITTERING SHIRE OF CHITTERING AND THE PUBLIC AT LARGE	
	NOTIFICATION	SEC 70A OF THE T. L. A	DOC	ALL LOTS		(FIRE MANAGEMENT)
	NOTIFICATION	SEC 70A OF THE T. L. A	DOC	ALL LOTS		(RETICULATED WATER)
	NOTIFICATION	SEC 70A OF THE T. L. A	DOC	ALL LOTS		(RETICULATED SEWER)

TYPE	FREEHOLD
PURPOSE	SUBDIVISION
PLAN OF	LOTS 401-404, 422-429, 444, 445, ROAD, ROAD WIDENING AND EASEMENT

DISTRICT	SWAN	S. S. A.
TOWNSITE		YES
R. D. L. FILE No.		FORMER TENURE
LOCALITY	LOWER CHITTERING	LOT 9002
LOCAL AUTHORITY	SHIRE OF CHITTERING	ON DP 76946
		C/T 2818/368
FIELD BOOK	102465	ON INDEX
		SEE SMARTPLAN

SURVEYOR'S CERTIFICATE - Reg 54
 I, Mark P. MARIOTTI, hereby certify that this plan is accurate and is a correct representation of the - (a) "survey, and/or (b) "calculations from measurements recorded in the field records. I delete if (applicable), undertaken for the purposes of this plan and that it complies with the relevant written law(s) in relation to which it is lodged.

FINAL

Licensed Surveyor _____ Date _____

McMULLENOLAN GROUP
 Surveying Excellence
 PO Box 3526, Success, W.A. 6964
 Telephone: (08) 6436 1599
 Facsimile: (08) 6436 1500
 Email: info@mcmullenolan.com.au

SCALE: 1:3000 at A2
 ALL DISTANCES ARE IN METRES

MNG Ref: 94433dp-026b
 Stage 3 - DP401246.CSD

LOGGED	TYPE OF VALIDATION
DATE	FULL AUDIT
FEE PAID	CERTIFIED CORRECT
ASSESS No.	LEGAL COMPONENT
	DOCKET PLAN
	I. S. C.
	F. S. C.

APPROVED BY
 WESTERN AUSTRALIAN PLANNING COMMISSION FILE 146568

Delegated under Sec 16 P & D Act 2005 DATE

IN ORDER FOR DEALINGS

SUBJECT TO

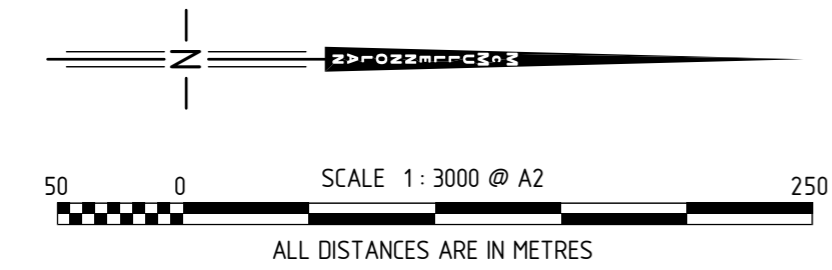
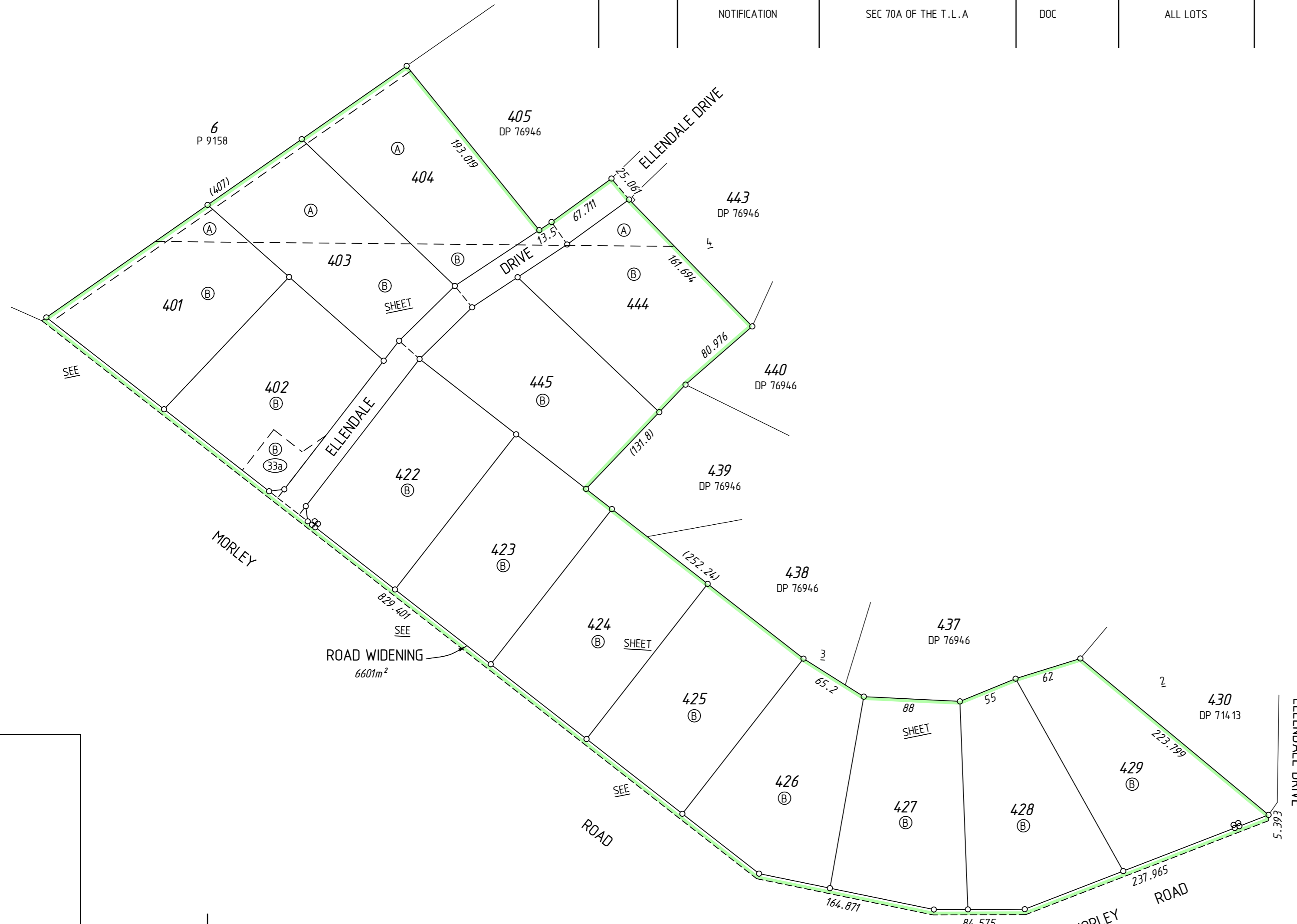
For INSPECTOR OF PLANS & SURVEYS / AUTHORIZED LAND OFFICER DATE

APPROVED REG26A (4)

INSPECTOR OF PLANS & SURVEYS / AUTHORIZED LAND OFFICER DATE

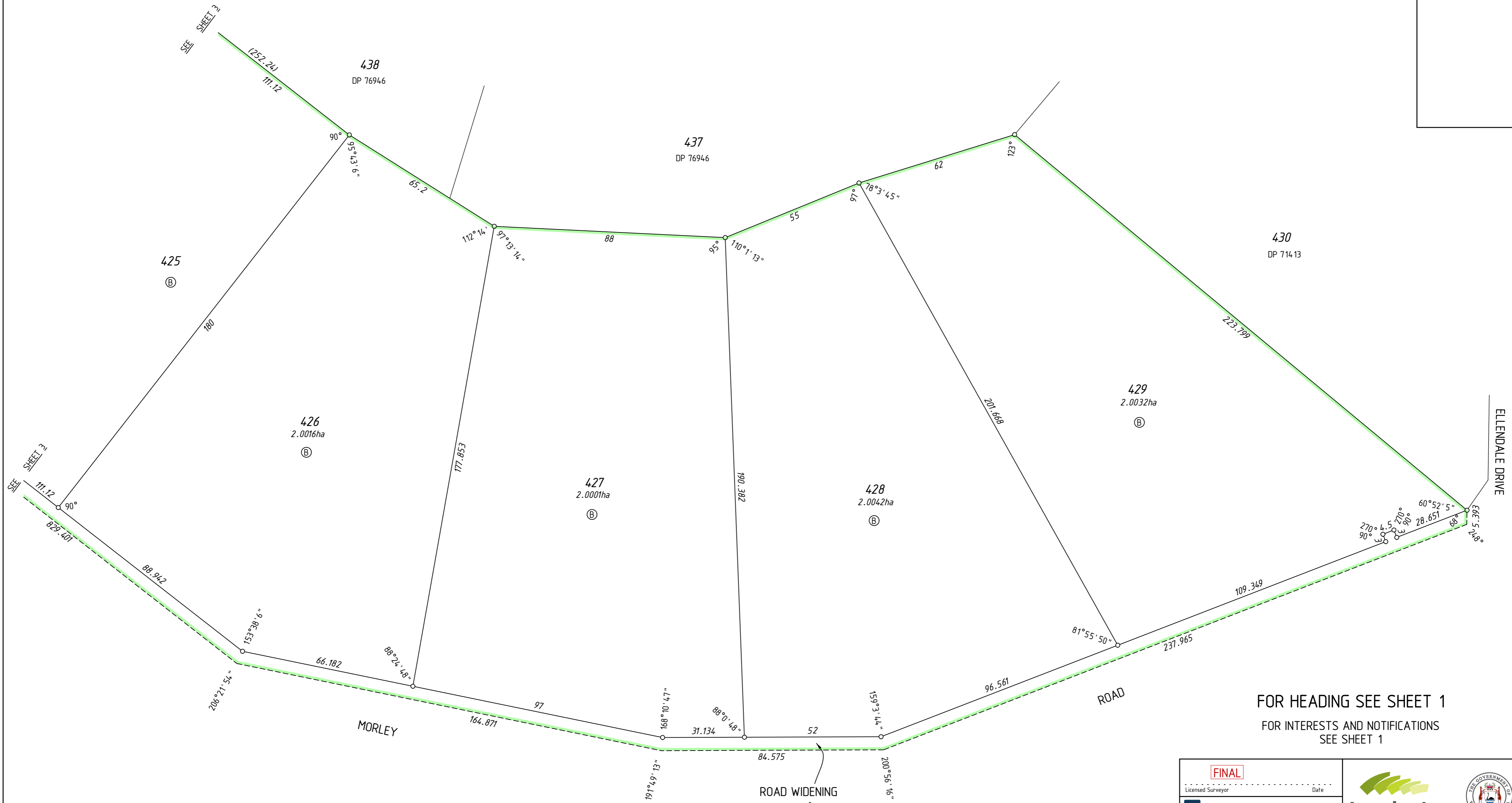


DEPOSITED PLAN
401246
 SHEET 01 OF 04 SHEETS
 VERSION 1



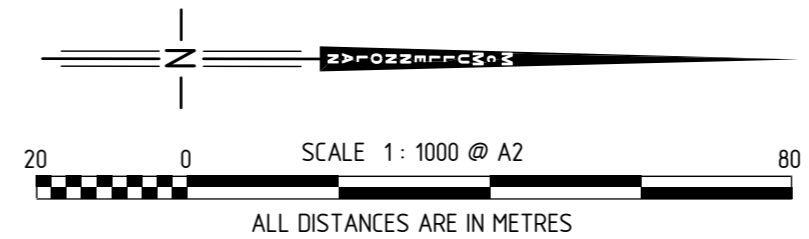
SURVEY CARRIED OUT UNDER REG 26A
 SPECIAL SURVEY AREA GUIDELINES
 SEE SHEETS _____ FOR SURVEY INFORMATION

ALL BOUNDARY / CORNER SURVEY MARKS
 SHOWN ON THIS SHEET ARE INDICATIVE ONLY.
 USE ONLY THE SURVEY SHEET/S WHEN DETERMINING
 THE TRUE FINAL POSITION AND TYPE OF ALL SURVEY
 MARKS PLACED PERTAINING TO THIS PLAN.



FOR HEADING SEE SHEET 1
 FOR INTERESTS AND NOTIFICATIONS
 SEE SHEET 1

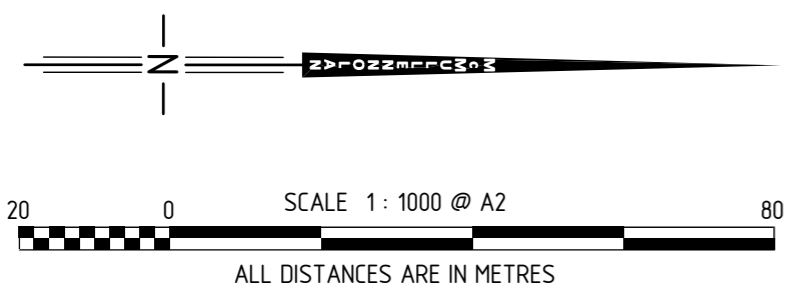
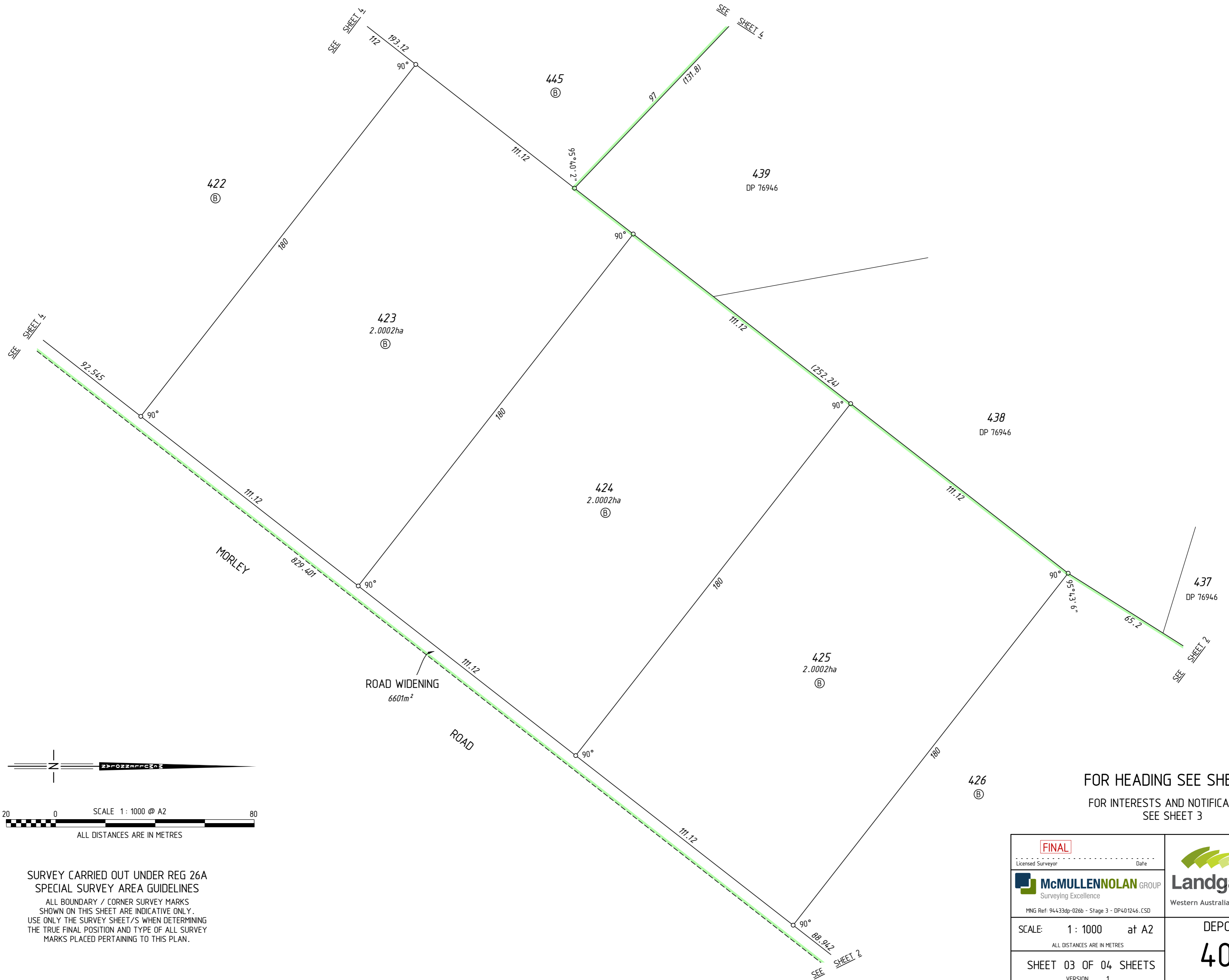
SURVEY CARRIED OUT UNDER REG 26A
 SPECIAL SURVEY AREA GUIDELINES
 ALL BOUNDARY / CORNER SURVEY MARKS
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 USE ONLY THE SURVEY SHEET/S WHEN DETERMINING
 THE TRUE FINAL POSITION AND TYPE OF ALL SURVEY
 MARKS PLACED PERTAINING TO THIS PLAN.



FINAL	
Licensed Surveyor	Date
McMULLENOLAN GROUP Surveying Excellence	
MNG Ref: 94433dp-026b - Stage 3 - DP401246.CSD	
SCALE:	1 : 1000 at A2
ALL DISTANCES ARE IN METRES	
SHEET 02 OF 04 SHEETS	
VERSION 1	





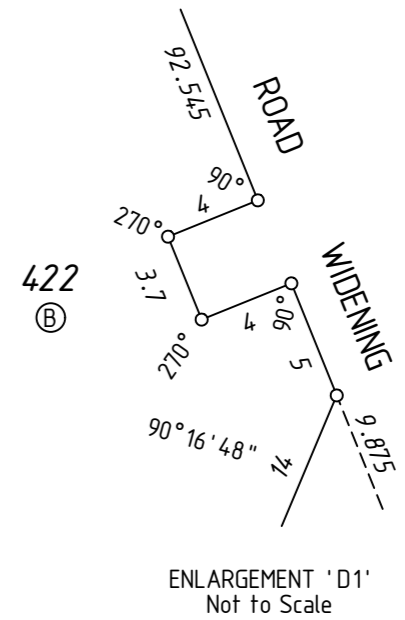
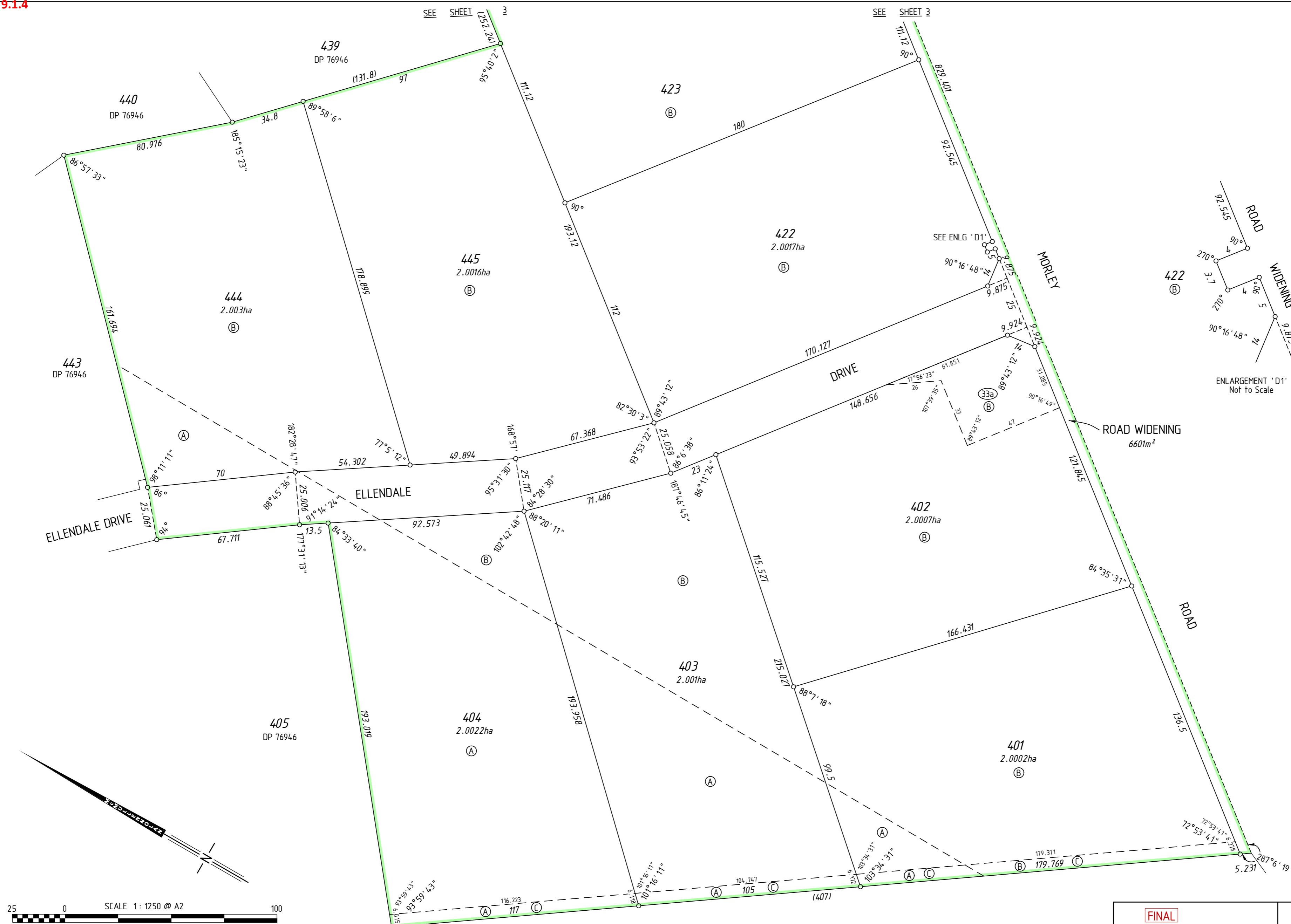
DEPOSITED PLAN
401246



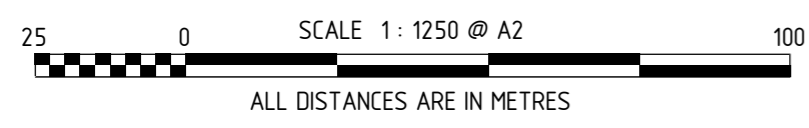
SURVEY CARRIED OUT UNDER REG 26A
SPECIAL SURVEY AREA GUIDELINES
ALL BOUNDARY / CORNER SURVEY MARKS
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USE ONLY THE SURVEY SHEET/S WHEN DETERMINING
THE TRUE FINAL POSITION AND TYPE OF ALL SURVEY
MARKS PLACED PERTAINING TO THIS PLAN.

FOR HEADING SEE SHEET 1
FOR INTERESTS AND NOTIFICATIONS
SEE SHEET 3

FINAL		 Landgate Western Australian Land Information Authority
Licensed Surveyor	Date	
 McMULLENOLAN GROUP Surveying Excellence <small>MNG Ref: 94433dp-026b - Stage 3 - DP401246.CSD</small>		DEPOSITED PLAN <h1>401246</h1>
SCALE: 1 : 1000 at A2 <small>ALL DISTANCES ARE IN METRES</small>		
SHEET 03 OF 04 SHEETS <small>VERSION 1</small>		



ROAD WIDENING
6601m²



SURVEY CARRIED OUT UNDER REG 26A
SPECIAL SURVEY AREA GUIDELINES
ALL BOUNDARY / CORNER SURVEY MARKS
SHOWN ON THIS SHEET ARE INDICATIVE ONLY.
USE ONLY THE SURVEY SHEET/S WHEN DETERMINING
THE TRUE FINAL POSITION AND TYPE OF ALL SURVEY
MARKS PLACED PERTAINING TO THIS PLAN.

FOR HEADING SEE SHEET 1
FOR INTERESTS AND NOTIFICATIONS
SEE SHEET 1

<p>FINAL</p> <p>Licensed Surveyor _____ Date _____</p>		<p>Landgate Western Australian Land Information Authority</p>
<p>McMULLENOLAN GROUP Surveying Excellence</p> <p>MNG Ref: 94433dp-026b - Stage 3 - DP401246.CSD</p>		
<p>SCALE: 1 : 1250 at A2 ALL DISTANCES ARE IN METRES</p>		<p>DEPOSITED PLAN 401246</p>
<p>SHEET 04 OF 04 SHEETS VERSION 1</p>		

SHIRE OF CHITTERING

TOWN PLANNING SCHEME No. 6

AMENDMENT No. 49

PROPOSAL TO AMEND SCHEME

1. Local Authority: Shire of Chittering
2. Description of Scheme: Town Planning Scheme No. 6
3. Type of Scheme: District Zoning Scheme
4. Serial No. of Amendment: Amendment No. 49
5. Proposal:

1. Amend Schedule 1 – Dictionary of Defined Words and Expressions as follows:

a) *Delete the existing definitions of ‘Transport Depot’, ‘Commercial Vehicle’ and ‘Home Business’.*

b) *Include in appropriate alphabetical order definitions as follows:*

Commercial Vehicle means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

a) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*

b) *an example of a non-motorised vehicle is a trailer.*

Commercial Vehicle Parking means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).

Home Business means a business, service or profession carried out in a dwelling or on land in the curtelage of a dwelling by an occupier of the dwelling which-

(a) *does not employ more than two persons full time, or a part time or mixed full time and part time equivalent of two full time employees over the year, in any case where such employees are not members of the occupier’s household;*

(b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*

(c) *does not occupy an area greater than 50m² unless in the Agricultural Resource zone or Rural Smallholdings zone where the Local Government may permit an area up to 200m²;*

(d) *does not involve the retail sale, display or hire of goods of any nature;*

- (e) does not include provision for refueling, repair or maintenance of motor vehicles;
- (f) in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone; and
- (h) does not involve display of a sign of more than 1.0m² in area.

Transport Depot means premises used or intended for use for the parking or garaging of:

- (a) two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or
- (b) two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;

and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.

2. Insert the following clause into Scheme Text:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);
- (b) is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;
- (c) is approved under this Scheme as a transport depot;
- (d) is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or
- (e) is exempted under clause 8.2(e) from the need to obtain approval.

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

(a) an occupier of the lot upon which the commercial vehicle parking is to occur is also:

- (i) the owner of; or
- (ii) the driver of; or

(iii) the proprietor of a business which owns or operates,

any commercial vehicle to be parked or garaged there.

(b) the lot is currently being resided on;

(c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;

(d) provision is made for adequate screening of each commercial vehicle;

(e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local Government.

3. Amend Schedule 2 – Zoning Table to include a Use Class for Commercial Vehicle Parking with the following permissibilities and renumber the use classes in Schedule 2 accordingly:

			Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS									
22	Commercial Vehicle Parking	Vehicle	A	P	P	D	D	D	X	A

4. Insert “Schedule 15 – Commercial Vehicle Parking”:

Schedule 15 – Commercial Vehicle Parking

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle

Townsite	Up to 3,999sq m	No Commercial Vehicles permitted	No trailers permitted
Townsite	4,000sq m and above	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	No trailers permitted
Residential R2	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	No trailers permitted
Rural Residential	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	A maximum of one trailer
Rural Small Holdings	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	A maximum of one trailer
Rural Retreat	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	A maximum of one trailer
Light Industrial General Industry Industrial Development	N/A	Approval not required if commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or (b) Rigid (non-articulated) commercial vehicle.	Approval not required if the commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.
Agricultural Resource	N/A	Approval not required if parking of commercial vehicles is ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval.	Approval not required if the commercial vehicles are ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.

		<p><i>A maximum of one –</i></p> <ul style="list-style-type: none"><i>(a) Prime mover; or</i><i>(b) Rigid (non-articulated) commercial vehicle.</i>	
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1. INTRODUCTION

1.1 Overview

The purpose of this Amendment is to strengthen and clarify the measures of the Scheme regarding anomalies between the definitions for Transport Depot and Commercial Vehicles and the lack of a definition and use class within the Zoning Table for Commercial Vehicle Parking.

1.2 Background

The Development Services Department has been receiving a number of Applications for Planning Approval requesting parking for Commercial Vehicles or the Transport Depot land use on a variety of properties throughout the Shire of Chittering. This is a land use that is not well guided throughout the Scheme or through the policy documents of the Shire of Chittering.

1.3 The Proposal

This Amendment seeks to undertake the following amendments to the Scheme:

- Include a definition for Commercial Vehicle Parking;
- Amend the definitions of Transport Depot, Commercial Vehicle and Home Business;
- Include provisions relating to Commercial Vehicle Parking;
- Include a use class and permissibilities for Commercial Vehicle Parking within Zoning Table;
- Renumber the Zoning Table accordingly;
- Include a Schedule for stipulating maximum number of commercial vehicle(s).

2. AMENDMENT DETAILS

2.1 Definition for Commercial Vehicle Parking

This Amendment seeks to define and include a definition for Commercial Vehicle Parking within the Scheme. The need for the definition arises from the following:

- The Scheme includes a definition of ‘**Commercial Vehicle**’, but there is no Use Class in Schedule 2 – Zoning Table of the Scheme which incorporates that term;
- Even though a site may be used for a Transport Depot type use, it may not fall within this definition within the Scheme, as it may only contain one (1) motor vehicle, with a larger number of trailers and attachments. As the definition of ‘**Transport Depot**’ does not contain a reference to Commercial Vehicles, but rather to Motor Vehicles, as that term is not defined by the Scheme, one assumes the intended reference is to motorised vehicles, so as to exclude trailers or attachments. This means that the use would be assessed as a Use Not Listed within the Scheme; and
- A definition for Commercial Vehicle Parking with associated approval provisions, would clarify the requirement for landowners within the Shire of Chittering to seek approval from Council for the parking of Commercial Vehicles on their properties.

The proposed definition for Commercial Vehicle Parking to be included in the Scheme is:

*“ **Commercial Vehicle Parking** means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).”*

This definition outlines that Commercial Vehicle Parking is to be for up to one (1) motorised Commercial Vehicle and/or one (1) non-motorised Commercial Vehicle, being any proposed trailer or attachment to be parked or garaged on the property. If more than one (1) motorised and one (1) non-motorised vehicle are proposed to be parked or garaged on the property, this will be required to be assessed as a Transport Depot, as defined by the Scheme. Without the residency requirement for Commercial Vehicle Parking, there would be an overlap with the Transport Depot definition in the case of a prime mover and trailer parked on land.

2.2 Inclusion of Commercial Vehicle Parking within the Zoning Table

This Amendment seeks to include the Commercial Vehicle Parking use class within Schedule 2 – Zoning Table of the Scheme. The following permissibilities will be applicable to the Use Class:

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS								
22	Commercial Vehicle Parking	A	P	P	D	D	D	X	A

In the Rural Conservation zone, Commercial Vehicle Parking is not permitted. Within any other residential rural environment, it has been chosen to include Commercial Vehicle Parking as a 'D' use within Schedule 2 - Zoning Table of the Scheme which has the meaning that -

"... the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval." (see clause 4.3.2).

Public advertising is not obligatory, though it is optional under clause 9.4.2 in respect of a 'D' use.

In the 'Townsite' and 'Residential R2' zones, with an 'A' permissibility designation, advertising is obligatory. Thus with the obligation ('A') or the option ('D') of advertising, the following concerns that Council may have in regard to Commercial Vehicle Parking can be addressed:

- The use may impact on the surrounding properties through noise or visual impact. It would be beneficial for Council to consider an application for Commercial Vehicle Parking should an objection be received to the proposal, especially in the case where it is proposed to park prime movers on residential or residential rural lots;
- Appropriate roads being used for access. Council may consider whether the vehicles are suitable for use on Shire of Chittering roads, particularly in the case where low volume or unsealed roads are proposed to be used for access; and
- The proposed hours of operation. Council may consider the hours of operation of Commercial Vehicles and whether it would likely eventuate in noise complaints in the locality.

Each application for Commercial Vehicle Parking is to be assessed on its merits, taking into consideration any comments received if there has been an advertising process.

Within the Light Industrial and Agricultural Resource zones of the Scheme, Commercial Vehicle Parking will be a 'P' (permitted) use. These types of land uses commonly involve Commercial Vehicle Parking as an ancillary aspect of the predominant use of the land.

2.3 Amending the Definition for Transport Depot

The current definition for Transport Depot is as follows in the Scheme:

"means premises used for the garaging of two (2) or more motor vehicles, used or intended to be used for carrying of goods or persons for hire or reward, or for the transfer of goods or persons, and includes maintenance and repair of the vehicles, used but not for other vehicles."

As previously discussed, the current definition results in applications being lodged with the Shire of Chittering proposing one (1) motorised vehicle with an unlimited number of non-motorised attachments. This would have to be assessed as a Use Not Listed by Council for Commercial Vehicle Parking.

This Amendment proposes to alter the definition slightly to include reference to Commercial Vehicles, which through the definition of the term, refers to either motorised or non-motorised vehicles. The proposed new definition is as follows:

"Transport Depot means premises used or intended for use for the parking or garaging of:

- (a) two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*
- (b) two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;*

and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.”

The Amendment to the definition ensures that applications for transport depots can be assessed in the following format:

- A transport depot proposing two (2) or more motorised vehicles, with or without any number of non-motorised trailers or attachments; and
- A transport depot proposing two (2) or more non-motorised trailers or attachments with or without any number of non-motorised commercial vehicles; and
- A transport depot proposing one (1) motorised vehicle, with two (2) or more non-motorised trailers or attachments.

This will provide clarity to Council and Shire of Chittering staff as to the appropriate land use to be applied when assessing applications for either Transport Depot or Commercial Vehicle Parking.

2.4 Amending the Definition for Commercial Vehicle

The current definition for Commercial Vehicle is as follows in the Scheme:

“means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or professions and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or any earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for the use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to cart loads of not more than 1.5 tonnes”

As previously discussed, the current definition results in applications being lodged with the Shire of Chittering on the basis of a use not listed, proposing one (1) motorised vehicle, with an unlimited number of attachments (which are non-motorised, hence not covered by the above definition). This would have to be assessed by Council as a Use Not Listed. This Amendment proposes to alter the definition to include reference to Commercial Vehicles, being either motorised or non-motorised, and specifying a tare weight, as follows

“Commercial Vehicle means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

- a) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*
- b) *an example of a non-motorised vehicle is a trailer.”*

The Amendment to the definition of Commercial Vehicle removes the confusion with the existing definition and ensures that all commercial vehicles are accommodated within the definition. The Amendment also specifies a tare weight of vehicles which will result in more focus on commercial vehicles that are considered likely to impact on amenity.

2.5 Amending the Home Business definition

For the purpose of the Scheme Amendment relating to the parking of Commercial Vehicles, the current definition of 'Home Business' is required to be amended to increase the tare weight of the associated vehicle from 3.5 tonnes to 4.5 tonnes. This is to be consistent with the amended definition of a 'Commercial Vehicle', which specifies a tare weight of "greater than 4.5 tonnes" and to not leave any gaps in the definition for vehicles between 3.5 tonnes and 4.5 tonnes.

2.6 Inserting Scheme Provisions relating to Commercial Vehicle Parking

The Amendment proposes to create a new land use for 'Commercial Vehicle Parking' as explained above. To set out what is required for the lawful carrying out of the Commercial Vehicle Parking use, it is further proposed to include provisions for approval in the Scheme text.

The approval provisions proposed in this Amendment are:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);
- (b) is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;
- (c) is approved under this Scheme as a transport depot;
- (d) is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or
- (e) is exempted under clause 8.2(e) from the need to obtain approval.

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

(a) an occupier of the lot upon which the commercial vehicle parking is to occur is also:

- (i) the owner of; or
- (ii) the driver of; or
- (iii) the proprietor of a business which owns or operates,

any commercial vehicle to be parked or garaged there.

(b) the lot is currently being resided on;

(c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;

(d) provision is made for adequate screening of each commercial vehicle;

(e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local Government.

It is considered the provisions will provide Council and Applicants with a clear understanding of the statutory limitations and requirements for Commercial Vehicle Parking in the Shire.

2.7 Inserting a Schedule

It is proposed to insert a new Schedule into the Scheme to set out the maximum number of commercial vehicles, motorised and non-motorised, that can be approved in the different zones. Currently the number of non-motorised commercial vehicles (attachments) that Council may approve is not controlled or set by the Scheme, leaving determination of Council 'open'

The proposed Schedule has been prepared to remove any doubt or uncertainty and provides consistency as to the number of commercial vehicles Council may support should an application be considered.

3. LOCAL PLANNING POLICY FOR COMMERCIAL VEHICLE PARKING AND TRANSPORT DEPOTS

This Amendment seeks to clarify the requirements of the Scheme in relation to Commercial Vehicle Parking and the Transport Depot land uses in the Shire of Chittering. It is likely that the Amendment will also prompt the development of a Local Planning Policy which provides more detailed guidance on the following minimum requirements for these land uses:

- Likely conditions to be placed on an Planning Approval for Commercial Vehicle Parking or Transport Depot including, but not limited to:
 - Screening;
 - Vehicle Wash Down and Maintenance Facilities;
 - Construction requirements for Hard Stand Areas;
 - Minimum Access Requirements.
- The need for surrounding and locality land owners to be notified of the Application for Planning Approval for either Commercial Vehicle Parking or Transport Depot and the minimum requirements for advertising

The development of this Local Planning Policy may mean greater land use control for these sometimes contentious land uses in the Shire of Chittering.

4. CONCLUSION

This Amendment seeks to implement the following modifications to the Scheme:

- Include a definition for Commercial Vehicle Parking;
- Include Commercial Vehicle Parking as a Use Class in Schedule 2 – Zoning Table a renumber the table accordingly;
- Modify the definition of Transport Depot, Commercial Vehicle and Home Business.
- Include provisions for Commercial Vehicle Parking.
- Include a Schedule for the maximum number of commercial vehicles in the zones.

The Amendment will remove any confusion for Councillors and staff when assessing an Application for Planning Approval that proposes the parking of one motorised vehicle and a number of attachments on residential type properties within the Shire of Chittering. It will also cross-reference definitions for Commercial Vehicle and Transport Depot within the Scheme. This connection has been lacking and has led to the aforementioned inconsistency in the Scheme, in which a Commercial Vehicle can be parked on a residential type property with a number of attachments, subject to Council issuing its approval.

PLANNING AND DEVELOPMENT ACT 2005

RESOLUTION DECIDING TO AMEND A LOCAL PLANNING SCHEME

SHIRE OF CHITTERING

TOWN PLANNING SCHEME No. 6 – AMENDMENT No. 49

In pursuance of section 75 of the Planning and Development Act 2005, Council **RESOLVED** to initiate an amendment to the Shire of Chittering Town Planning Scheme No. 6 by:

1. Amend Schedule 1 – Dictionary of Defined Words and Expressions as follows:

- a) *Delete the existing definitions of ‘Transport Depot’, ‘Commercial Vehicle’ and ‘Home Business’.*

- b) *Include in appropriate alphabetical order definitions as follows:*

Commercial Vehicle means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

- c) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*

- d) *an example of a non-motorised vehicle is a trailer.*

Commercial Vehicle Parking means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).

Home Business means a business, service or profession carried out in a dwelling or on land in the curtelage of a dwelling by an occupier of the dwelling which-

- (a) *does not employ more than two persons full time, or a part time or mixed full time and part time equivalent of two full time employees over the year, in any case where such employees are not members of the occupier’s household;*

- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*

- (c) *does not occupy an area greater than 50m² unless in the Agricultural Resource zone or Rural Smallholdings zone where the Local Government may permit an area up to 200m²;*

- (d) *does not involve the retail sale, display or hire of goods of any nature;*

- (e) *does not include provision for refueling, repair or maintenance of motor vehicles;*

- (f) *in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*
- (g) *does not involve the use of an essential service of greater capacity than normally required in the zone; and*
- (h) *does not involve display of a sign of more than 1.0m² in area.*

Transport Depot means premises used or intended for use for the parking or garaging of:

- (a) *two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*
- (b) *two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;*

and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.

2. Insert the following clause into Scheme Text:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) *occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);*
- (b) *is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;*
- (c) *is approved under this Scheme as a transport depot;*
- (d) *is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or*
- (e) *is exempted under clause 8.2(e) from the need to obtain approval.*

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

- (a) *an occupier of the lot upon which the commercial vehicle parking is to occur is also:*
 - (i) *the owner of; or*
 - (ii) *the driver of; or*
 - (iii) *the proprietor of a business which owns or operates,*

- any commercial vehicle to be parked or garaged there.*
- (b) the lot is currently being resided on;*
- (c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;*
- (d) provision is made for adequate screening of each commercial vehicle;*
- (e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.*

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local Government.

3. Amend Schedule 2 – Zoning Table to include a Use Class for Commercial Vehicle Parking with the following permissibilities and renumber the use classes in Schedule 2 accordingly:

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS								
22	Commercial Vehicle Parking	A	P	P	D	D	D	X	A

4. Insert “Schedule 15 – Commercial Vehicle Parking”:

Schedule 15 – Commercial Vehicle Parking

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle
Townsite	Up to 3,999sq m	No Commercial Vehicles permitted	No trailers permitted
Townsite	4,000sq m and above	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	No trailers permitted

<i>Residential R2</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>No trailers permitted</i>
<i>Rural Residential</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Rural Small Holdings</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Rural Retreat</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Light Industrial General Industry Industrial Development</i>	<i>N/A</i>	<i>Approval not required if commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or (b) Rigid (non-articulated) commercial vehicle.</i>	<i>Approval not required if the commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land . Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.</i>
<i>Agricultural Resource</i>	<i>N/A</i>	<i>Approval not required if parking of commercial vehicles is ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or (b) Rigid (non-articulated) commercial vehicle.</i>	<i>Approval not required if the commercial vehicles are ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.</i>

Dated this day of 20.....

.....
CHIEF EXECUTIVE OFFICER

PLANNING AND DEVELOPMENT ACT 2005

SHIRE OF CHITTERING

TOWN PLANNING SCHEME No. 6 – AMENDMENT No. 49

The Shire of Chittering under and by virtue of the powers conferred upon it in that behalf by the Planning and Development Act 2005 hereby amends the above local planning scheme by:

1. Amend Schedule 1 – Dictionary of Defined Words and Expressions as follows:

- a) *Delete the existing definitions of 'Transport Depot', 'Commercial Vehicle' and 'Home Business'.*

- b) *Include in appropriate alphabetical order definitions as follows:*

Commercial Vehicle means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

- c) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*
- d) *an example of a non-motorised vehicle is a trailer.*

Commercial Vehicle Parking means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).

Home Business means a business, service or profession carried out in a dwelling or on land in the curtelage of a dwelling by an occupier of the dwelling which-

- (a) *does not employ more than two persons full time, or a part time or mixed full time and part time equivalent of two full time employees over the year, in any case where such employees are not members of the occupier's household;*
- (b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*
- (c) *does not occupy an area greater than 50m² unless in the Agricultural Resource zone or Rural Smallholdings zone where the Local Government may permit an area up to 200m²;*
- (d) *does not involve the retail sale, display or hire of goods of any nature;*
- (e) *does not include provision for refueling, repair or maintenance of motor vehicles;*
- (f) *in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does*

- not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone; and*
- (h) does not involve display of a sign of more than 1.0m² in area.*

Transport Depot means premises used or intended for use for the parking or garaging of:

- (a) two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*
- (b) two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;*

and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.

2. Insert the following clause into Scheme Text:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);*
- (b) is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;*
- (c) is approved under this Scheme as a transport depot;*
- (d) is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or*
- (e) is exempted under clause 8.2(e) from the need to obtain approval.*

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

- (a) an occupier of the lot upon which the commercial vehicle parking is to occur is also:*
- (i) the owner of; or*
- (ii) the driver of; or*
- (iii) the proprietor of a business which owns or operates,*

any commercial vehicle to be parked or garaged there.

- (b) the lot is currently being resided on;*

- (c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;
- (d) provision is made for adequate screening of each commercial vehicle;
- (e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local Government.

3. Amend Schedule 2 – Zoning Table to include a Use Class for Commercial Vehicle Parking with the following permissibilities and renumber the use classes in Schedule 2 accordingly:

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS								
22	Commercial Vehicle Parking	A	P	P	D	D	D	X	A

4. Insert “Schedule 15 – Commercial Vehicle Parking”:

Schedule 15 – Commercial Vehicle Parking

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle
Townsite	Up to 3,999sq m	No Commercial Vehicles permitted	No trailers permitted
Townsite	4,000sq m and above	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight	No trailers permitted

<i>Residential R2</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>No trailers permitted</i>
<i>Rural Residential</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Rural Small Holdings</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Rural Retreat</i>	<i>N/A</i>	<i>A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight</i>	<i>A maximum of one trailer</i>
<i>Light Industrial General Industry Industrial Development</i>	<i>N/A</i>	<i>Approval not required if commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or (b) Rigid (non-articulated) commercial vehicle.</i>	<i>Approval not required if the commercial vehicles are ancillary to the industrial activities of a lawful predominant use of the land . Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.</i>
<i>Agricultural Resource</i>	<i>N/A</i>	<i>Approval not required if parking of commercial vehicles is ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or (b) Rigid (non-articulated) commercial vehicle.</i>	<i>Approval not required if the commercial vehicles are ancillary to the lawful predominant use of the land. Parking of Commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.</i>

PLANNING AND DEVELOPMENT ACT 2005

FINAL APPROVAL

SHIRE OF CHITTERING

TOWN PLANNING SCHEME No. 6 – AMENDMENT No. 49

Adopted for final approval by resolution of the Shire of Chittering at the Ordinary meeting of Council held on the day of 20.....

COMMON SEAL of the Shire of Chittering was hereunto affixed by authority of a resolution of the Council in the presence of:

.....
PRESIDENT

.....
CHIEF EXECUTIVE OFFICER

RECOMMENDED/SUBMITTED

FINAL APPROVAL

.....
DELEGATED UNDER S.16
OF THE P&D ACT 2005

.....
DATE

FINAL APPROVAL GRANTED

.....
MINISTER FOR PLANNING

.....
DATE

9. OFFICER'S REPORT

9.1 DEVELOPMENT SERVICES

9.1.1 Scheme Amendment No 49 – Shire of Chittering Town Planning Scheme No 6*

Applicant	Shire of Chittering
File ref	18/02/17
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Scheme Amendment document 2. Ordinary Council Meeting minutes from 17 April 2013 (item 9.1.2)

Background

Council at its 17 April 2013 Ordinary Council Meeting (OCM) resolved:

“That the item 9.1.2 ‘Initiation of Scheme Amendment No 49 – Shire of Chittering Town Planning Scheme No 6’ LAY ON THE TABLE and requested further information to be provided in relation to the definitions.”

Following this meeting, Council has been involved in two workshops with Shire staff. The workshops have allowed for thorough discussions of the proposed definitions and amendments to the Scheme and have resulted in some further modifications to the proposed Amendment since the April OCM including:

- Modifying the ‘Commercial Vehicle’ definition to specify a tare weight of 4.5 tonnes;
- Include modifying the ‘Home Business’ definition to increase the associated vehicle tare weight from 3.5 tonnes to 4.5 tonnes to be consistent with the ‘Commercial Vehicle’ definition;
- Insert new Scheme provisions relating to ‘Commercial Vehicle Parking’;
- Modifying some of the ‘A’ uses in ‘Schedule 2 – Zoning Table’ to ‘D’ and ‘X’ uses; and
- Inserting a new Schedule to specify the maximum number of Commercial Vehicles (motorised and non-motorised) permitted in the various zones.

The Scheme Amendment has been reviewed by the Shire’s solicitors and is now presented to Council for its consideration to initiate the Scheme Amendment.

Consultation

Public advertising will be required as part of this amendment in accordance with regulation 15 of the *Town Planning Regulations 1967* for a period of 42 days. Furthermore, it is a statutory requirement that the Shire forward the proposed scheme amendment to the Environmental Protection Authority prior to public advertising.

Statutory Environment

Planning and Development Act 2005

The power to make and amend a Town Planning Scheme is provided for by the *Planning and Development Act 2005*. The process to be followed in making or amending schemes is controlled by the *Town Planning Regulations 1967*.

Section 75 of the Act:

75. *Local Planning Scheme may be Amended*

A local government may amend a local scheme with reference to any land within its district, or with reference to land within its district and other land within its district, by and amendment –

- a) Prepared by the local government, approved by the Minister and published in the Gazette; or*
- b) Proposed by all or any of the owners of any land in the scheme area, adopted, with, or without modifications, by the local government, approved by the Minister and published in the Gazette.*

Section 81 of the Act:

81. Referral of Scheme or Amendment to the EPA

When a local government resolves to prepare or adopt a local planning scheme, or to prepare an amendment to a local planning scheme, the local government is to forthwith refer the proposed local planning scheme or amendment to the EPA by giving to the EPA –

- a) Written notice of that resolution;*
- b) Such written information about the local planning scheme or amendment as is sufficient to enable the EPA to comply with section 48A of the EP Act in relation to the local planning scheme or amendment.*

Once the Council has received advice from the EPA, it can advertise the amendment in accordance with regulation 15 of the *Town Planning Regulations 1967*.

15. Advertising of Scheme

- 1. Where consent has been given for the Scheme to be advertised for public inspection under regulation 14 and, if that consent was conditional, the conditions have been satisfied, the local government specified in the Scheme as such shall become the responsible authority under the Act and notice of the Scheme shall be advertised in the Form No.3 in Appendix A in accordance with sub-regulation (3) and the responsible authority shall take such other steps, if any, as it considers necessary, or as it is directed by the Commission to take, to make public the details of the Scheme.*
- 2. The responsible authority shall make available for inspection by the public during office hours–*
 - a. At the office of the responsible authority; and*
 - b. At the office of the Commission,*

A copy of the Scheme, Scheme Report and other supporting documents, and there shall be made available at the office of any local government affected by the Scheme a copy of that part of the Scheme that relates to land within the district of that local government.
- 3. The advertisement required to be made pursuant to sub-regulation (1) shall be effected by publication by the Commission of the notice referred to in that sub-regulation once in the Government Gazette and the Commission shall forward to the responsible authority a copy of the notice so published and thereupon the responsible authority shall publish the notice once in a newspaper circulating in the district where the land the subject of the Scheme is situated and shall also display a copy of the notice in a prominent place in the offices of the responsible authority for the period prescribed by sub-regulation (5) for the lodging of submissions.*
- 4. The responsible authority shall give to each public authority and other person whom the local government is required under section 7(2aa) of the Act to consult, and in the case of a development scheme to every landowner within the area the subject of the Scheme a notice in writing in the Form No.3 in Appendix A.*
- 5. The Commission shall, in the notice advertised or given pursuant to this regulation, describe the purpose of the Scheme, state the times and places where the Scheme may be inspected, and specify a date on or before which submissions in respect of the Scheme may be made,; which date shall be not less than 3 months from the date of publication of advertisement in the Government Gazette pursuant to this regulation, except that in the case of a Development Scheme or a Scheme that does not involve the zoning or classification of land the Commission*

may specify a lesser period for lodging of submissions but subject in the case of a Town Planning Scheme Amendment to regulation.

Shire of Chittering Town Planning Scheme No 6

The purpose of the Amendment is to include a definition for Commercial Vehicle Parking and include the 'Use Class' within Schedule 2 – Zoning Table of the Scheme. It also seeks to amend the current definitions of 'Transport Depot', 'Commercial Vehicle' and 'Home Business'. The current definition for 'Transport Depot' is:

"Means premises used for the garaging of two (2) or more motor vehicles, used or intended to be used for carrying of goods or persons for hire or reward, or for the transfer of goods or persons, and includes maintenance and repair of the vehicles, used but not for other vehicles."

The current definition for 'Commercial Vehicle' is:

"Means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or any earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for the use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to car loads or not more than 1.5 tonnes."

The current definition for 'Home Business' is:

- "Means a business, service or profession carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which-*
- (a) does not employ more than two full time or equivalent ratio of people on average per year, who are not members of the occupiers household;*
 - (b) will not cause injury to or adversely affect the amenity of the neighbourhood;*
 - (c) does not occupy an area greater than 50m² except for land in the Agricultural Resource zone or Rural Smallholdings zone under the Scheme the Local Government may permit an area up to 200m²;*
 - (d) does not involve the retail sale, display or hire of goods of any nature and does not include provision for refuelling, repair or maintenance of motor vehicles;*
 - (e) in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 3.5 tonnes tare weight, and*
 - (f) does not involve the use of an essential service of greater capacity than normally required in the zone.*
 - (g) does not display a sign of more than 1.0m²."*

Policy Implications

Whilst a policy does not currently exist for 'Commercial Vehicle Parking' or 'Transport Depot', it is envisaged that this will occur following the scheme amendment to provide guidance to the public and applicants when submitting an application for approval and for Council in making a decision.

Financial Implications

Nil

Strategic Implications

The Shire of Chittering Local Planning Strategy (LPS) does not refer to the implementation of 'Transport Depots' or 'Commercial Vehicle Parking' in the Shire. However, it does refer to the development of light industrial land uses on appropriate land identified throughout the Shire, and general industrial uses in the Muchea Employment Node.

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

The initiation of the scheme amendment is not considered to cause any economic implications.

Social implications

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

Environmental implications

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

Comment

The purpose of the proposed Amendment is to clarify and strengthen the provisions of the *Shire of Chittering Town Planning Scheme No 6*. This has come from inconsistencies in the application for 'Transport Depots' and 'Commercial Vehicle Parking' within the Shire of Chittering.

A use class is not currently included within the zoning table for 'Commercial Vehicle Parking', which is currently assessed as a 'Use Not Listed'. Therefore, this amendment is required to be included to identify Commercial Vehicle Parking as a defined land use identified within the table also.

Proposed Amendment

As outlined in the Amendment documents, the Amendment seeks to:

- Include a definition for 'Commercial Vehicle Parking', which encapsulates those applications which do not necessarily fall within the definition of a 'Transport Depot';

Currently the Town Planning Scheme does not define or list a land use which would encompass the parking of a commercial vehicle. This would result in all applications for 'Commercial Vehicle Parking' being dealt with as a 'Use Not Listed' as per Clause 4.4.2 of the Scheme, requiring advertising and Council determination. As the demand for the parking of commercial vehicles in the Shire is increasing, it is considered necessary to include this land use into the Scheme.

- Amend the definition of 'Commercial Vehicle' to include a minimum tare weight of 4.5 tonnes, which is intended to not capture a number of smaller commercial vehicles;

The current definition stipulates Commercial Vehicles are 1.5 tonnes and above. The Shire and Council have discussed the preference to increase the tonnage in the definition to 4.5 tonnes and above. This not only removes the need for planning approval for smaller commercial vehicles, which are not considered to impact the locality as greatly as larger commercial vehicles, but also minimises the workload on the Shire for landowners to apply for planning approval for smaller commercial vehicles, which would be a significantly high proportion. For instance a landowner with a large utility vehicle and small truck (both above 1.5 tonnes) would be considered a 'Transport Depot' under the current definition, which would result in a number of landowners, particularly on Rural Residential lots, carrying out an unlawful land use. This Amendment seeks to address this issue.

- Improve the definition of 'Transport Depot' within the Scheme such that it refers to commercial vehicles and does not specifically refer to the storage of motorised transport;

The current definition uses the term 'motor vehicle', which would not be associated with the new definitions and terms as part of this Amendment. By amending the term in the definition to 'commercial vehicle' provides a more consistent set of definitions that relate to one another, being 'Commercial Vehicle', 'Commercial Vehicle Parking' and 'Transport Depot'. By using the same terminology across the three definitions, the process and assessment of the parking of commercial vehicles is much less ambiguous.

- Modify the definition of 'Home Business' within the Scheme to permit vehicles associated with the use from the current 3.5 tonnes to 4.5 tonnes;

As a result of the main purpose of this Amendment for Commercial Vehicle Parking, to remove any inconsistencies throughout the Scheme, the definition of 'Home Business' is proposed to be amended. The definition makes reference to an associated commercial vehicle of up to 3.5 tonnes. Again to remove inconsistencies in the Scheme, increasing the tonnage of the associated commercial vehicles to 4.5 tonnes is considered appropriate. In the case of an application for a Home Business with an associated commercial vehicle above 4.5 tonnes, the Applicant would also be required to obtain planning approval for 'Commercial Vehicle Parking'.

- Include 'Commercial Vehicle Parking' as a defined use within 'Schedule 2 – Zoning Table' of the Scheme;

Currently the Scheme does not list the land use of 'Commercial Vehicle Parking'. As mentioned earlier this requires an application for such to be dealt with as per Clause 4.4.2 of the Scheme as a 'Use Not Listed'. This Amendment proposes to include this as a land use in the Zoning Table to remove the need to assess the application as a 'Use Not Listed' and as a result should be a more efficient process. The permissibility's of each zone has been assessed based on current dealings with applications and in conjunction with Council to provide what is considered a suitable outcome.

- Include provisions in the Scheme for 'Commercial Vehicle Parking';

With the proposed new land use it is considered appropriate to insert provisions in the Scheme relating to the land use to assist in addressing the likely associated issues and strengthen the Shire's ability to control the development.

- Include a Schedule in the Scheme to set the maximum number of commercial vehicles permissible in the zones.

It is considered appropriate to insert a Schedule in the Scheme to clearly, and lawfully, set the number of commercial vehicles (both motorised and non-motorised) permissible in each zone. It should be noted that without the proposed Schedule, there is no limit in the Scheme as to what number of commercial vehicles are permitted to be parked on properties, unless it falls under a 'Transport Depot' use which is two or more.

The proposed Amendment will remove the inconsistencies in the Scheme regarding 'Transport Depot' and 'Commercial Vehicle Parking' and set clear statutory requirements for the approval of commercial vehicles. It is recommended that Council support the Amendment to modify the Scheme.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

1. In pursuance of section 75 of the *Planning and Development Act 2005* and regulation 17(2) of the *Town Planning Regulations 1967*, Council resolves to support the initiation of amending the *Shire of Chittering Town Planning Scheme No 6* to:

a. Amend Schedule 1 – Dictionary of Defined Words and Expressions as follows:

i. *Delete the existing definitions of ‘Transport Depot’, ‘Commercial Vehicle’ and ‘Home Business’.*

ii. *Include in appropriate alphabetical order definitions as follows:*

Commercial Vehicle – means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

(a) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*

(b) *an example of a non-motorised vehicle is a trailer.*

Commercial Vehicle Parking – means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).

Home Business – means a business, service or profession carried out in a dwelling or on land in the curtilage of a dwelling by an occupier of the dwelling which-

(a) *Does not employ more than two persons full time, or a part time or mixed full time and part time equivalent of two full time employees over the year, in any case where such employees are not members of the occupier’s household;*

(b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*

(c) *does not occupy an area greater than 50m² unless in the Agricultural Resource zone or Rural Smallholdings zone where the Local Government may permit an area up to 200m²;*

(d) *does not involve the retail sale, display or hire of goods of any nature;*

(e) *does not include provision for refuelling, repair or maintenance of motor vehicles;*

(f) *in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*

(g) *does not involve the use of an essential service of greater capacity than normally required in the zone; and*

(h) *does not involve display of a sign of more than 1.0m² in area.*

Transport Depot – means premises used or intended for use for the parking or garaging of:

(a) *two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*

(b) *two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;*

and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.

b. Insert the following clause into Scheme Text:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);*
- (b) is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;*
- (c) is approved under this Scheme as a transport depot;*
- (d) is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or*
- (e) is exempted under clause 8.2€ from the need to obtain approval.*

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

- (a) an occupier of the lot upon which the commercial vehicle parking is to occur is also:
 - (i) the owner of; or*
 - (ii) the driver of; or*
 - (iii) the proprietor of a business which owns or operates, any commercial vehicle to be parked or garaged there.**
- (b) the lot is currently being resided on;*
- (c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;*
- (d) provision is made for adequate screening of each commercial vehicle;*
- (e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.*

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local Government.



- c. Amend Schedule 2 – Zoning Table to include a Use Class for Commercial Vehicle Parking with the following permissibilities and renumber the use classes in Schedule 2 accordingly:

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS								
22	Commercial Vehicle Parking	A	P	P	D	D	D	X	A

- d. Insert “Schedule 15 – Commercial Vehicle Parking”:

Schedule 15 – Commercial Vehicle Parking

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle
Townsite	Up to 3,999sq m	No Commercial Vehicles permitted.	No trailers permitted.
Townsite	4,000sq m and above	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	No trailers permitted.
Residential R2	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	A maximum of one trailer.
Rural Residential Rural Small Holdings Rural Retreat	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	A maximum of one trailer.
Light Industrial General Industry Industrial Development	N/A	Approval not required if parking of commercial vehicle is ancillary to the industrial activities of a lawful predominant use of the land. Parking of commercial vehicles which are not	Approval not required if parking of commercial vehicle is ancillary to the industrial activities of a lawful predominant use of the land. Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle
		associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) commercial vehicle.	
Agricultural Resource	N/A	Approval not required if parking of commercial vehicle is ancillary to the lawful predominant use of the land. Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval. A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) commercial vehicle.	Approval not required if the commercial vehicles are ancillary to the lawful predominant use of the land. Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval. (a) A maximum of one trailer.

2. Number the proposed Amendment “Amendment No 49”.
3. The proposed Amendment be forwarded to the Environmental Protection Authority for assessment in accordance with section 81 of the *Planning and Development Act 2005* prior to advertising in accordance with the *Town Planning Regulation 1967*.

AMENDMENT

Moved Cr Norton

That Council insert a clause in the Scheme Amendment 49 that gives Council the ability to give consideration to parking of a second vehicle in certain circumstances.

THE AMENDMENT LAPSED FOR WANT OF A SECONDER

AMENDMENT

Moved Cr Rossouw / Seconded Cr Norton

That recommendation 1. d) be amended in row 4 ‘Residential R2’ to delete the words ‘a maximum of one trailer’ and replace with ‘no trailers permitted’.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 5/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION - 041213

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

1. In pursuance of section 75 of the *Planning and Development Act 2005* and regulation 17(2) of the *Town Planning Regulations 1967*, Council resolves to support the initiation of amending the *Shire of Chittering Town Planning Scheme No 6* to:

a. Amend Schedule 1 – Dictionary of Defined Words and Expressions as follows:

i. *Delete the existing definitions of 'Transport Depot', 'Commercial Vehicle' and 'Home Business'.*

ii. *Include in appropriate alphabetical order definitions as follows:*

Commercial Vehicle – means a motorised vehicle or a non-motorised vehicle, whether licensed or not, which has a tare weight of greater than 4.5 tonnes and which is designed, used or intended to be used for carrying goods or persons for hire or reward or for earthworks or construction.

Without limiting the generality of the above definition:

(a) *examples of a motorised vehicle include a van, truck, prime mover, tractor, grader or a mobile crane; and*

(b) *an example of a non-motorised vehicle is a trailer.*

Commercial Vehicle Parking – means the parking or garaging of no more than one motorised commercial vehicle and/or no more than one non-motorised commercial vehicle, (but not including the maintenance or repair of any such vehicle).

Home Business – means a business, service or profession carried out in a dwelling or on land in the curtilage of a dwelling by an occupier of the dwelling which-

(a) *Does not employ more than two persons full time, or a part time or mixed full time and part time equivalent of two full time employees over the year, in any case where such employees are not members of the occupier's household;*

(b) *will not cause injury to or adversely affect the amenity of the neighbourhood;*

(c) *does not occupy an area greater than 50m² unless in the Agricultural Resource zone or Rural Smallholdings zone where the Local Government may permit an area up to 200m²;*

(d) *does not involve the retail sale, display or hire of goods of any nature;*

(e) *does not include provision for refuelling, repair or maintenance of motor vehicles;*

(f) *in relation to vehicles and parking, will not result in traffic difficulties as a result of inadequacy of parking or an increase in traffic volumes in the neighbourhood, and does not involve the presence, use or calling of a vehicle of more than 4.5 tonnes tare weight;*

(g) *does not involve the use of an essential service of greater capacity than normally required in the zone; and*

(h) *does not involve display of a sign of more than 1.0m² in area.*

Transport Depot – means premises used or intended for use for the parking or garaging of:

(a) *two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*

(b) *two or more non-motorised commercial vehicles with or without any number of*

*motorised commercial vehicles;
and the use includes maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles.*

b. Insert the following clause into Scheme Text:

5.18 Commercial Vehicle Parking

5.18.1 Subject to this clause, commercial vehicle parking on any land within the Scheme area requires the prior approval of the Local Government;

5.18.2 An application for the approval of the Local Government under this clause may be made on the form prescribed in Schedule 7;

5.18.3 This clause 5.18 does not apply where the proposed parking or garaging of a commercial vehicle(s):

- (a) occurs during the period that the commercial vehicle(s) is engaged in work on the lot on which it is parked or garaged (for example, harvesting or earthmoving on the lot);**
- (b) is solely for the purpose of visiting the subject lot for business purposes or the delivery or receiving of goods;**
- (c) is approved under this Scheme as a transport depot;**
- (d) is considered to be ancillary to a lawful use of the land upon which the commercial vehicle(s) is parked or garaged; or**
- (e) is exempted under clause 8.2€ from the need to obtain approval.**

5.18.4 The maximum number of commercial vehicles which may be parked or garaged on any lot within a particular zone as part of an approval under clause 5.18.1 is set out in Schedule 15.

5.18.5 An approval under this clause may only be granted where:

- (a) an occupier of the lot upon which the commercial vehicle parking is to occur is also:**
 - (i) the owner of; or**
 - (ii) the driver of; or**
 - (iii) the proprietor of a business which owns or operates, any commercial vehicle to be parked or garaged there.**
- (b) the lot is currently being resided on;**
- (c) provision is made for each commercial vehicle to be parked or garaged behind the building line of the dwelling;**
- (d) provision is made for adequate screening of each commercial vehicle;**
- (e) the Local Government has ensured the observance of other matters relevant to the particular case by the imposition of appropriate conditions.**

5.18.6 If a commercial vehicle owner who has been granted approval for commercial vehicle parking on a lot wishes to replace a vehicle identified in the approval with another commercial vehicle, a further application to the Local Government is required, except where the replacement vehicle is of an equivalent tare weight or less. In such cases, approval is not required if the landowner or the commercial vehicle owner submits a photograph of the new commercial vehicle to the Local Government in writing and receipt of the photograph is acknowledged by the Local



Government.

- c. Amend Schedule 2 – Zoning Table to include a Use Class for Commercial Vehicle Parking with the following permissibilities and renumber the use classes in Schedule 2 accordingly:

		Townsite	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation	Residential R2
	USE CLASS								
22	Commercial Vehicle Parking	A	P	P	D	D	D	X	A

- d. Insert “Schedule 15 – Commercial Vehicle Parking”:
Schedule 15 – Commercial Vehicle Parking

Zone	Lot size	Max number of Motorised Commercial vehicles	Max number of trailers designed to be attached to a Motorised Commercial Vehicle
Townsite	Up to 3,999sq m	No Commercial Vehicles permitted.	No trailers permitted.
Townsite	4,000sq m and above	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	No trailers permitted.
Residential R2	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	No trailers permitted.
Rural Residential Rural Small Holdings Rural Retreat	N/A	A maximum of one – (a) Prime mover; or; (b) Rigid (non-articulated) Commercial Vehicle of max 8 tonne tare weight.	A maximum of one trailer.
Light Industrial General Industry	N/A	Approval not required if parking of commercial vehicle is ancillary to the industrial activities of a lawful predominant use of the land.	Approval not required if parking of commercial vehicle is ancillary to the industrial activities of a lawful predominant use of the land. Parking of commercial vehicles which are not associated with the lawful predominant



Industrial Development		<p>Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval.</p> <p>A maximum of one –</p> <p>(a) Prime mover; or;</p> <p>(b) Rigid (non-articulated) commercial vehicle.</p>	<p>use will require planning approval.</p> <p>(a) A maximum of one trailer.</p>
Agricultural Resource	N/A	<p>Approval not required if parking of commercial vehicle is ancillary to the lawful predominant use of the land.</p> <p>Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval.</p> <p>A maximum of one –</p> <p>(a) Prime mover; or;</p> <p>(b) Rigid (non-articulated) commercial vehicle.</p>	<p>Approval not required if the commercial vehicles are ancillary to the lawful predominant use of the land.</p> <p>Parking of commercial vehicles which are not associated with the lawful predominant use will require planning approval.</p> <p>(a) A maximum of one trailer.</p>

2. **Number the proposed Amendment “Amendment No 49”.**
3. **The proposed Amendment be forwarded to the Environmental Protection Authority for assessment in accordance with section 81 of the *Planning and Development Act 2005* prior to advertising in accordance with the *Town Planning Regulation 1967*.**

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 5/1

9. OFFICER'S REPORT

9.1 DEVELOPMENT SERVICES

9.1.1 Application for retrospective approval for conversion of outbuilding to dwelling – Lot 388 (RN 145) Santa Gertudis Drive, Lower Chittering*

Applicant	SW Devos
File ref	A10224 P030/14
Prepared by	Mark Johnston, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Floor Plan 4. Elevation Plan 5. Photographs of Initial Works Conducted 6. Photographs of Further Works Conducted

Background

Council's consideration is requested for a retrospective approval for the conversion of a non-habitable outbuilding to a dwelling at Lot 388 (RN 145) Santa Gertudis Drive, Lower Chittering.

On the 18 August 2013 the Shire granted Planning Approval for a 128m² (16m long by 8m wide) shed, the subject of this application (ref: P227/13). Approval was also granted for a water tank and dwelling under the same application. The approval was granted subject to the following conditions:

1. *All development shall be within the setback requirements/building envelope.*
2. *The water tank shall be to a minimum total capacity of 120,000 litres, of which 10,000 litres shall be kept at all times for the purposes of fire fighting and fitted with a standard camlock valve.*
3. *Roofing to be tiled or pre-painted material such as the product Colourbond.*
4. *The maximum area to be cleared is 2,000 m².*
5. *The shed is not to be used for Commercial purposes.*
6. *The proposed shed is for storage purposes only and not for residential habitation.*

Compliance undertaken by Shire Officers revealed the landowner has carried out building works to the interior of the shed (64m²) for residential occupation. The applicant was advised to cease all work as the works being conducted were in contravention of the Planning Approval granted through a letter sent on the 6 December 2013. In addition, the applicant has failed to obtain a building permit prior to the construction of the shed and a water tank at the property. The appropriate actions by Shire Officers are being undertaken to resolve this matter. The works which had been completed at this point in time can be seen in Attachment 5.

As a result of the Shire's compliance actions, the landowner submitted an application for retrospective planning approval to convert the existing shed to a granny flat. The proposed floor plan reflects the existing fit out to the shed. The landowner has also provided plans showing additions (improvements) to the existing shed to enhance the visual amenity.

The landowner is seeking approval to convert the shed to a granny flat to live on site whilst obtaining approval and constructing the future main dwelling. The conversion of the shed would be classed as a dwelling rather than a granny flat (ancillary dwelling) due to the fact there is no other residential buildings on the property. In this scenario, provided the dwelling is less than 70 square metres, it can be re-defined as an ancillary dwelling (granny flat) once a main dwelling is approved. The applicant has also proposed a lean-to and patio additions to the shed as a part of this application (refer to Attachment 3).

Shire Officers conducted a site visit in relation to this agenda item to better assess the application for Council's consideration. During this site visit it was noted that the applicant had continued to conduct further works to the shed (refer to Attachment 6).

Consultation

A number of meetings were conducted on site and within the Shire offices with the applicant regarding the proposal.

Statutory Environment

State: Planning and Development Act 2005

Section 218 of the Act outlines that non-compliance with a condition of planning approval imposed under a Local Planning Scheme is an offence:

218. Planning scheme or condition on development, contravening etc.

A person who —

- (a) contravenes the provisions of a planning scheme; or*
- (b) commences, continues or carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme or improvement scheme otherwise than in accordance with the provisions of the planning scheme; or*
- (c) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition, commits an offence.*

Local: Town Planning Scheme No. 6

The subject property is zoned Rural Residential and the objectives of the zone are as follows:

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

Clause 5.8.3 of the Scheme outlines the requirements for Planning Approval in Rural Residential zones and states:

Residential use will not be permitted in a building other than one approved by the Council for that purpose, except that Council may grant permission for occupation of a caravan for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force or an application for such is before Council.

Clause 10.3 of the Scheme outlines the Shire may approve an application with conditions:

10.3 DETERMINATION OF APPLICATIONS

In determining an application for Planning Approval the Local Government may:

- (a) grant its approval with or without conditions; or*
- (b) refuse to grant its approval.*

Clause 11.4.1 outlines the requirement to comply with conditions of Planning Approval:

11.4.1 A person must not-

- (a) contravene or fail to comply with the provisions of the Scheme;*
- (b) use any land or commence or continue to carry out any development within the Scheme Area-

 - i. otherwise in accordance with the Scheme;*
 - ii. unless all approvals required by the Scheme have been granted and issued;*
 - iii. otherwise than in accordance with any conditions imposed upon the grant and the issue of any approval required by the Scheme; and*
 - iv. otherwise than in accordance with any standards laid down and any requirements prescribed by the Scheme or determined by the Local Government under the Scheme with respect to that building or that use.**

Policy Implications

Local: Local Planning Policy No 27 Living in Sheds

5. POLICY STATEMENT

5.1 Living in sheds is prohibited;

5.2 Where a building permit for a dwelling is concurrently in force or an application has been lodged, Council may grant permission for occupation of a caravan on the lot for a period not exceeding 12 months;

5.3 The period of caravan occupancy may be extended, provided satisfactory progress is being made on the construction of the dwelling;

5.4 Council approval is not required for short-term (week-end) caravan occupancy;

5.5 A pre-requisite for any long-term caravan occupancy is:

- a) water storage in tanks of not less than 120,000 litres capacity, as specified in Local Planning Policy No. 21 Fire Management Plans;*
- b) connection to an approved effluent disposal system;*

5.6 Caravans used for short or long term occupancy may be stored in a shed or otherwise be provided with weather protection;

5.7 Sheds may be provided with a toilet and hand basin/wash trough but no other plumbing facilities (see also Local Planning Policy No. 7 Outbuildings).

5.8 Applications for caravan occupancy may be dealt with by the Chief Executive Officer under delegation issued by Council in accordance with Section 5.42 of the Local Government Act 1995.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line AssessmentEconomic Implications

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

Social implications

It is considered that the support of permanent occupation of sheds would create undesirable development and amenity issues in the Shire. Previously the Shire has received numerous verbal complaints raised by community members concerning the negative impact on visual amenity and the occupation of sheds has on the locality.

Environmental implications

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

CommentContravention of Planning Approval

The shed was originally proposed as a non-habitable outbuilding. Therefore, in accordance with *Local Planning Policy No 27 Living in Sheds* and *Town Planning Scheme No. 6*, the shed was approved subject to the following condition:

6. *The proposed shed is for storage purposes only and not for residential habitation.*

Subsequently, the applicant undertook works to the shed to upgrade it to a habitable standard. This contravenes condition 6 of the planning approval granted which is an offence under the *Planning and Development Act 2005* and Council's *Town Planning Scheme No. 6*. The support of this application would condone the offence that has been committed and contradict the previous decision.

The approval of this application would set a precedent whereby landowners could conduct works illegally knowing that they will gain retrospective approval from Council. This would influence a number of illegal works to occur which becomes a major compliance issue for the Shire. Therefore, it is recommended that Council do not support this application.

Town Planning Scheme No 6

The objectives of the Rural Residential zone are as follows:

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

As stated in the social implications section of this report, the permanent occupation of sheds has been raised by the community as a general amenity concern through verbal comments. It is considered the conversion of a shed into a dwelling would still result in the shed having the appearance of shed which does not meet the rural character of the locality.

As stated by clause 5.8.3 of the Scheme, the residential use of a building is only permitted within a building that is approved for habitation. The subject outbuilding was not approved for habitation. Therefore, the illegal conversion of the shed does not comply with the Scheme.

Local Planning Policy No 27 Living in Sheds

This application proposes the habitation of a shed. This is inconsistent with Policy statement 5.1 of *Local Planning Policy 27 Living in Sheds* which states the following:

5.1 Living in sheds is prohibited.

Furthermore policy statement 5.7 only permits one toilet and hand basin/wash trough, but no other plumbing facilities. The applicant has already proceeded with installing a number of plumbing facilities in addition to a single toilet and hand basin, including connections for a kitchen sink, second basin and shower (refer to Attachment 6).

Given the inconsistency with *Local Planning No Policy 27 Living in Sheds* it is recommended Council does not support the application.

Final Comment

At its previous Ordinary Meeting of Council held on the 19 February 2014, Council refused to grant Planning Approval for a very similar application for the purpose of converting an existing non-habitable outbuilding to a dwelling. This sets a precedent to refuse the application in order to achieve consistent decision making.

Furthermore, the applicant has continued to conduct works to the shed to convert it to a habitable building, despite being advised to cease works. Thereby, the applicant has continued to commit an offence under *Town Planning Scheme No. 6* and the *Planning and Development Act 2005* for every day development continued.

Therefore, it is recommended that Council does not support the proposal as per the Officer's Recommendation below. In addition, it is recommended the applicant be required to remove all building works necessary for the outbuilding to comply with the approvals granted by the Shire within six (6) months to the satisfaction of the Chief Executive Officer.

9.1.1 OFFICER RECOMMENDATION**Moved Cr Rossouw / Seconded Cr Norton**

That Council:

1. Refuse the retrospective approval for the conversion of the outbuilding to a dwelling at Lot 388 (RN 145) Santa Gertrudis Drive, Lower Chittering for the following reasons:
 - a) The proposal is inconsistent with *Local Planning Policy No 27 Living in Sheds* in the following ways:
 - i. Does not meet the objective to “ensure an adequate standard of residential accommodation”.
 - ii. Policy Statement 5.1 states “Living in sheds is prohibited.”
 - iii. Policy Statement 5.7 states “Sheds may be provided with a toilet and hand basin/wash trough but no other plumbing facilities.”
 - b) The proposal contravenes Clause 5.8.3 of the Scheme:

“Residential use will not be permitted in a building other than one approved by the Council for that purpose, except that Council may grant permission for occupation of a caravan for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force or an application for such is before Council.”
 - c) The proposal does not meet the roof catchment area required for water supply set out in Clause 5.8.5 of the Scheme.
 - d) It is undesirable to condone a contravention of the *Planning Development Act 2005*;
 - e) The proposal sets an undesirable precedent for other landowners to conduct illegal works to existing outbuildings;
2. Direct the landowner to remove all building works necessary for the outbuilding to comply with the approvals granted by the Shire within six (6) months of Council’s decision to the satisfaction of the Chief Executive Officer.

Advice Notes:

1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council’s decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council’s decision.
2. Should the landowner not comply with Condition 2 of Council’s Resolution, the Shire will take further action.

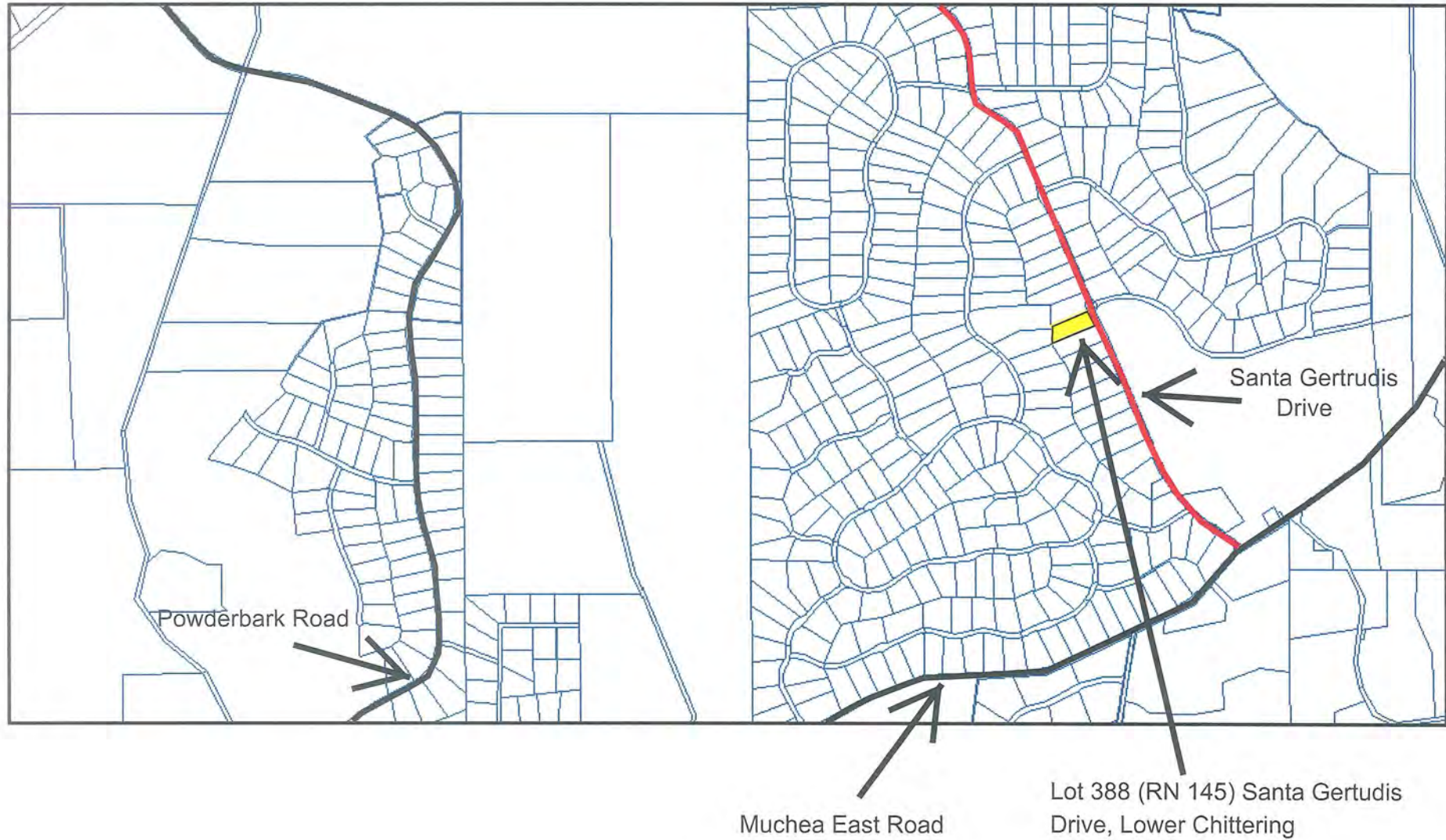
9.1.1 COUNCILLOR MOTION / COUNCIL RESOLUTION – 020314**Moved Cr Douglas / Seconded Cr Gibson**

That item 9.1.1 (*Application for retrospective approval for conversion of outbuilding to dwelling – Lot 388 (RN 145) Santa Gertrudis Drive, Lower Chittering*) lay on the table until the April Ordinary Meeting of Council to enable staff to investigate the officer recommendation further to determine whether there are any other alternative solutions to resolve this matter.

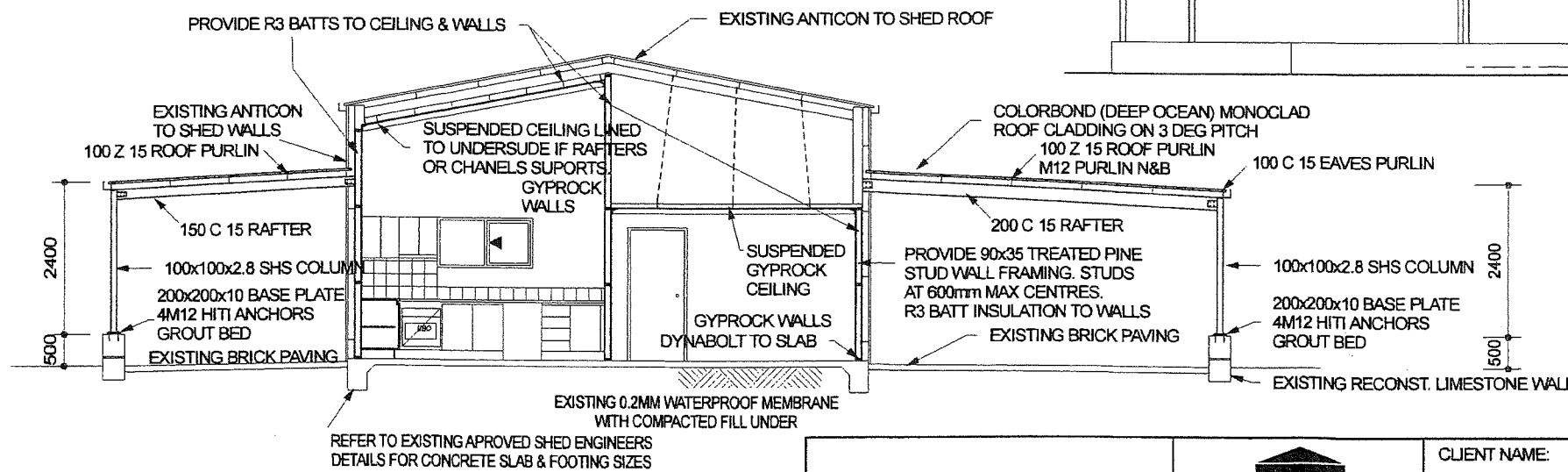
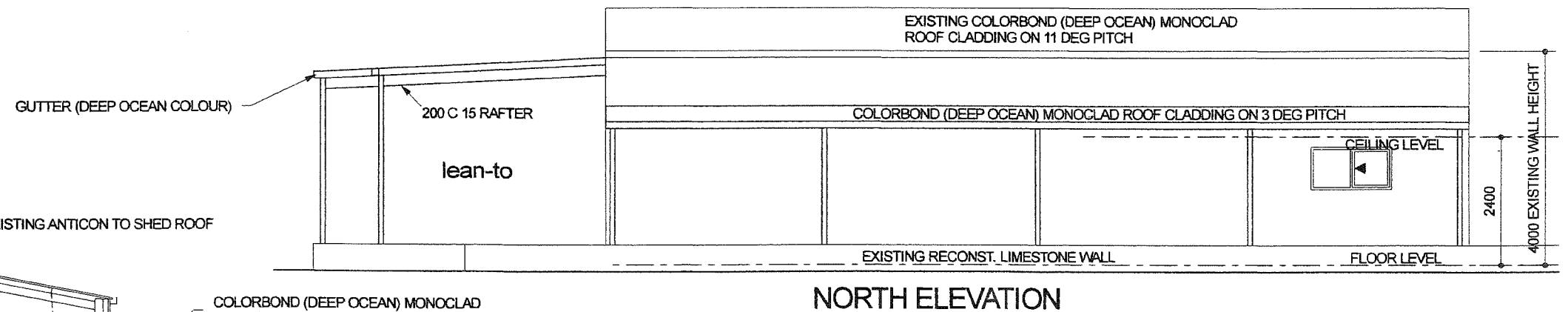
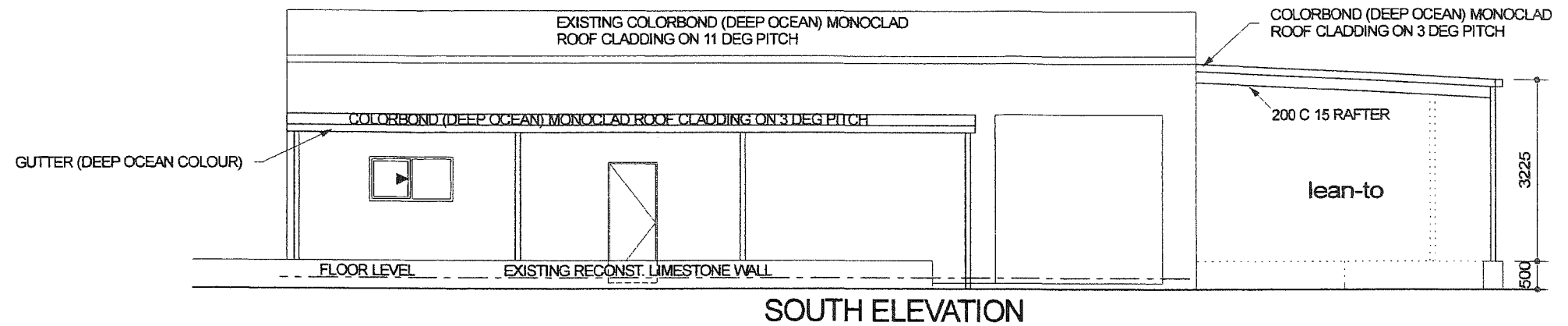
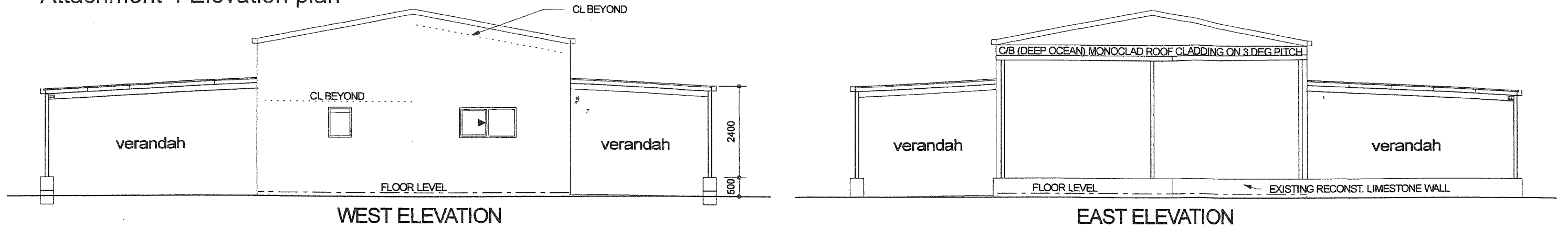
THE MOTION WAS PUT AND DECLARED CARRIED 6/0

Attachment 1 - Locality Plan

Lot 38 (RN145) Santa Gertrudis Drive, Lower Chittering



Item 9.1.6
Item 9.1.1
Attachment 4 Elevation plan



SECTION A - A
SCALE 1:100

 © Copyright	CLIENT NAME:	Rev No: 0	Variation: ISSUED FOR APPROVAL	Date Dm: 06.01.14	By: LA	CONVERSION OF G.P. SHED TO ANCILLARY ACCOMODATION Sheet No: 2 OF 4 Revision: 0
	SITE ADDRESS: LOT 388 (No. 145) SANTA GERTRUDIS DRIVE, LOWER CHITTERING	DRAWING NAME: ELEVATIONS & SECTION		Date Drawn: Jan 2014	Scale: 1:100	
	SHIRE: SHIRE OF CHITTERING					

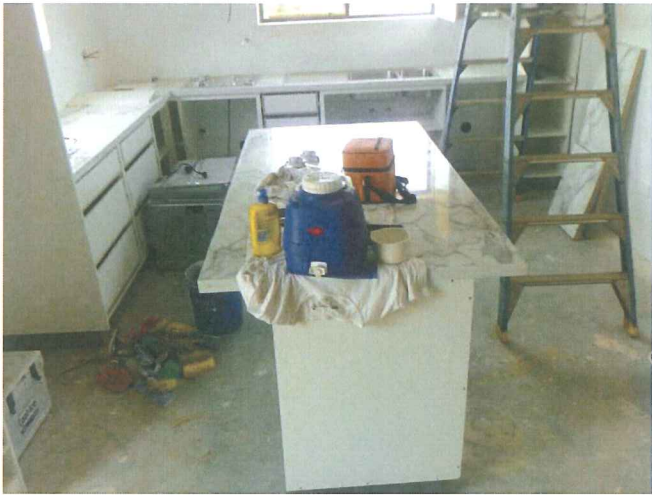
Attachment 5 Photographs of Initial Works Conducted



Shed Exterior



Shed Exterior



Kitchen Island



Bedroom



Laundry Area



Bedroom

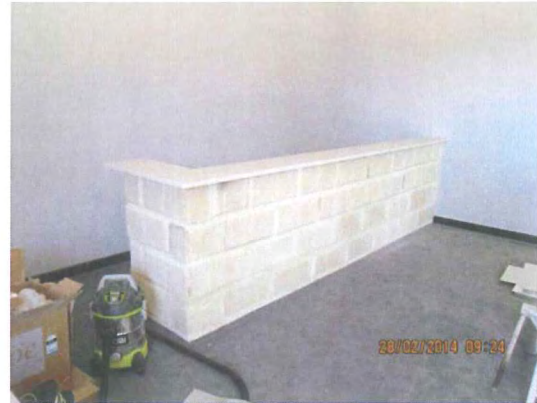


Bathroom Facilities

Attachment 6 Photographs of Further Works Conducted



Bedroom



Bar in Shed



Hand Basin



Bathroom Sink and Cabinet



Shower Facilities



Washing Machine Plumbing



Toilet Plumbing



Kitchen Island Bench



Kitchenette



Kitchenette