# MINUTES FOR
# ORDINARY MEETING OF COUNCIL

**WEDNESDAY, 19 APRIL 2017**

**Council Chambers**
**6177 Great Northern Highway**
**Bindoon**

**Commencement: 7.00pm**
**Closure: 8.53pm**

Shire of Chittering

## Preface

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

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

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

## Unconfirmed Minutes

These minutes were approved for distribution on 21 April 2017.

_____
Alan Sheridan
**Chief Executive Officer**
**Shire of Chittering**

## Confirmed Minutes

These minutes were confirmed at a meeting held on 17 May 2017.

Signed …….

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

**Disclaimer**

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

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

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

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

# TABLE OF CONTENTS


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

**2. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE ..... 1**

2.1 Attendance ..... 1

2.2 Apologies ..... 1

2.3 Approved leave of absence ..... 1

2.3.1 Cr Don Gibson ..... 1

**3. DISCLOSURE OF INTEREST ..... 2**

3.1 Item 9.1.2: Amendment to Proposed Scheme Amendment No 60: Proposal to Rezone from "Agriculture Resource" to "Light Industrial" - Lot M1606 (RN 3599) Great Northern Highway, Muchea ..... 2

**4. PUBLIC QUESTION TIME ..... 2**

4.1 Response to previous public questions taken on notice ..... 2

4.2 Public question time ..... 2

4.2.1 John Curtis, Bindoon ..... 2

**5. PRESENTATIONS / PETITIONS / DEPUTATIONS ..... 3**

5.1 Petitions ..... 3

5.2 Presentations ..... 3

5.3 Deputations ..... 3

5.3.1 Item 9.1.1 "Proposed Transport Depot: Lot 191 Wandena Road, Lower Chittering" ..... 3

5.3.2 Item 9.1.3 "Initiation of Scheme Amendment No 61 to Town Planning Scheme No 6: Revised Schedule 12 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon" ..... 3

**6. APPLICATIONS FOR LEAVE OF ABSENCE ..... 3**

6.1 Cr George Tilbury ..... 3

**7. CONFIRMATION OF MINUTES ..... 4**

7.1 Ordinary Meeting of Council: 15 March 2017 ..... 4

**8. ANNOUNCEMENT FROM THE PRESIDING MEMBER ..... 4**

**9. REPORTS ..... 5**

9.1 DEVELOPMENT SERVICES ..... 5

9.1.1 Proposed Transport Depot: Lot 191 Wandena Road, Lower Chittering* ..... 5

9.1.2 Amendment to Proposed Scheme Amendment No 60: Proposal to Rezone from "Agriculture Resource" to "Light Industrial" - Lot M1606 (RN 3599) Great Northern Highway, Muchea* ..... 26

9.1.3 Initiation of Scheme Amendment No 61 to Town Planning Scheme No 6: Revised Schedule 12 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon* ..... 35

9.1.4 Proposed NBN Telecommunications Infrastructure: Lot 191 (RN 51) Hereford Way, Lower Chittering* ..... 54

9.1.5 Proposed Tunnel Houses: Lot 1907 (RN 166) Chittering Street, Muchea* ..... 63

9.1.6 Section 70A Notification Authorisation: Freehold (Green Title) subdivision of Lot 202 (RN 58) Crest Hill Road, Lower Chittering* ..... 71

9.2 TECHNICAL SERVICES ..... 73

9.3 CORPORATE SERVICES..... 74
9.3.1 Financial statements for the period ending 31 March 2017* ..... 74
9.3.2 Bindoon and Muchea Court Resurfacing..... 76
9.3.3 2016-17 Budget Review to 28 February 2017* ..... 81

9.4 CHIEF EXECUTIVE OFFICER ..... 86
9.4.1 Amendment to Policy 1.14 Smoking, Other Drugs and Alcohol* ..... 86
9.4.2 Draft Strategic Community Plan 2017-2027*..... 89
9.4.3 Memorandum of Understanding: Community Emergency Services Manager*..... 92

**10. REPORTS OF COMMITTEES ..... 95**

10.1 Chittering Bushfire Advisory Committee: 14 March 2017* ..... 95

10.2 Audit Committee: 15 March 2017*..... 97

10.3 Local Emergency Management Committee: 22 March 2017* ..... 99

**11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN ..... 101**

**12. QUESTIONS FROM MEMBERS WITHOUT NOTICE..... 101**

**13. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING ..... 101**

**14. MEETING CLOSED TO THE PUBLIC ..... 101**

14.1 Matters for which the meeting may be closed ..... 101

**15. CLOSURE..... 101**

* indicates separate attachments

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

The Presiding Member declared the meeting open at 7.00pm.

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

## 2.1 Attendance

| | | |
|---|---|---|
| Councillors | Cr Gordon Houston | President (Presiding Member) |
| | Cr Peter Osborn | Deputy President |
| | Cr Mary Angus | |
| | Cr Aaron King | |
| | Cr Michelle Rossouw | |
| | Cr George Tilbury | |
| Staff | Alan Sheridan | Chief Executive Officer |
| | Rhona Hawkins | Executive Manager Corporate Services |
| | Jim Garrett | Executive Manager Technical Services |
| | Peter Stuart | Senior Planning Officer |
| | Nathalee Petersen | Planning Officer *left at 8.44pm* |
| | Natasha Mossman | Executive Support Officer (Minute Secretary) |
| Members of the public | 20 | |
| Media | 0 | |

## 2.2 Apologies

Bronwyn Southee Executive Manager Development Services

## 2.3 Approved leave of absence

### 2.3.1 Cr Don Gibson

Council has previously approved leave of absence for Cr Don Gibson for the period inclusive of Monday, 20 March 2017 until Friday, 28 April 2017 (Resolution 010317).

# 3. DISCLOSURE OF INTEREST

## 3.1 Item 9.1.2: Amendment to Proposed Scheme Amendment No 60: Proposal to Rezone from "Agriculture Resource" to "Light Industrial" - Lot M1606 (RN 3599) Great Northern Highway, Muchea

Impartiality Interest - Bronwyn Southee (Executive Manager Development Services) is a former employee of Whelans Town Planning.

# 4. PUBLIC QUESTION TIME

## 4.1 Response to previous public questions taken on notice

Nil

## 4.2 Public question time

### 4.2.1 John Curtis, Bindoon

**Question 1 Having passed laws to stop recycling going into landfill, when are the yellow recycling bins going to become voluntary?**

*Answer 1 The Presiding Member advised that the recycling bins are compulsory for the designate areas, and that the Shire will continue to provide these bins to those residents.*

**Question 2 Apart from the Post Office not paying rent, who else is not paying rent on Council properties?**

*Answer 2 Through the Chair, the Chief Executive Officer advised that the Chittering Tourist Association is a not-for-profit organisation, they are not a business that operates for profit. Every Shire facility has a community group that leases the buildings from the Shire at nominal rent.*

**Question 3 Are Council properties exempt from sewerage charges?**

*Answer 3 The Presiding Member advised that 'no' the Shire properties would not be exempt from sewerage charges and would be charged the same as everyone else.*

**Question 4 Does the Shire pay rent on their PO Box?**

*Answer 4 Through the Chair, the Executive Manager Corporate Services advised that the Shire would pay rent on their PO Box, however was not sure want the amount was. The President took the question on notice to allow staff the opportunity to investigate and provide a response to Mr Curtis.*

# 5. PRESENTATIONS / PETITIONS / DEPUTATIONS

## 5.1 Petitions

Nil

## 5.2 Presentations

Nil

## 5.3 Deputations

### 5.3.1 Item 9.1.1 "Proposed Transport Depot: Lot 191 Wandena Road, Lower Chittering"

Veda Siggery to make a Deputation against Item 9.1.1 "Proposed Transport Depot: Lot 191 Wandena Road, Lower Chittering".

### 5.3.2 Item 9.1.3 "Initiation of Scheme Amendment No 61 to Town Planning Scheme No 6: Revised Schedule 12 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon"

Phillip Gnech from Planning Solutions to make a Deputation on behalf of the applicant for Item 9.1.3 "Initiation of Scheme Amendment No 61 to Town Planning Scheme No 6: Revised Schedule 12 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon".

# 6. APPLICATIONS FOR LEAVE OF ABSENCE

## 6.1 Cr George Tilbury

At the Ordinary Meeting of Council held on 15 February 2017 Council previously resolved that Cr George Tilbury is granted approved leave of absence for the period inclusive of Wednesday, 17 May 2017 until Tuesday, 23 May 2017 (Resolution 010217).

Cr George Tilbury is requesting an amendment to his leave of absence, his period of leave will be for the period inclusive of Wednesday, 17 May 2017 until Sunday, 28 May 2017.

**6.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 010417**
**Moved Cr Rossouw / Seconded Cr Osborn**
**That Council amend Cr Tilbury's request for leave of absence for the period inclusive of Wednesday, 17 May 2017 until Sunday, 28 May 2017.**
**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**7.30pm**

# 7. CONFIRMATION OF MINUTES

## 7.1 Ordinary Meeting of Council: 15 March 2017

**7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 020417**
**Moved Cr Tilbury / Seconded Cr Rossouw**
**That the minutes of the Ordinary meeting of Council held on Wednesday, 15 March 2017 be confirmed as a true and correct record of proceedings.**
**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**7.30pm**

# 8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

# 9. REPORTS

## 9.1 DEVELOPMENT SERVICES

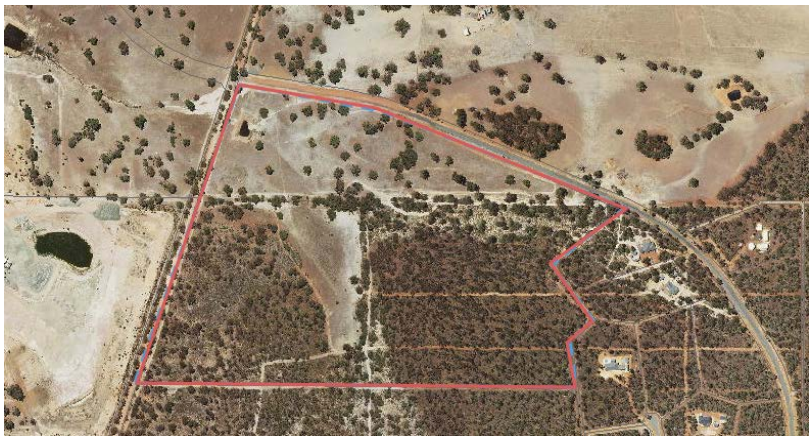
### 9.1.1 Proposed Transport Depot: Lot 191 Wandena Road, Lower Chittering*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | WC & SJ Wright Superfund Pty Ltd |
| **File ref** | A11627; P033/16 |
| **Prepared by** | Peter Stuart, Senior Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Application report with plans<br>2. Additional information prepared by the applicant<br>3. Table of submissions<br>4. Site photographs |

**Executive Summary**

Council is requested to consider and determine an application for a 'Transport Depot' and 'Warehouse/Storage' on a portion of Lot 191 Wandena Road, Lower Chittering.

The application is intended to be the base of operations for an existing local transport and earthmoving based business within the Shire. The site is complex as it is located within the Basic Raw Materials Buffer; has instances of highly rare and endangered flora; and is within relative proximity to residential properties. Further, the subject property exhibits significant amounts of endangered, ultra-rare, regionally significant and locally significant flora. Being located within the vicinity of the Wandena Estate residential subdivision, the application has incurred significant feedback from the community. On this basis and objections received during the public advertising period the application has been referred to Council.



**Background**

Lot 191 Wandena Road is located at the northern most end of the six extraction lots (previously owned by Midland Brick) created as part of the Wandena Estate subdivision. The property is zoned 'Agricultural Resource' within the Shire's *Town Planning Scheme No. 6*. The subject lot is also located within the 'Basic Raw Materials' Special Control Area and is in relatively close proximity to a rural residential locality.

Access to the site is gained via Wandena Road, an unsealed RAV2 network road, or via Powderbark Road, which is a sealed local road.

The existing property is identifiable as grazing land, consistent with the agricultural zoning despite being within the Basic Raw Materials Special Control Area (BRM). The BRM has been historically earmarked for extraction of clay as the previous landowners, and creators of the Wandena Estate, were Midland Brick. Upon selling the land, the former landowners advised relevant authorities that the land was 'surplus to requirements'. Accordingly, no proof of the BRM quality was ever obtained by the Local Authority or the Department of Mines and Petroleum, meaning the subject land has been anticipated to be extracted prior to any further development.

Prior to purchasing the land, the applicant diligently requested information from the Shire, including a meeting on-site. Following discussion, the applicant was provided with detailed written correspondence on 15 July 2015, which highlighted many of the associated issues, and which in part are as follows:

*"The storage of materials on hardstand is not permitted on the site and would likely not be supported through a Scheme Amendment as it is not generally consistent with the zone and should be located within the MENSP."*

Despite the advice provided, the applicant sought to proceed with the purchase of the property with a subsequent application for a transport depot along with associated uses such as storage. The application was submitted and received on the 11 April 2016.

While the *Planning and Development Regulations (Local Planning Schemes) 2015* (The Regulations) was introduced into legislation in October 2015, the regulations do not significantly change the assessment process or ability to determine the application. On this basis the application was accepted and duly assessed. The Regulations introduced 'deemed provisions', including modifying Clause 10.2 'Matters to be Considered'. The changes to Clause 10.2 have significant impacts upon the proposal.

Due to changes in staff at the time of lodgement, the application was only able to be advertised in July 2016. The result of the advertising process was twofold. Firstly the community within proximity to the proposal were, and remain, opposed to the proposal; and State referral agencies all initially cited concerns (refer **attachment 3**). In essence, the concerns raised included better examination of the rare flora and fauna contained on site, along with evidence that the proposal would not impinge on the Basic Raw Material contained within the site amongst other facets.

Accordingly, the applicant was briefed and subsequently provided with the full list of issues raised, where the onus was placed upon the applicant to modify the application in order to demonstrate compliance with the above.

Revised information was subsequently received on 1 November 2016, which included a modified site layout. The submitted information did not include a revised bushfire management strategy, stormwater strategy, or an explanation regarding the effect on the Basic Raw Material. Furthermore the environmental study recommended referral to the Department of Environment and Energy – a federal agency that determines the impacts on rare flora (Banksia woodland) and fauna (Carnaby's Cockatoo).

As the application was not a significant deviation in terms of the overall proposal and did not result in any additional elements of discretion, the proposal was not readvertised. Regardless, a select group of community members – as chosen by the community themselves – were invited to an informal session to review the revisions put forward on the 1 November 2016. The session also discussed matters than can and cannot be considered in a development application context. The applicant was also invited, however declined. The community were also somewhat unwilling to conduct the session in the presence of the applicant.

In light of the missing information and significant community concern, the Shire opted to advise the applicant that the application should be withdrawn until such time as the information requested could be completed and a response from relevant state and local agencies could be received.

The applicant was not in favour of this approach and sternly refused to withdraw the application. This response was made in reference to the Regulations Clause 75(1). At this time the applicant and the Shire agreed that as the application had exceeded 90 days (per Clause 75(1)(a)), it was agreed that all information was to be presented before the agenda close of Council's Ordinary Meeting of 19 April 2017.

The complete additional required information was supplied by the applicant on the 3 April 2017. Relevant authorities have been provided with an opportunity to review the information with all but the Department of Water responding.

In addition to the Shire's dealings with relevant State Agencies, the applicant also sought advice independently. The outcomes of each meeting resulted in the overall site layout being modified from an initially proposed 21.5ha of hardstand area to a significantly reduced area of 9.9ha.

The subject application, as revised, proposes the following:
(i) Warehouse facility including offices;
(ii) Sea container storage units,
(iii) a water retention basin,
(iv) rain water tanks,
(v) landscaping; and
(vi) hardstand areas for the holding of
- 10 commercial vehicles,
- 6 associated trailers; and
- 23 additional machines.

The applicant has implied that this number may increase over time, however no such confirmation has been provided.

Because of the reduction of the area and intensity proposed, the community was not re-consulted, and in any event the concerns raised remain relevant to the revised proposal.

**Consultation**
As a 'Transport Depot' is an 'A' use under the Shire's *Town Planning Scheme No. 6*, the application was required to be advertised in accordance with Section 9.4 of the Scheme between 24 June 2016 and 22 July 2016. This process included:
(i) Signs placed on the property advising of development application;
(ii) Letters sent to nearby landowners;
(iii) Letters sent relevant agencies;
(iv) Advertising in the local paper;

(v) Advertising on the Shire's website; and
(vi) Advertising on the Shire's Facebook page

While the revised proposal was not formally readvertised, the revisions of 1 November 2016 were posted on the Shire's website for a total of seven days.

Persons wanting to comment were advised that new submissions would be counted as late submissions, while additional comments to previous submissions were not counted as new or additional submissions, rather that they would be added and counted as one submission.

The Shire received a total of 45 submissions during the advertising period from the general community, and nine (9) State and other authority submissions. The Schedule of Submissions has been included with this report (refer **Attachment 3**).

In addition to the submissions, an informal focus group meeting was held in the Council Chambers on 9 November 2016 for approximately one hour. The focus group consisted of 6 members of the public, one Councillor and one staff member (two other staff members were present as observers, and left the meeting prior to its finish). The members of the public were chosen by a member of the public closely located in proximity to the proposal. The applicant was invited to the meeting, however declined. Furthermore the members of the public were not in favour of the applicant's attendance. Notwithstanding, the applicant was informed of the meeting along with its outcomes, though not the attendees.

Additional written comments were received following this meeting and are included as part of the schedule of submissions.

**Statutory Environment**
Local: *Shire of Chittering Town Planning Scheme No. 6 (TPS6)*
The subject property is zoned 'Agricultural Resource'. The objectives of this zone are:

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

The property is also contained within the 'Basic Raw Materials' Special Control Area (BRM) in the Shire's Town Planning Scheme. Outlined under the 'Relevant Considerations' (*Section 6.4.4*) of Town Planning Scheme No.6, that in considering applications for Planning Approval, the Local Government shall have regard to-

*(a) Whether development in the buffer area will affect future Extractive Industry operations.*

The land use being proposed is for a 'Transport Depot' which is defined in Shire's Town Planning Scheme as meaning a:

*'premises used or intended for use for the parking or garaging*
*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 the maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles'.*

Ultimately this definition is set to change to conform closer to that defined within the Regulations, however at the time of determination of this application, the definition above remains. A Transport Depot is classified as an 'A' use under *TPS6*, which requires advertising in accordance with *Clause 9.4* of the Scheme and Council's discretion is required to be exercised in order to approve the use.

The application before Council proposes approximately 39 vehicles associated with the proprietorship, and which are generally more related to the construction industry. The applicant has demonstrated that the proprietorship includes agricultural machines and maintains this as a significant element of the business and that majority of the 39 vehicles are able to be used for agricultural purposes. Accordingly this is a use compatible with the zoning and is consistent with recent other approvals from Council.

The hardstand area is contained to the previously cleared portion of the site only and makes up approximately 9.9ha which is the complete building footprint for this proposal.

The applicant's description of the proposed development and/or use is for "transport depot and hardstand area". However the plans include the following additional use:

Warehouse/Storage - *means premises including indoor or outdoor facilities used for —*
*(a) the storage of goods, equipment, plant or materials; or*
*(b) the display or sale by wholesale of goods*

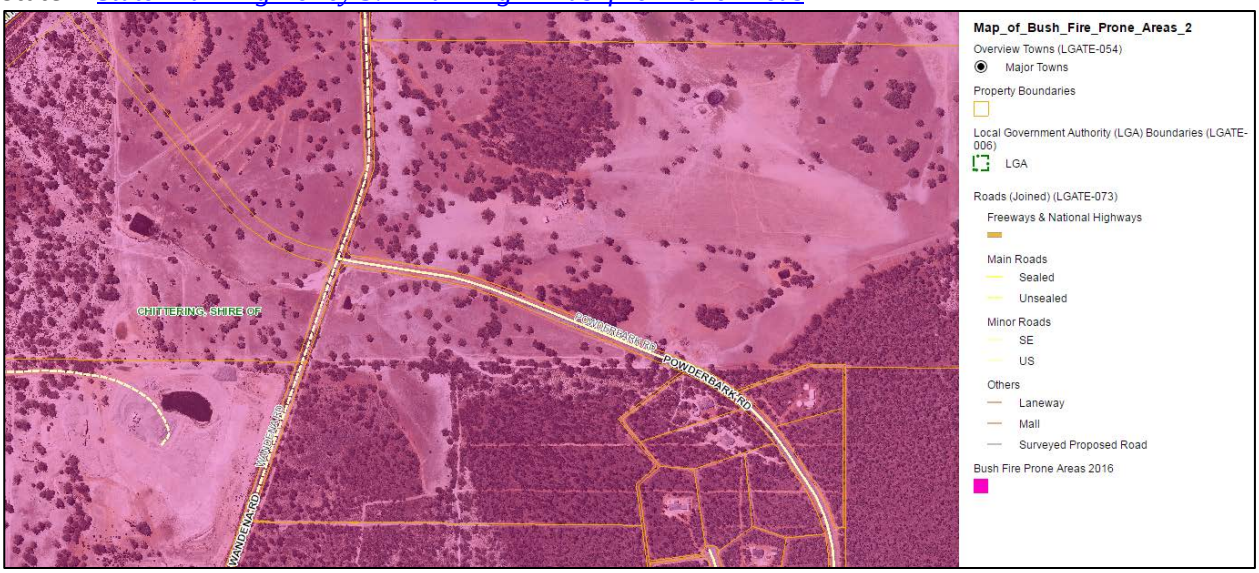
The proposal includes 10 sea containers with roofed space between for the purposes of storage. In addition, six (6) soil bins are proposed, which are intended to be used for the storage and sale of soils and basic raw materials. According to the applicant, these storage facilities will be used in part within a rural context by storing "chaff, hay and grain. Contracts will also be sought for carting of fertilisers and grains for farming properties" (applicant's response in **Attachment 3**).

At the time of submitting the application, the use was defined as Storage, and was an 'X' use within *TPS6*, and therefore unable be approved. The subsequent update to *TPS6* to redefine the use and its permissibility now allows the use to be considered. Legal advice received on this basis has confirmed through case law that an application is to be determined based on the legal permissibility of the use as at the date of determination by the Council. Therefore the use and its context within the greater transport depot use can be considered.

*Clause 67* of the *Planning and Development (Local Planning Schemes) Regulations 2015* sets out matters in which Local Government shall consider in determining planning applications. In particular, subclauses a,b,c,e,f,l,m,n,o,p,q,r,s,t,w,x,y, and za apply to the subject development application.

**Policy Implications**

State: *State Planning Policy 3.7 Planning in Bushfire Prone Areas*




Lot 191 is identified in the Department of Fire and Emergency mapping identifying land considered to be 'Bushfire Prone' as indicated below.

The applicant has had prepared by a qualified consultant a Bushfire Management Plan and BAL contour map, which has ascertained that a portion of this site is potentially of high risk, however whilst this contains a structure it is used for the storage of equipment and machinery therefore there is minimal risk to life and safety.

Local: *Local Planning Policy No. 18 – Setbacks (LLP18)*

In accordance with *LPP18*, the required setbacks for land which is zoned 'Agricultural Resource' is:

- *Front – 30m (other road)*
- *Side – 30m*
- *Rear – 30m*

The applicant has outlined on the revised site plan that the proposed warehouse/workshop/administrative building is set back from Powderbark Road by 30m and 128.5m from Wandena Road. All works including hardstand areas are proposed to be located a minimum 240 metres from the eastern boundary. Accordingly the application is compliant in respect of the policy.

**Financial Implications**

Nil

**Strategic Implications**

Local: *Shire of Chittering Local Planning Strategy 2001-2015*

The subject property is located in the 'Chittering Valley' as identified in the Strategy. The description of this area applicable to the proposal is:

> *The arable land is mainly used for grazing and horticulture with large areas of steep gradients remaining covered by remnant vegetation. Other land uses include some basic raw material extraction and tourist facilities.*
>
> *Aims*
>
> - *To retain the productive land for broad acre farming but accommodate conversion to intensive horticulture where the landform, soils and water supplies permit*
> - *To retain existing natural vegetation and connecting areas to provide for biodiversity corridors*
> - *To protect the Brockman River and its tributaries*
> - *To protect and enhance the rivers, lesser flow lines and wetlands as a measure to arrest land degradation and improve water quality with appropriate buffer widths determined using biophysical criteria*
> - *To retain the productive land for broad acre farming, however, encourage conversion to intensive horticulture where the landform and water supplies permit*
> - *To protect the landscape values of the valley landforms from visually intrusive development or inappropriate land uses*
> - *To protect the environment from further land degradation*
> - *To limit subdivisions to ensure the viability of the land holdings is maintained*
> - *To permit discrete development for eco-tourist and agro tourist purposes*

Lot 6 is zoned 'Agricultural Resource' to which Section 8.8 of the Strategy applies:

*8.8 Agricultural Resource Area*

*8.8.1 Description/Location*

> *The majority of the agricultural land falls into this category with the more productive areas being in the eastern and northern parts of the shire. Land to the west, mainly on the Dandaragan Plateau and Ellen Brook palusplain are less productive where there are the deeper leachable sands. On the lower plains, waterlogging constricts the full capacity of the land for pasture.*
>
> *The heavier soils are associated with the better class of grazing, cropping and horticulture activities.*
>
> *Lack of water prevents the better land for more intensive and profitable agriculture. When irrigable water becomes available, the land has a high capacity to convert to intensive agriculture.*

The aims applicable to the proposal are:

*8.8.2 Aims*

- *To maintain agricultural lands for primary productive purposes*
- *To protect and improve the natural environment, including the landscape quality of the land*
- *To facilitate the conversion of suitable land, to intensive agriculture based upon appropriate soils and irrigable water supplies*
- *To prevent the loss of productive land to non-agricultural purposes*

In terms of identification for industrial type land uses (i.e. such as a transport depot to this scale would be considered), the property is not identified within the Strategy for this type of use. The strategy does identify this location as for Basic Raw Material extraction in the Basic Raw Materials Areas section of the report, however the applicant has demonstrated to the satisfaction of the Department of Mines and Petroleum that the resource is of insufficient quality to warrant priority for extraction.

This effectively results in the land being capable of grazing only. However due to the quality and specificity of the native flora, grazing is not a preferred strategic land use. Therefore, this leaves the property to being capable of use for minor commercial or agricultural industry based uses.

The further development of this site with a transport depot land use and be considered as a more industrial type land use may be considered as 'ad hoc' to the areas specifically identified in the Strategy for industrial type uses more associated with a transport depot and therefore also be in conflict with the strategy objectives of the Agricultural Resource zone. The application of rural based activities is therefore paramount to the strategic intent of the zoning.

The aim of the Strategy for industrial type land uses is as follows:

- *To provide for local centres of service and employment*
- *Actively encourage the relocation of businesses to the light industrial area*
- *To ensure that all industrial/light industrial activities conform to best practice in environmental terms.*

State: *Muchea Employment Node*

The Muchea Employment Node is a State led initiative which has identified this part of the Shire for the strategic development of industrial type land uses due to the proximity to the North Link road extension and the expanding need for this type of land in the northern corridor. The first stage of the Employment Node has recently been rezoned and is currently with the Western Australian Planning Commission for the commencement of the subdivision process.

The industrial type land uses which are seen as being the most compatible and appropriate in this area include those such as transport depots and other industries generally associated with large scale agricultural production. These land uses furthermore are those which if not appropriately sited in a designated industrial zone, can have the potential to cause a range of issues pertaining to noise, amenity and environmental impacts.

A transport depot, such as that which is proposed, may be more suitably placed in an area such as the Muchea Employment Node, where similar and complementary land uses are identified for development in the near future.

The purpose of this node is to also consolidate and designate an area for land uses which have previously not been compatible or able to be located within the Shire due to the lack of appropriately zoned land.

Notwithstanding the above, an application that consists of a rural based use, whether it be partial or complete, can be considered to satisfy the abovementioned clauses within the Local Planning Strategy. The applicant has demonstrated that, at this location, the use has minimal impacts on the existing native flora and fauna, while also describing agricultural activities not otherwise readily available in the area.

**Site Inspection**
A number of site inspections have undertaken by Shire Officers.

The proposed portion of the site identified for hardstand is split-levelled and generally cleared of remnant vegetation. Photographs taken on site are viewable within **Attachment 4**.

On at least one occasion, Carnaby's cockatoos were sited roosting in trees on the low lying section fronting Powderbark Road. The revised application identifies the same trees for retention despite being within the hardstand area.

The site is otherwise characterised by healthy, dense vegetation. Some of the vegetation, most of which is located along the eastern and southern boundaries, consists of large, mature evergreen trees.

A small retention basin for stormwater exists near the western boundary within close proximity to the north-western boundary.

**Triple Bottom Line Assessment**
*Economic implications*
The land use potentially provides localised employment, the benefits of which can be forwarded into the local community.

*Social implications*
The existing site from a social perspective may provide long-term benefits in terms of providing localised employment. The land is also screened from the adjoining rural-residential properties by existing native vegetation. No access to Powderbark Road, which minimises any potential conflicts pertaining to vehicle movements, noise and amenity which in the past has resulted in issues between transport depot operators/businesses and the community.

Whilst the above applies, there have been concerns raised during the public advertising period regarding possible conflicts in land use between the proposed industry and the surrounding residential estate. Whilst it is acknowledged that large scale industrial activities do not mix well with residential estates, the applicant has undertaken a number of adjustments to reduce the scale and impact of this proposal on the surrounding amenity, therefore, it is considered the application in front of you will not result in a detrimental social impact.

There is potential in the future for more incompatible land uses to be undertaken on the site which may be detrimental to the area from a social perspective, if the land is on-sold. This leads to *ad-hoc* development and takes away from the purpose of the Muchea Employment Node which is being developed to contain industrial type land uses, which have in the past created a range of social issues for residents in the Shire of Chittering.

This then competes with land which is appropriately zoned and developed specifically for land uses such as transport depots and the like which are more appropriately sited in 'Industrial' zoned land as opposed to land which is zoned 'Agricultural Resource'.

*Environmental implications*
The operation of the transport depot with the appropriate recommended measures in place can serve to avoid impact upon the natural environment. The addressing of this matter is critical due to the property being contained within identified high priority vegetation within the *Local Biodiversity Strategy*.

Leakage of fuels and hydrocarbons from maintenance works has the potential to leach into the surrounds. The applicant has submitted a water management strategy, for which the Shire's Principal Environmental Health Officer has provided the following comments:

- *With the expansion of the retention basin has there been any reporting/testing regarding any potential Acid Sulphate Soils impact?*
- *Section 4.5: Hydrocarbon treatment to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "indicative wastewater discharge criteria".*
- *The operation of the workshop should take into consideration the information in WQPN 28.*
- *Stormwater management should take into consideration relevant aspects of WQPN 52.*
- *Section 4.6: The above ground fuel tank may require licensing with the Dept. of Minerals and Energy.*
- *The Shire of Chittering should be provided with the results of any water quality monitoring undertaken.*
- *The proponent is to advise of the details of what water quality parameters will be tested, where from, and what frequency.*
- *The applicant to be advised that the Shire's PEHO would like to undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.*
- *The EMTS to be consulted regarding the residual stormwater drainage entering the Shire system along Wandena Road.*

The applicant has been advised the above, and in any event, could form of conditions and advice notes of the determination should council wish to approve this application.

The property has been cleared historically for the likely purpose of animal grazing. There is no evidence of machine storage or usage associated with this clearing at this property. Concerns pertaining to the area's geotechnical qualities have been addressed by an engineering consultant on behalf of the applicant.

From a more holistic perspective, in accordance with the objectives of the Local Biodiversity Strategy, this site along with the surrounding ex-Midland Brick sites, make part of a large patch of quality vegetation referred to as indicative high conservation vegetation in the Strategy, which also acts as a buffer between the Muchea Employment Node and the Wandena Estate.
The applicant has scaled back its development proposal to retain the majority of this critical vegetation which from a strategic perspective makes part of a much bigger picture to the Shire achieving its conservation objective.

**Comment**
*Statutory provisions*
The application for approval has been dealt with in accordance with the requirements of the Scheme for an 'A' use. The proposal was initially advertised as per *Clause 9.4* of the Scheme to provide the opportunity for relevant agencies and residents to make comments on the proposal. In addition, residents have been informed on a progressive basis of any changes made to the proposal.

*Clause 67* of the Regulations *(*previously *Section 10.2* within TPS6*)*, refers to the 'Matters to be considered by local government', and ascertains a range of matters which the local government is to take into consideration when assessing and ultimately making a decision on Development Applications. From a statutory prospective, the application is assessed as follows:

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

As discussed in the statutory and strategic provisions of this report, the application before Council concerns the land use and development of an industrial type use and associated development within an agricultural zoning, outside of the Muchea Employment Node.

This element was initially raised with the applicant, that such a use hinges on the agricultural nature of the industry, and would otherwise be preferred within the Node. While the proprietorship generally pertains to a construction based industry, the applicant has described activities that will occur that are primary production related. Council has previously accepted this disposition in similar yet unrelated applications.

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

The first iteration, and by the applicant's own admission, the second iteration of the proposed site outlay were not in the orderly and proper planning of the locality. In addition, the priority resource Special Control Area was intended to trump applications such the subject proposal.

In the time between the second and final iterations, the proposal now is significantly less intensive. This is to say that the proposed hardstand area is 9.9ha, which equates to 13% of the total site area. Furthermore, the traffic impact statement concludes that there will be no more than 30 trips per day total. In context of a commercial venture, this is consistent with a rural industry.

In relation to environmental, health, and environmental health impacts, regulating bodies have all confirmed the proposal is acceptable.

While such a land use is preferred by the community - and to an extent, Shire officers - to be located within the Muchea Employment Node, currently the Shire lacks the strategic direction to force such direction. This, nonetheless, is expected to be corrected with the introduction of a new Local Planning Strategy from May 2017.

Accordingly, through much deliberation, the latest iteration is consistent with the orderly and proper planning of the locality.

*(c) any approved State planning policy;*
*(e) any policy of the Commission*
*(f) any policy of the State*

State Planning Policies 2.5 and 3.7 apply in this instance. In addition, the full provisions of these policies, the applicant's and the Shire's response are located within **Attachment 3**.

*(i) the effect of the proposal on the cultural heritage significance of the area in which the development is located;*

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

*(n) the amenity of the locality including the following —*

*(i) environmental impacts of the development;*

*(ii) the character of the locality;*

*(iii) social impacts of the development;*

While the area does not have listed any cultural heritage significance, the area has an established cultural identity, for which the community within have advised is of high importance. Hence the preservation of the rural based amenity is a matter which must be considered.

In this instance, the revised information put forward by the applicant suggests that this proposal will have little impact on this amenity. The majority of the development is intended to be screened from view via 6 metre wide vegetation strips. The vast majority of the lot, where visible, will retain its natural, existing vegetated state. The traffic impacts have been described above, and are not considered out of context for the locality.

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

In the additional information submitted, the applicant detailed a more comprehensive management plan for future hydrocarbon and stormwater management. This was referred to the Shire's Principal Environmental Health Officer who subsequently advised that it is sufficient for the purpose of future hydrocarbon management; however some concerns remain, which are detailed elsewhere in this report.

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

As a major, if not the primary, point of contention, the application has been referred to DPaW due to the existence of significant flora and fauna on the site, whom initially cited major concerns with the removal of such vegetation. Ultimately through revisions, DPaW are now satisfied that no vegetation of significance will be disturbed by the construction of land use.

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

The applicant has supplied information via qualified consultants pertaining to each of the risks associated with this development referred to above. In each instance, the risk has been satisfied per responses from relevant agencies.

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

The matter of human health and safety were raised by the community. The community purported that airborne and soil borne fuel fumes will cause negative health impacts. Due to the distance between the proposed bowser and the nearest residential property, because the fuel is contained within a certified tank, and as the area is required to be bunded, there is no evidence to support this assertion.

It is also considered that the retention of majority of existing vegetation acts and a natural buffer between residential use and this proposal, this would help buffer sight, noise and dust.

*(s) the adequacy of —*
*(i) the proposed means of access to and egress from the site; and*
*(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
*(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

Wandena Road is a RAV2 network road, capable of sustaining larger vehicle types. All common access is proposed via this road. Emergency access/egress is proposed in two locations on Powderbark Road in accordance with the measures set out in the bushfire management strategy. A traffic impact assessment has been submitted by the applicant, which confirms the road network is capable of sustaining the additional movements. Accordingly should council approve this application a condition be imposed requiring the upgrade of Wandena Road to a satisfactory condition.

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

The site has historically been used for grazing only. There are no applications on file for the current site, or the historical title (i.e. prior to subdivision). The site has otherwise historically been identified for basic raw material extraction.

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

As described above, the proposal now represents 13% of the entire site. It further includes a significant reduction in the number of vehicles utilised on the site. The siting of the proposal is sufficiently distant from the nearest residential property that it is unlikely to cause a significant impact upon amenity. In addition, the existence of significant evergreen vegetation that is required to be retained on the subject site visually shields the lot from the adjoining residential properties.

In addition to the commercial nature of the transport depot, the placement of agricultural machines is intended to better relate to the zoning objectives.

*(y) Any submissions received on the application;*
*(za) the comments or submissions received from any authority consulted under clause 66*

The full list of submissions is attached to this report. Equally a response to each submission is included.

*State*
From a State strategic perspective, the industrial type land is identified in the State document referred to as the Muchea Employment Node. Whilst the subject site is located within the vicinity of the Node, it is not within the Node itself. In addition to this, the *Muchea Employment Node Structure Plan* (*MENSP*) has been designed to include all industrial development within its 1,100ha area. By allowing industrial uses to sprawl outside of the *MENSP* area, its effectiveness may be diminished by the establishment of inappropriate precedents for approving land uses outside of the designated appropriate areas.

While the State's strategic plan is clear in its intent, Council have recently endorsed similar unrelated proposals to use agricultural resource properties for industrial purposes despite being outside of the MENSP. Similar to those approvals, by adding an agricultural-based use to the subject land, there remains a semblance of agricultural values being upheld.

*Public submissions*
There were a total of 46 public submissions received with 12 of those in support. The remaining submissions, which objected to the proposal, generally pertained to the inappropriate nature of this land use in proximity to the Wandena Estate and the possible impacts on amenity it may cause through traffic, noise, dust, pollution and clearing of vegetation.

Each of the public and state submissions were taken into consideration and the applicant revised its proposal to ultimately reduce the footprint of the proposal and address a number of these concerns that were raised during public comment.

**Conclusion**
At the time of submission, and thereafter during community consultation, developing agricultural land for industrial purposes outside of the Muchea Employment Node to such intensity was viewed as being obtrusive and inconsistent with the intent for the area. The concerns raised by the neighbouring properties contributed and consolidated to this view.

Ultimately through much deliberation, the applicant has in this final iteration addressed the challenges of the proposal in the context of a complex site. While the community's views are definite and highly regarded, in this instance the applicant has addressed the complexities of the site. The community will no doubt prefer outright refusal, however this final site outlay and reduction in intensity is considered an acceptable medium.

The applicant has furthermore provided examples of the type of equipment to be placed on site, while also citing other examples such as tractors. To this end the applicant has sufficiently addressed the requirements and as such is recommended to be afforded approval for the Transport Depot and Warehouse/storage use and a perpetual approval for the existing transport depot use allowing with the warehouse. Therefore, based on this and the comments above, it is recommended that Council grant approval for this proposed use.

### 9.1.1 OFFICER RECOMMENDATION
Moved Cr Rossouw / Seconded Cr Osborn
That Council approves the proposed transport depot and storage/warehouse, at Lot 191 Wandena Road, Lower Chittering, in accordance with the attached plans dated 18 March 2016 and 24 March 2017 subject to the following conditions:

1. The development of the Transport Depot and Storage/Warehouse shall be constructed and operated in accordance with the stamped approved plans and supporting documentation. The hardstand area is not to increase in size area or location without the prior approval of the Shire.

2. A Landscaping Plan is to be submitted prior to the commencement of operations on site, installed and maintained into perpetuity. The Landscaping Plan is to relate to the vegetation strips along the northern and western boundaries.

3. The approved uses shall contain agricultural equipment in accordance with the applicant's letter of justification dated 5 April 2017.

4. The 'Warehouse/Storage' use and 'Transport Depot' use is not to exceed the maximum number of vehicles and vehicle movements stated within the Transport Statement dated 6 April 2017.

5. The wash down and repairs station is required to comply with the submitted Stormwater Management Plan dated 1 September 2016.

6. Prior to the issue of a Building Permit, the following measures are to be undertaken and completed to the satisfaction of the Shire:
   6.1. A Construction Management Plan for new buildings detailing management of:
      a. access to and from the site;
      b. the delivery of materials and equipment to the site;
      c. the storage of materials and equipment on the site;
      d. the parking arrangements for contractors and subcontractors;
      e. other matters likely to impact on surrounding properties; and
      f. management of construction waste.

      The Construction Management Plan shall be implemented at all times during the construction phase; and
   6.2. Approval being sought and obtained from the Shire for the design of the crossover onto Wandena Road.

7. All on-site stormwater and hydrocarbon separation shall be managed in accordance with the submitted Water Management Plan dated March 2017.

8. Prior to the issue of an Occupancy Permit, the following measures are to be undertaken and completed to the satisfaction of the Shire:
   8.1 The measures and requirements set out in the Water Management Plan are to be installed in accordance with the following:
      a. reporting/testing regarding any potential Acid Sulphate Soils impact;
      b. the Shire is to be provided with the results of any water quality monitoring undertaken;
      c. the proponent is to advise of the details of what water quality parameters will be tested, where from, and what frequency; and
      d. the Shire is to be consulted regarding the residual stormwater drainage entering the Shire system along Wandena Road.

9. Any lighting which is to be provided to all hardstand areas and exterior entrances to all buildings is to be installed in accordance with *Australian Standard AS1158.3.1 (Cat. P)*. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development.

10. At no time shall grain or seeds be stored outside of designated storage areas, so as to minimise potential for infestation by rodents and wild birds.

11. Storage of chemicals and liquids shall be within bunded impervious areas capable of containing any spillages.

12. In order to minimise impacts on the existing and future amenity of the locality, the following measures are to be undertaken and maintained for the life of the use:
   12.1. dust suppression is to be subject to an approved Dust Management Plan which stipulates measures to be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties;
   12.2. the operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise; and

12.3. oversize vehicles are to be located such that visibility is minimised when not in use.

13. No wash down or major service/repairs to vehicles other than those directly associated with the business is permitted on site.

14. No vehicles greater than 28 metres in length are to access or egress from this property.

15. The Shire is to be provided with the results of any water quality monitoring undertaken in accordance with the Stormwater Management Plan.

16. The operating times shall be limited to:
    - Monday-Friday 6:00am to 6:00pm;
    - Saturday 7:00am to 5:00pm; and
    - Sunday 10:00am to 4:00pm.

    Additional and/or exceptional operating times may be permitted in emergency circumstances only.

17. Staff and visitor bays are to be marked and sealed in accordance with *Australian Standard AS2890.1*.

18. Wandena Road from the proposed location of the crossover through to Great Northern Highway being maintained to a suitable condition at the applicant's cost to the Shire's satisfaction for the life of the development.

19. The proposed chain link fencing is not to contain any barbed or electrified wires.

Advice Notes:

1. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.
2. Should the applicant be aggrieved by Council's decision, the applicant maintains the right of review to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
3. Expansion of the proprietorship is recommended to be focussed on the strategically designated industrial node of the Shire as the ultimate intention for uses such as this is to be located within the Muchea Employment Node and not on "Agricultural Resource" zoned land.
4. Hydrocarbon treatment is recommended to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".
5. The Shire is to be consulted regarding the residual stormwater drainage entering the Shire system along Wandena Road.
6. An increase of traffic movements may result in modification of "Condition 18." to require sealing, or a portion thereof, of Wandena Road.
7. The above ground fuel tank may require licensing with the Department of Minerals and Energy.
8. The applicant is advised that the Shire's Principal Environmental Health Officer would like to undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.
9. In reference to "Condition 7" above, the following is recommended to ensure compliance in satisfying this condition:
    a. Hydrocarbon treatment to take into consideration the information in WQPN 68 (Water Quality

Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".

b. The operation of the workshop should take into consideration the information in WQPN 28.

c. Stormwater management should take into consideration relevant aspects of WQPN 52.

**AMENDMENT**
**Moved Cr Rossouw / seconded Cr Osborn**
**That "Condition 8.1.c" be amended to read as follows:**

***"the proponent is to advise of the details of what water quality parameters will be tested and where from, and testing is to be undertaken at least annually; and"***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**7.55pm**

**AMENDMENT**
**Moved Cr King / Seconded Cr Houston**
**That a new Advice Note "10" be added as follows:**

***"10. The applicant undertakes baseline water quality testing prior to commencement of site works."***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**7.57pm**

**AMENDMENT**
**Moved Cr Tilbury / Seconded Cr Osborn**
**That "Condition 18" be amended to read as follows:**

***"18. Wandena Road from the proposed location of the crossover being:***

***18.1 sealed through to the northern corner of Powderbark Road to the satisfaction of the Shire; and***

***18.2 maintained through to Great Northern Highway at the northern end of Wandena Road to a suitable condition at the applicant's cost to the Shire's satisfaction for the life of the development."***

**THE AMENDMENT WAS PUT AND DECLARED LOST 3/4**
**ON THE CASTING VOTE OF THE PRESIDING MEMBER**
**8.07pm**

**AMENDMENT**
**Moved Cr Tilbury / Seconded Cr Houston**
**That a new Advice Note "11" be added as follows:**

***"11. The proponent is advised that Powderbark Road is not to be used by heavy vehicles as defined in the Road Traffic Act 1974, of which all commuting to sites not on Powderbark Road must be made via Wandena Road only."***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**8.16pm**

**AMENDMENT**
**Moved Cr Rossouw / Seconded Cr Tilbury**
**That "Condition 9" be amended to read as follows:**

***"9. Any lighting which is to be provided to all hardstand areas and exterior entrances to all buildings is to be installed in accordance with Australian Standard AS1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development, to the satisfaction of the Shire."***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**8.19pm**

**AMENDMENT**
**Moved Cr Angus / Seconded Cr Rossouw**
**That "Condition 16" be amended to read as follows:**

**"16. The operating times shall be limited to:**

- **Monday-Friday 6:00am to 6:00pm;**
- **Saturday 7:00am to 5:00pm; and**
- **Sunday 10:00am to 4:00pm (with vehicle movements being restricted to 10 per day).**

**Additional and/or exceptional operating times may be permitted in emergency circumstances only.**

**THE AMENDMENT WAS PUT AND DECLAREED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**8.21pm**

**9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 030417**
**Moved Cr Rossouw / Seconded Cr Osborn**
**That Council approves the proposed transport depot and storage/warehouse, at Lot 191 Wandena Road, Lower Chittering, in accordance with the attached plans dated 18 March 2016 and 24 March 2017 subject to the following conditions:**

1. **The development of the Transport Depot and Storage/Warehouse shall be constructed and operated in accordance with the stamped approved plans and supporting documentation. The hardstand area is not to increase in size area or location without the prior approval of the Shire.**

2. **A Landscaping Plan is to be submitted prior to the commencement of operations on site, installed and maintained into perpetuity. The Landscaping Plan is to relate to the vegetation strips along the northern and western boundaries.**

3. **The approved uses shall contain agricultural equipment in accordance with the applicant's letter of justification dated 5 April 2017.**

4. **The 'Warehouse/Storage' use and 'Transport Depot' use is not to exceed the maximum number of vehicles and vehicle movements stated within the Transport Statement dated 6 April 2017.**

5. **The wash down and repairs station is required to comply with the submitted Stormwater Management Plan dated 1 September 2016.**

6. **Prior to the issue of a Building Permit, the following measures are to be undertaken and completed to the satisfaction of the Shire:**
   - **6.1. A Construction Management Plan for new buildings detailing management of:**
     - **a. access to and from the site;**
     - **b. the delivery of materials and equipment to the site;**
     - **c. the storage of materials and equipment on the site;**
     - **d. the parking arrangements for contractors and subcontractors;**
     - **e. other matters likely to impact on surrounding properties; and**
     - **f. management of construction waste.**

     **The Construction Management Plan shall be implemented at all times during the construction phase; and**
   - **6.2. Approval being sought and obtained from the Shire for the design of the crossover onto Wandena Road.**

7. **All on-site stormwater and hydrocarbon separation shall be managed in accordance with the submitted Water Management Plan dated March 2017.**

8. **Prior to the issue of an Occupancy Permit, the following measures are to be undertaken and completed to the satisfaction of the Shire:**
   - **8.1 The measures and requirements set out in the Water Management Plan are to be installed in accordance with the following:**
     - **a. reporting/testing regarding any potential Acid Sulphate Soils impact;**
     - **b. the Shire is to be provided with the results of any water quality monitoring undertaken;**
     - **c. the proponent is to advise of the details of what water quality parameters will be tested and where from, and testing is to be undertaken at least annually; and**
     - **d. the Shire is to be consulted regarding the residual stormwater drainage entering the**

**Shire system along Wandena Road.**

**9. Any lighting which is to be provided to all hardstand areas and exterior entrances to all buildings is to be installed in accordance with *Australian Standard AS1158.3.1 (Cat. P)*. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development, to the satisfaction of the Shire.**

**10. At no time shall grain or seeds be stored outside of designated storage areas, so as to minimise potential for infestation by rodents and wild birds.**

**11. Storage of chemicals and liquids shall be within bunded impervious areas capable of containing any spillages.**

**12. In order to minimise impacts on the existing and future amenity of the locality, the following measures are to be undertaken and maintained for the life of the use:**

**12.1. dust suppression is to be subject to an <u>approved</u> Dust Management Plan which stipulates measures to be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties;**

**12.2. the operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise; and**

**12.3. oversize vehicles are to be located such that visibility is minimised when not in use.**

**13. No wash down or major service/repairs to vehicles other than those directly associated with the business is permitted on site.**

**14. No vehicles greater than 28 metres in length are to access or egress from this property.**

**15. The Shire is to be provided with the results of any water quality monitoring undertaken in accordance with the Stormwater Management Plan.**

**16. The operating times shall be limited to:**

- **Monday-Friday 6:00am to 6:00pm;**
- **Saturday 7:00am to 5:00pm; and**
- **Sunday 10:00am to 4:00pm (with vehicle movements being restricted to 10 per day).**

**Additional and/or exceptional operating times may be permitted in emergency circumstances only.**

**17. Staff and visitor bays are to be marked and sealed in accordance with *Australian Standard AS2890.1*.**

**18. Wandena Road from the proposed location of the crossover through to Great Northern Highway being maintained to a suitable condition at the applicant's cost to the Shire's satisfaction for the life of the development.**

**19. The proposed chain link fencing is not to contain any barbed or electrified wires.**

**<u>Advice Notes</u>:**

**1. This decision constitutes planning approval only and is valid for a period of 2 years from the date of approval. If the subject development is not substantially commenced within the 2 year period, the approval shall lapse and be of no further effect.**

2. **Should the applicant be aggrieved by Council's decision, the applicant maintains the right of review to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.**

3. **Expansion of the proprietorship is recommended to be focussed on the strategically designated industrial node of the Shire as the ultimate intention for uses such as this is to be located within the Muchea Employment Node and not on "Agricultural Resource" zoned land.**

4. **Hydrocarbon treatment is recommended to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".**

5. **The Shire is to be consulted regarding the residual stormwater drainage entering the Shire system along Wandena Road.**

6. **An increase of traffic movements may result in modification of "Condition 18." to require sealing, or a portion thereof, of Wandena Road.**

7. **The above ground fuel tank may require licensing with the Department of Minerals and Energy.**

8. **The applicant is advised that the Shire's Principal Environmental Health Officer would like to undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.**

9. **In reference to "Condition 7" above, the following is recommended to ensure compliance in satisfying this condition:**
   a. **Hydrocarbon treatment to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "*indicative wastewater discharge criteria*".**
   b. **The operation of the workshop should take into consideration the information in WQPN 28.**
   c. **Stormwater management should take into consideration relevant aspects of WQPN 52.**

10. **The applicant undertakes baseline quality testing prior to commencement of site works.**

11. **The proponent is advised that Powderbark Road is not to be used by heavy vehicles as defined in the *Road Traffic Act 1974*, of which all commuting to sites not on Powderbark Road must be made via Wandena Road only.**

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.22pm**

### 9.1.2 Amendment to Proposed Scheme Amendment No 60: Proposal to Rezone from "Agriculture Resource" to "Light Industrial" - Lot M1606 (RN 3599) Great Northern Highway, Muchea*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Veris (formerly t/a Whelan's Town Planning) |
| **File ref** | 18/02/31; A3114 |
| **Prepared by** | Peter Stuart, Senior Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Declaration of Interest** | Impartiality Interest - Bronwyn Southee, former employee of Whelans Town Planning |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Scheme Amendment Revision Documentation dated 19 January 2017<br>2. Schedule of Changes to Attachment 1<br>3. Schedule of Submissions |

**Executive Summary**

Council is requested to reconsider a proposed Scheme Amendment to rezone Lot M1606 (RN 3599) Great Northern Highway, Muchea ("**subject land**"), from 'Agricultural Resource' to 'Light Industrial'. The purpose of the revised amendment is to incorporate additional provisions and changes relating to the development of industrial, and other non-residential land, specifically within, but not limited to, the Muchea Employment Node. This amendment has been assessed by the Department of Planning and referred back to the Shire for dealing in accordance with regulation 56(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The adoption of a Scheme Amendment to rezone is required to be undertaken by Council as the Shire Officers do not have delegated authority.

**FIGURE 1: LOCALITY PLAN**

**Background**

The subject proposed Scheme Amendment relates to a single property within the Muchea Employment Node, being Lot M1606 Great Northern Highway, Muchea. The lot measures approximately 8,000sqm in total. The amendment was initiated by Council at its Ordinary Meeting of 16 March 2016, and following advertising, was endorsed for approval to the Minister for Planning by Council at its Ordinary meeting of 7 July 2016. Currently the lot and its surrounds are zoned 'Agricultural Resource' under the Shire's *Town Planning Scheme No 6* (*TPS6*). The site is used for Single House and 'Transport Depot' and is located within the 'Military Considerations' and 'Water Prone' Special Control Areas.

The Shire's *Local Planning Strategy* (*LPS*) assigned the subject site and surroundings for inclusion into the Chittering/Great Northern Highway light industrial area, however at the time of the *LPS* gazettal in 2004, the area was subject to further review prior to rezoning.

In the years since the *LPS* gazettal, a full review of the area was conducted, resulting in the *Muchea Employment Node Structure Plan* (MENSP). The MENSP identified the subject site within Precinct 3 (west), subject to specific design and land use requirements, as follows:

1. Low water use type industries with a minimum lot size of 10,000m$^2$ may be established in this area unless the developer can demonstrate prior to development commencing, that wastewater generated can be adequately managed as per the requirements outlined in the Water Management Strategy or a more detailed local water management strategy;
2. For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels;
3. Development shall not conflict with the proposed Perth-Darwin National Highway road reserve and requirements external to it such as the interchange embankment build up and ramp constructions;
4. The access road shall be designed with provision for a road reserve of 30 metres. This will allow for a road cross-section to be developed, which contains two x 3.5 metres lanes and a sealed 1.5 metres shoulder on either side, in accordance with the Shire of Chittering *Local Planning Policy No. 16* for other rural roads; Future planning is to specifically address treatment of lots abutting the future Perth-Darwin National Highway road reserve and/or the Ellen Brook, with regard to water management and amenity; and
5. Structures higher than 90m require referral to RAAF.

Accordingly, Council supported the rezoning, subject to the following use Schedule:

| No. | Description of land | Conditions |
|---|---|---|
| 2 | Referred to as Muchea Industrial Precinct 3 West Lot M1606 Great Northern Highway | In addition to those standards applied to No.1 of Schedule 15, the following additional standards apply to No.2:<br>4.5 Access and Egress<br>Notwithstanding the provisions of Schedule 2 – Zoning Table, access and egress where required from a major regional road must comply with Main Roads standards and requirements.<br>Where lots are unable to comply with such standards, at the time of development, land uses shall be generally limited to the following:<br>The following land uses are treated as 'P' use:<br>• Storage<br>• Warehouse<br>• Landscape Supplies<br>• Lunch Bar<br>• Motor Vehicle Repair<br>• Motor Vehicle, Boat and Caravan Sales<br>• Open Air Display<br>Properties with more than one road frontage shall have 'Showroom' as an additional 'P' use.<br>All other 'P' uses listed in Table 2 in the 'Light Industrial' zone are treated as 'D' uses under the scheme.<br>Uses listed as 'D' and 'A' in Table 2 in the 'Light Industrial' zone are unchanged.<br>4.6 Landscaping<br>In connection with any application for approval to commence development in any |

| No. | Description of land | Conditions |
|---|---|---|
| | | industrial zone, the Council shall require that such landscaping be provided as the Council sees fit in the interest of amenity and orderly and proper planning. Any landscaping required shall be provided in accordance with the provisions set out hereunder:<br>a) The required landscaping shall cover a minimum of 10% of the total site area in a form approved by the Council. Such landscaping should include a landscaped area of not less than 3 metres wide adjoining all street boundaries;<br>b) Any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some other manner be protected from vehicular damage; and<br><br>Landscaped areas required by this policy shall be planted in accordance with an approved plan, and within 30 days of practical completion of the development, or any relevant part thereof, as determined by the Council or at such later time as may be agreed in writing by the Council. |

This Schedule contained requirements specific to the subject site only. In considering the amendment, the Minister for Planning, via the Department of Planning, considered an expanded provisions and controls mechanism within the *Town Planning Scheme No. 6* relating to non-residential development and the effective MENSP area. The reasoning for this inclusion was due to the Shire's Local Planning Strategy and *Town Planning Scheme No 6* being out of date and certain development requirements being overly generic and difficult for Officers to apply resulting in undesirable land use and development outcomes. Accordingly this proposed modification would result in better development and land use outcomes.

The full list of changes is located within **Attachment 1**. A summary of the changes can be classed into three parts, as follows:

1. Lot 1606, being the property subject of this amendment;
2. Incorporating provisions relating to and extending the Special Control Area over the entire Muchea Employment Node; and
3. Incorporating general design and infrastructure provisions for non-residential development.

**Consultation**

In accordance with regulation 56(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the required modifications have been deemed substantial and required readvertising per Section 9.4 of the *Shire of Chittering's Town Planning Scheme No. 6*. In accordance with the abovementioned provision of the Scheme, the application was advertised in the following methods:

- Letter to nearby/affected landowners;
- Sign placed on the site (corner Brand Highway and Great Northern Highway) including advertisement, maps indicating proposed development;
- On the 'Have your say' page on the Shire's webpage; and
- On the Shire's Social Media page.

The application was readvertised upon advice from the Minister of Planning for a period of 28 days, being from 1 February to 28 February 2017.

The application was also advertised to a number of government and referral agencies as follows:
(i) Main Roads Western Australia;
(ii) Chittering Landcare Group;
(iii) Department of Water;
(iv) Department of Environment Regulation;
(v) Department of Parks and Wildlife; and
(vi) Environmental Protection Authority

During the advertising period, a total of four public responses were received, requesting further revisions to the proposed Scheme Amendment.

Full analysis of these submissions is referred to in the Schedule of Submissions (see **Attachment 3**). In summary, the following comments were raised:

- The deletion of certain uses, and changes to use permissibility are incompatible with existing uses within the MEN;
- The clauses within the 'non-residential amenity' are vague and are not appropriate to be included within a Local Planning Scheme;
- Certain provisions such as are contradictory with the Deemed Provisions; and
- Objections to the deletion and modification of use definitions.

In addition to the advertising period, the changes made to the revised Scheme Amendment were tabled and re-consulted with each submitter via an informal meet-and-greet discussion. The result of these further discussions were additional, albeit minor, changes that are consistent with those discussions yet do not require further advertising.

**Statutory Environment**
State: *Planning and Development (Local Planning Schemes) Regulations 2015*
The Scheme Amendment for the rezoning of the site is considered to be standard under the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations). Despite some concerns raised, the revisions to the amendment remain consistent with the Regulations.

The MENSP details the process required to develop land within the Node and is as follows:

- *The provision of a Structure Plan prior to rezoning the MENSP to industry zoning.*

Relative to the subject lot, as it does not have any further subdivision potential, a separate, site specific Structure Plan is not required for the rezoning process. However as a spot rezoning within this precinct could have precedential consequences, further revisions have been incorporated in order to prevent ad-hoc rezonings that may have wider implications to the development of the MEN.

Whilst redevelopment for the entire node is likely to occur in the midterm, the modifications proposed provide opportunities for Council to explore improved outcomes in terms of access, infrastructure and built form.

The addition of the clauses relating to non-residential development are intended to increase the Shire's ability to outline environmental and traffic control mechanisms to ensure future development has minimal impact on its surrounds and beyond. In addition, the changes intend to introduce urban design measures to create prominent facades and active frontages, especially within the MEN where fronting major roads. These measures have been proven to reduce criminal activity in accordance with Crime Prevention through Environmental Design (CPTED) guidelines and aid the entry corridor aesthetic. To this end, this is one of the primary reasons for establishing the Special Control Area over the entire MEN.

Lastly, the amendment intends to remove or update use class definitions to reflect the changes within the MEN, with the changes reflected within the zoning table. Reasons for the changes are detailed within the amendment documentation within attachment 1. While some definitions were changed in Amendment 62, these further changes are consistent with the additional clauses and SCA provisions.

**Policy Implications**
Local: *Local Planning Policy No.2 - Muchea Village* clause 1.3 acknowledges the existing site improvements as industrial in nature, and accepts the future land uses are preferred as industrial. While the policy indirectly refers to the Node, the proposed Scheme Amendment is consistent with the local planning policy framework.

**Financial Implications**
Nil

**Strategic Implications**
The Shire of Chittering's *Local Planning Strategy 2001-2015 (LPS)* Clause 9.2 Muchea, provides the vision for the development of the Node.

The MENSP was endorsed by the Western Australian Planning Commission in 2011, this site amongst many others in the 1,100ha precinct have been strategically identified for light and general industry purposes. This proposed scheme amendment is identified in Precinct 3 West and is consistent with the strategic objectives of this site.

At a practical level, the modifications proposed intend to align with the MENSP by a holistic approach to rezoning, infrastructure, environment and built form outcomes.

**Site Inspection**
Multiple site visits to both the lot subject of rezoning and the MEN at large have found that:

- The Node is well serviced in reference to the road network, however locations of crossovers are to be carefully located. This is consistent with Main Roads' advice;
- The area has, in parts, poor stormwater drainage; and
- While majority of the physical land remain as pasture, there are instances where some lots are developed.

The revised amendment seeks to more efficiently cater for all types of land uses rather than being isolated to the lot subject of rezoning.

**Triple Bottom Line Assessment**

*Economic implications*

The proposed rezoning to 'Light Industrial' has the potential to broaden the employment opportunities of the community within an area identified for industrial development consistent with the local and state strategic vision for this area. The proposal can potentially increase activity at an important intersection and within a property which is currently limited in use due to its lack of size and zoning. The modifications are assessed as not having any likely economic demand implications as the intent is to ensure all land is developed with environmental sensitivity and active facades to remain attractive to users and visitors alike. The foremost reason is to ensure that should development applications be considered in these areas, that they are guided by clear guidelines and expectations for development.

*Social implications*

It is considered that this proposal will have positive social implications within the Muchea area which has been identified for a multitude of industrial uses. The clauses relating to development of the Node would supply appropriately designed industrial land needed for general type industrial uses and employment which the Shire of Chittering currently lacks. There is a direct link between population health and local employment, fundamentally if people can work close to home, they build better communities are healthier as they don't spend as much time commuting and develop a happier sense of place. It is considered by providing additional opportunities for people to develop in the Node better sense of place and community is being created.

*Environmental implications*

The proposed modifications are designed to increase the ability for the Shire to maintain a high environmental standard, particularly within environmentally sensitive sites in close proximity to the Brockman catchment. The revisions generally accept that alternative means of stormwater and waste disposal will improve significantly as a technology base, thus not limiting to current day standards.

**Comment**

*Local Planning Scheme*

The revisions are intended to include clauses to help Council and developers deliver high quality outcomes that accord to the Scheme objectives and provisions for both the Light and General Industry zones. The clauses are similar to the original intent of the previously endorsed amendment, however, rather than being contained to the subject site, the provisions are applicable throughout the Shire. Generally, the amendments can be categorically summarised as relating to:

- Servicing;
- Built form; and
- Use class and zoning table clarification.

In addition to summarised categories, the revisions more broadly insert the following:

*Land use/built form*

The land use classifications along with the Zoning Table permissibility classifications have been modified and updated to reflect the intent with the Light and General Industrial Zones, along with the incorporation of 'incidental' land use classification to the Zoning Table.

In addition, all residential uses inclusive of caretaker's residences will not be permissible within the Muchea Employment Node regardless of zoning. This clause takes form within the expanded Muchea Employment Node Special Control Area (SCA).

*Special Control Area*
The SCA, in addition to the residential permissibility, intends to provide guidance on the future planning for the area via incentive based criteria such as servicing via water and sewer, roads and other environmental provisions. Without limiting the Structure Planning phase to be limited to one or the other, the clauses allow flexibility to servicing arrangements, where it can be demonstrated that alternative systems are capable of servicing to an equivalent standard.

As a result of industry and community feedback, additional changes have been included in addition to the Minister's requested changes. The further changes made are discussed and detailed within **Attachment 3** – Schedule of submissions. These changes generally relate to the application of the clauses, and the clarification of land use types and definitions.

A full list of changes and a summary of each change following advertising is contained within **Attachment 2**.

*Consultation*
Following the completion of the advertising process, the Scheme Amendment modifications resulted in four submissions (two separate submissions were received on behalf of the same property).

In summary, the submissions effectively raise issue at the veracity of the modifications proposed and the subsequent implications that the introduced clauses may hold to their clients land holdings within the MEN. Further suggestions and clarifications were put forward, which generally have been incorporated into the full list of modifications within **Attachment 2**.

The result of the further consultation to the proposed modifications is viewed as having better coverage to the previously endorsed intended outcomes for non-residential development. They are intended to ensure the MEN is developed to a high standard, while also ensuring all non-residential development throughout the Shire is compatible with its surrounds.

**Conclusion**
The modifications for the previously endorsed Scheme Amendment in this instance are acceptable primarily for the reason that the development of the MEN is in need of direction. The revisions will apply throughout the Shire, though primarily within the MEN. The clauses encourage best industry standards and built form outcomes that intend to maintain aesthetically pleasing streetscapes, while also affording the opportunity for heavier industries to be appropriately located and designed for. Accordingly, it is recommended Council endorse the proposed modifications to the previously endorsed Scheme Amendment No 60 in accordance with the further modifications listed within **Attachment 2**.

**9.1.2 OFFICER RECOMMENDATION**

Moved Cr Rossouw / Seconded Cr Osborn

That Council:

1. Receive the submissions as outlined in the Schedule of Submissions;

2. Pursuant to Section 75 of the *Planning and Development Act 2005,* resolves to support Amendment No 60 to *Town Planning Scheme No 6* for final approval with proposed modifications to address issues raised in the submissions per Attachment 2 – Schedule of Changes; and

3. Authorises affixing the Common Seal to *Town Planning Scheme No. 6 Amendment No 60* documents, and that the Amendment be executed referred to the Western Australian Planning Commission and Minister for Planning for consideration of final approval.

**AMENDMENT**

**Moved Cr Rossouw / Seconded Cr Houston**

**That "Condition 2" be amended to read as follows:**

***"2. Pursuant to Section 75 of the Planning and Development Act 2005, resolves to support Amendment No 60 to Town Planning Scheme No 6 for final approval with proposed modifications to address issues raised in the submissions per Attachment 2 – Schedule of Changes, and notes the following additional change:***

***a. Deletion of number 6 – updates to schedule 1 - Dictionary of Defined Words and Expressions;***

***b. Deletion of number 7 – updates to Schedule 2 – Zoning Table; and***

***c. Deletion of number 9(a) - Additional modifications recommended following re-advertising.***

***as Council considers these modifications to be not in keeping with the original Scheme Amendment resolution, and are more appropriately undertaken within a separate amendment."***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**8.25pm**

**9.1.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 040417**
**Moved Cr Rossouw / Seconded Cr Osborn**
**That Council:**

**1. Receive the submissions as outlined in the Schedule of Submissions.**

**2. Pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to support Amendment No 60 to *Town Planning Scheme No 6* for final approval with proposed modifications to address issues raised in the submissions per Attachment 2 – Schedule of Changes, and notes the following additional change:**
   **a. Deletion of number 6 – updates to schedule 1 - Dictionary of Defined Words and Expressions;**
   **b. Deletion of number 7 – updates to Schedule 2 – Zoning Table; and**
   **c. Deletion of number 9(a) - Additional modifications recommended following re-advertising.**
   **as Council considers these modifications to be not in keeping with the original Scheme Amendment resolution, and are more appropriately undertaken within a separate amendment.**

**3. Authorises affixing the Common Seal to *Town Planning Scheme No. 6* Amendment No 60 documents, and that the Amendment be executed referred to the Western Australian Planning Commission and Minister for Planning for consideration of final approval.**

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.25pm**

### 9.1.3 Initiation of Scheme Amendment No 61 to Town Planning Scheme No 6: Revised Schedule 12 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Planning Solutions on behalf of NXT Global Pty Ltd |
| **File ref** | 18/02/32; A1205 |
| **Prepared by** | Brooke Mills, Compliance/Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | 1. Structure Plan endorsed 12 June 2014<br>2. Proposed Amendment Plans<br>3. Proposed Resort Plan |

**Executive Summary**

Council is requested to consider the initiation of Scheme Amendment No 61 to *Town Planning Scheme No 6* (*TPS6*). Amendment 61 involves the reconfiguration of the existing Schedule 12 provisions for Lot 101 Teatree Road, Bindoon to accommodate tourist development.

**Background**

Lot 101 Teatree Road, Bindoon is zoned "Rural Conservation" under the Shire's *TPS6* and is approximately 475ha in size.

A previous Scheme Amendment No 23 was gazetted on 15 January 2010, which entailed rezoning Lot 101 from "Agriculture Resource" to "Rural Conservation" with the intention to subdivide a portion of Lot 101 into residential lots. As part of this process, Lot 101 was entered into Schedule 12 of *TPS6* with various provisions governing the subdivision and land use process.

The previously approved Schedule 12 provisions are as follows:

*SCHEDULE 12 - RURAL CONSERVATION*

| No | Description of Land | Conditions |
|---|---|---|
| 1. | Lot 101 Tea Tree Road, Bindoon | 1. Subdivision of land shall be restricted to a 50ha portion of the land, referred to hereafter at the "development area" and shall generally be in accordance with a structure plan adopted in accordance with Part 4 of the deemed provisions. The remaining portion of the land shall be retained as a single lot, hereafter referred to as the "conservation lot".<br><br>2. The location of the development area shall be determined in consultation with the Shire of Chittering having regard to the location of the proposed Perth-Darwin National Highway, vegetation on the site and fire risk. Within the development area a minimum lot size of 5,000m$^2$ and average size of 1.0ha is applicable.<br><br>3. A conservation covenant in perpetuity shall be registered on the Certificate of Title of the conservation lot as a condition of subdivision approval. |

| No | Description of Land | Conditions |
|---|---|---|
| | | 4. The subdivider shall prepare a Fire Management Plan, to the specifications and satisfaction of the local government and appropriate state government fire and emergency services authority. The approved Fire Management Plan shall be implemented prior to the subdivision of the land.<br><br>5. The structure plan shall indicate building envelopes, not exceeding 2,000m,$^2$ in area, for all lots proposed within the development area, the structure plan shall indicate a single building envelope, not exceeding 12ha in area for the balance of the conservation lot. All buildings and onsite effluent disposal systems are to be confined to the building envelopes.<br><br>6. The permissibility of uses shall be:<br>- Bed and Breakfast (D)<br>- Home Business (D)<br>- Single House (P)<br>All other uses are not permitted.<br><br>7. Where lots may be affected by the proposed alignment of the Perth-Darwin National Highway, as a condition of subdivisional approval a notification pursuant to section 70a of the Transfer of Land Act (1893) shall be registered on the title of each lot, to the specifications of the appropriate state government road agency, to advise prospective purchasers of the lots that the use and enjoyment of the land may be effected by the proposed highway alignment.<br><br>8. These conditions are to read in conjunction with the Scheme requirements for the Rural Conservation zone. Where conflict exists, the conditions of the Schedule shall prevail. |

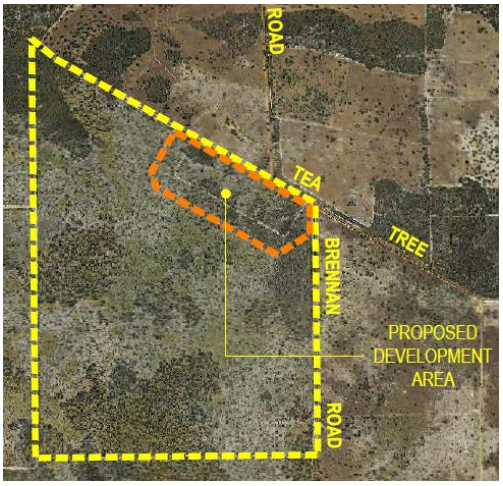
On 12 June 2014, a Structure Plan was endorsed by the Western Australian Planning Commission (WAPC). This Structure Plan proposed the creation of 46 lots of 1ha each for rural residential purposes, one lot of 5ha for Public Open Space (POS) purposes and the remainder of the property to remain as a conservation lot. The previously endorsed Structure Plan is attached as **Attachment 1**.

A subdivision approval was issued by the WAPC on 15 May 2012; however no significant subdivision works have been commenced. The approved subdivision plan is the same as **Attachment 1**. It should be noted that this approval has expired.

An application to amend *TPS6* was received in 2017, however, due to insufficient information being provided it was not presented at the March Ordinary Meeting of Council. The complete application for initiation was received on 20 March 2017 for the subject Scheme Amendment which proposes the creation of a "Resort" lot in addition to the previously approved 46 residential lots. The current proposal, as depicted in **Attachment 2**, does not seek to increase the development area footprint but rather to reconfigure the area to accommodate the proposed resort and residential/short term accommodation lots within the existing footprint.

The "Resort" lot is proposed to comprise a hotel/motel style building together with eight short term accommodation villas, a restaurant and bar, a gym, swimming pool, marine fishing pond and ancillary associated buildings. **Attachment 3** contains the indicative site layout for the proposed Resort component. The lot encompassing the "Resort" also proposes a nine hole golf course for patron usage. All of the 'common facilities' such as the gym, restaurant, golf course etc will be open to the general public.

The current proposal seeks to amend the provisions of the current *TPS6* Schedule 12 entry as follows:

| Not | Description of Land | Conditions |
|---|---|---|
| 1. | Lot 101 Tea Tree Road, Bindoon | 1. Subdivision and development is to be in accordance with an approved Structure Plan.<br><br>2. Subdivision and development of the land shall be restricted to a 50ha portion of the lot, referred to hereafter as the 'development area' (in accordance with the Figure below).<br><br>  <br><br><br>3. The remaining portion of the land shall be retained as a single lot, hereafter referred to as the 'conservation area'.<br><br>**<u>Development Area</u>**<br>4. The permissibility of land uses within the development area shall be as follows:<br>Single house (P) — Bed and breakfast (D)<br>Home business (D) — Residential building (A)<br>Resort (A) — Tourist development (A)<br><br>All other uses are not permitted.<br><br>5. Within the development area one 'Resort' lot is permitted with a maximum lot size of 5 ha and a building envelope that shall not exceed 2 ha in area. A Resort, including associated facilities such as recreation (e.g. gymnasium, swimming pool, golf, bike riding, tennis, bowls, fishing), entertainment (e.g. food and beverage facilities) and management facilities, is to form part of an integrated component of the overall |

| Not | Description of Land | Conditions |
|---|---|---|
| | | development of the site in terms of scale and character.<br><br>6. Except for the 'Resort' lot, all other lots within the development area shall have a minimum lot size of 7,500m$^2$ and a building envelope that does not exceed 2,000m$^2$ in area.<br><br>7. All buildings and onsite effluent disposal systems are to be confined to the building envelopes.<br><br>8. Subdivision and development within the development area is to be located to minimise impacts to significant vegetation, flora and fauna.<br><br>9. Subdivision and development within the development area shall not result in the clearing of native vegetation in the conservation area for any purpose.<br><br>**<u>Conservation Area</u>**<br>10. The permissibility of land uses within the conservation area shall be as follows:<br>Single house (P) Bed and breakfast (D)<br>Home business (D)<br><br>All other uses are not permitted.<br><br>11. Within the conservation area, the single building envelope shall not exceed 2,000m$^2$ in area. Buildings and onsite effluent disposal system are to be confined to the building envelope.<br><br>12. A conservation covenant in perpetuity shall be registered on the Certificate of Title of the lot proposed within the conservation area as a condition of subdivision approval.<br><br>13. No further subdivision of the conservation area is permitted.<br><br>**<u>Structure Plan</u>**<br>14. The Structure Plan should provide sufficient information to address the requirements of the Scheme and the following:<br><br>(a) the location of significant vegetation, flora and fauna and areas to be retained within the development area;<br><br>(b) the location of any proposed tourist development/resort including associated facilities;<br><br>(c) the provision of communal and private open spaces and landscaping on the site;<br><br>(d) the identification of building envelopes for all lots having |

| Not | Description of Land | Conditions |
|---|---|---|
| | | regard for the environmental values of the site;<br><br>(e) the location of asset protection zones for the purpose of bushfire management including the location and extent of any required clearing outside of the building envelope;<br><br>(f) the location of fire breaks;<br><br>(g) the location of any water storage facilities for the purpose of bushfire management.<br><br>15. Prior to the approval of the Structure Plan, vegetation, flora and fauna survey reports are to be prepared in accordance with Environmental Protection Authority Guidance Statements and Commonwealth referral guidelines and conservation advice. Impacts to environmentally significant areas shall be minimised where possible, in accordance with condition 8 of this Schedule. Where impacts are unavoidable, the structure plan shall demonstrate that like-for-like vegetation, flora and fauna occurs within other parts of the development area or the conservation lot.<br><br>16. Prior to the approval of the Structure Plan, a Local Water Management Strategy shall be prepared and approved by the local government, on the advice of the Department of Water.<br><br>17. Prior to the approval of the Structure Plan, an Infrastructure and Servicing Management Strategy shall be prepared to address servicing matters including demonstration of a sustainable water supply and wastewater servicing to all lots. The Strategy is to be approved by the local government, on the advice of the Department of Water and the Water Corporation (if necessary).<br><br>18. Prior to the approval of the Structure Plan, a Bushfire Management Plan shall be prepared and approved by the local government, on the advice of the Department of Fire and Emergency Services. The Plan shall be implemented as part of subdivision works.<br><br>**Development**<br>19. Prior to the development of the 'Resort' lot, the following management plans are to be prepared to demonstrate how the site is to operate as an integrated tourism proposal:<br>(i) Operation Management Plan;<br>(ii) Waste Management Plan;<br>(iii) Traffic Management Plan. |

| Not | Description of Land | Conditions |
|---|---|---|
| | | 20. The above conditions are to read in conjunction with the Scheme requirements for the Rural Conservation zone. Where conflict exists, the conditions of this Schedule shall prevail. |

Staff have assessed the documentation received and will discuss each element further in the report.

**Consultation**

Previous advertising has been undertaken as part of the previous Scheme Amendment and Structure Planning process which resulted in adoption and final Gazettal of the Scheme Amendment and endorsement of the Structure Plan.

However, following initiation, consultation will be required in accordance with Clause 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:

***47. Advertisement of standard amendment***

*(1) Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of—*

*(a) the purpose of the amendment; and*

*(b) where the amendment may be inspected; and*

*(c) to whom and during what period submissions in respect of the amendment may be made.*

*(2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows—*

*(a) publish the notice in a newspaper circulating in the scheme area;*

*(b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;*

*(c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;*

*(d) publish a copy of the notice and the amendment on the website of the local government;*

*(e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.*

*(3) The local government must ensure that the standard amendment to the local planning scheme is made available for inspection by the public during office hours at the office of the local government.*

*(4) The period for submissions set out in a notice must be not less than a period of 42 days commencing on the day on which the notice is published in a newspaper circulating in the scheme area.*

**Statutory Environment**

State: *Planning and Development (Local Planning Schemes) Regulations 2015*

*Part 5 - Amending Local Planning Scheme of the Planning and Development (Local Planning Schemes) Regulations 2015 deals specifically with the process for which a Scheme Amendment is dealt with.*

Council is requested to consider initiation of Scheme Amendment No 61 in accordance with this Part.

In accordance with Regulation 35 of the *Planning and Development (Local Planning Scheme) Regulations 2015*', the Shire is required to classify the amendment as either Basic, Standard or Complex and justify its reasoning for this. In this instance, through Officer consideration and liaison with the Department of Planning, Council is advised that this Scheme Amendment is classified as 'Standard' for the following reasons:

- it is consistent with the *Local Planning Strategy*;
- it is considered to be consistent with the strategic intent and objectives of the zone as described in *TPS6*; and
- it is not considered to be basic or complex in nature as the proposal currently before Council has not increased the size of the development footprint approved under the previous Scheme Amendment and does not seek to fundamentally change the development design.

State: *State Planning Policy 2.5 - Rural Planning*

Clause 5.3 of *State Planning Policy 2.5* contains provisions for the creation of "rural living" precincts. In particular:

*"5.3(c) the planning requirements for rural living precincts are that:*

*(i) The land be adjacent to, adjoining or close to existing urban areas with access to services, facilities and amenities.*

*(ii) The proposal will not conflict with the primary production of nearby land, or reduce its potential.*

*(iii) Areas required for priority agricultural land are avoided.*

*(iv) The extent of proposed settlement is guided by existing land supply and take-up, dwelling commencements and population projections.*

*(v) Areas required for urban uses are avoided.*

*(vi) Water supply shall be as follows:*

- *Where lots with an individual area of four hectares or less are proposed and reticulated water supply of sufficient capacity is available in the locality, the precinct will be required to be serviced with reticulated potable water by a licensed service provider. Should an alternative to a licensed supply be proposed it must be demonstrated that a licensed supply is not available; or*
- *Where a reticulated supply is demonstrated to not be available, or the individual lots are greater than four hectares, the WAPC may consider a fit-for-purpose domestic potable water supply, which includes water for fire fighting. The supply must be demonstrated, sustainable and consistent with the standards for water and health; or*
- *The development cannot proceed if an acceptable supply of potable water cannot be demonstrated.*

*(vii) Electricity supply shall be as follows:*

- *Where a network is available the precinct is to be serviced with electricity by a licensed service provider, or*
- *Where a network is not available, the precinct is to be services by electricity from renewable energy source/s by a licensed service provider, and this has been demonstrated.*

*(viii) The precinct has reasonable access to community facilities, particularly education, health and recreation.*

*(ix) The land is predominantly cleared of remnant vegetation, or the loss of remnant vegetation through clearing for building envelopes, bushfire protection and fencing is minimal and environmental values are not compromised.*

*(x) The proposal demonstrates and will achieve improved environmental and landscape outcomes and reduction in nutrient export in the context of the soil and total water management cycle, which may include rehabilitation as appropriate.*

*(xi) The land is capable of supporting the development of dwellings and associated infrastructure (including wastewater disposal and keeping of stock) and is not located in a floodway or an area prone to seasonal inundation.*

*(xii) The land is not subject to a separation distance or buffer from an adjoining land use, or if it is, that no sensitive land uses be permitted in the area of impact.*

*(xiii) The lots can be serviced by constructed road/s capable of providing access during all weather conditions, including access and egress for emergency purposes.*

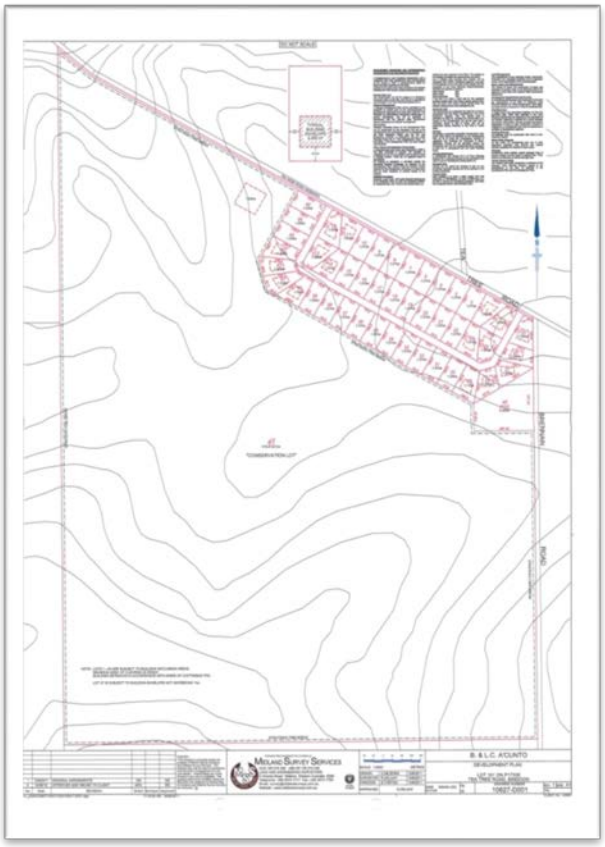
*(xiv) Bushfire risk and natural hazards can be minimised and managed in accordance with State policy, without adversely affecting the natural environment. Proposals in areas of extreme bushfire risk will not be supported."*

The proposed development area has previously been approved as part of a previous Scheme Amendment and structure planning exercise.

Essentially, the proposed development area is not being increased beyond the previously approved 50ha area. The current Scheme Amendment seeks to increase the intensity of the development area by proposing a resort and short term accommodation rather than purely residential lots.

Whilst it could be said that there are shortfalls with the development achieving strict compliance with the provisions of *SPP2.5, SPP2.5* is a guide to development, for which, in this instance, is satisfactory in its due regards. It is considered that the overall concept and development area can achieve, through future structure planning, subdivision and development stages, an essentially compliant result.

The following picture denotes the previously approved Structure Plan for Lot 101:



State: *State Planning Policy 3.7 - Planning in Bushfire Prone Areas*
Part 5 of *State Planning Policy 3.7* states:
*"The objectives of this policy are to:*

*5.1 Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.*

*5.2 Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.*

*5.3 Ensure that higher order strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.*

*5.4 Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change."*

Clause 6.2 of *State Planning Policy 3.7* states:
*"6.2 Strategic planning proposals, subdivision and development applications*

*(a) Strategic planning proposals, subdivision and development applications within designated bushfire prone areas relating to land that has or will have a Bushfire Hazard Level (BHL) above low and/or where a Bushfire Attack Level (BAL) rating above BAL-LOW apply, are to comply with these policy measures.*

*(b) Any strategic planning proposal, subdivision or development application in an area to which policy measure 6.2(a) applies, that has or will, on completion, have a moderate BHL and/or where BAL-12.5 to BAL-29 applies, may be considered for approval where it can be undertaken in accordance with policy measures 6.3, 6.4 or 6.5.*

(c) *This policy also applies where an area is not yet designated as a bushfire prone area but is proposed to be developed in a way that introduces a bushfire hazard, as outlined in the Guidelines."*

Clause 6.6 of *State Planning Policy 3.7* states:
*"6.6 Vulnerable or high-risk land uses*

*6.6.1 In areas where BAL12.5 - BAL29 applies:*
*Subdivision and development applications of vulnerable or high-risk land uses in areas between BAL-12.5 to BAL-29 will not be supported unless they are accompanied by a Bushfire Management Plan jointly endorsed by the relevant local government and the State authority for emergency services. Subdivision applications should make provision for emergency evacuation. Development applications should include an emergency evacuation plan for proposed occupants and/or a risk management plan for any flammable on-site hazards.*

*6.6.2 In areas where BAL-40 or BAL-Flame Zone (FZ) applies*
*Subdivision and development applications for vulnerable or high-risk land uses in areas of BAL-40 or BAL-FZ will not be supported unl3ess they comply with policy measures 6.6.1 and 6.7.2."*

There are some concerns in relation to the Bushfire Management Plan identifying a large portion of the development area to be BAL-FZ. However, the applicant has demonstrated that the structures themselves can be maintained at BAL-29 which is an acceptable level for subdivision or further intensification.

The lot numbers will be restricted to 46 residential/short term accommodation lots and this will further restrict any increase to the residential component.

Further protection measures can be introduced through the structure planning process such as increasing linkages between eco-tourism practices and the residential component with the view to reducing BAL levels whilst maintaining the purpose for which the proposal has been considered.

State: *WAPC Tourism Planning Guidelines*

Clause 4.4.3 of the *WAPC Tourism Planning Guidelines* states as follows:

*"4.4.3 Site assessments for future tourist accommodation development*

*The tourism component of a local planning strategy should include an assessment of the availability, retention and identification of suitable land for the future provision of tourist accommodation. Further, an assessment of the amount of Crown land and local government land currently used for tourist accommodation in the locality, the type of accommodation, lease/management arrangements and any future development opportunities should be undertaken. The following criteria can be applied when giving consideration to suitable sites:*

- *The site has been identified in a report/study as having the potential to accommodate a tourism facility; and/or*
- *The site contains an existing tourist accommodation development; and/or*
- *The site is located in an area of high tourist amenity and is of an adequate size to accommodate a tourism facility.*

*Sites should be assessed based on their suitability for tourism purposes. This will involve an analysis of the amount of vacant tourist zoned land currently available to determine whether this land will meet the needs forecast in the supply/demand study over the life of a local planning strategy. Analysis should also identify sites zoned for tourism purposes which are no longer suitable for tourism based on size, location or existing non-residential development."*

Clause 4.4.5 of the *WAPC Tourism Planning Guidelines* states as follows:

*"4.4.5 Tourist attractions, activities and amenities*

*An assessment of the principal tourist attractions, activities and amenities are recommended to provide a greater understanding of the scale of the local tourism industry. This analysis should include:*

- *Types of tourism being attracted (tourist market e.g.: event-based, cultural, sport, family, adventure, environmental/eco-tourism, health, agri-tourism) and what tourist market could be explored;*
- *Type of attractions/experiences (National Parks, coastal environment, winery region, cultural or sporting events);*
- *Type and number of tourism businesses/activities (art gallery, brewery, theme park);*
- *Emerging tourism development opportunities (events and/or activities such as festivals, concerts, sporting events, undeveloped areas of natural beauty, adventure activities; and*
- *Amenity of tourist/public areas including town centres, streetscapes and public open space."*

Clause 4.5.3 of the *WAPC Tourism Planning Guidelines* states as follows:

*"4.5.3 Tourist development in non-tourist zones*

*In many cases, tourist accommodation has been established on non-tourist zoned land, such as mixed use, rural and town centre zones. This is often the case where there is no Tourist zone in the local planning scheme, there has been a strong demand for tourist accommodation, and/or tourism is or was the highest and best use of the land.*

*Tourism uses should be encouraged in mixed use/town centre zones as they assist in providing a mix of intensity of development which is attractive to both tourists and residents. As they are not tourism specific zones, however, mixed use zones can allow for existing tourist accommodation to be redeveloped to other asset classes or converted to other uses. They, therefore, should not be used as a substitute for a specific Tourist zone but can provide additional flexibility.*

*4.5.3.1 Rural Tourism*

*There is an increasing demand for alternative forms of accommodation in rural areas, particularly from international visitors seeking rural experiences. State Planning Policy No 2.5 - Land Use Planning in Rural Areas identifies that tourism opportunities on Rural zoned land increase economic diversification. Rural zoned land may allow small scale tourist activities including farm stay, chalets and bed and breakfast where these are incidental uses to the primary agricultural use.*

*Small scale tourist accommodation could be encouraged subject to it being secondary to agricultural land uses, with clarity provided in the zoning table of a local planning scheme such as the use of "AA" and "SA". This is to minimise potential land use conflicts and maintain primary production as the priority.*

*Rural Tourism development should ideally be concentrated in areas where there are a number of surrounding or nearby attractions, where possible with sealed road access. Opportunities may exist for small scale caravan and camping grounds in rural areas. These are unlikely to compete with the existing formal caravan parks as they would provide a different experience, having minimal facilities, being located in rural setting and of a smaller scale."*

There is currently no "Tourist" zone identified under the Shire's *Local Planning Strategy* or *TPS6* and, therefore, Lot 101 is required to be assessed individually and on its own merits.

The objectives of the "Rural Conservation" zone are:

1. *Maximise the long-term protection and management of significant environment values.*
2. *Minimise the fragmentation of, and where deemed relevant, promote ecological linkages between, these values.*
3. *Ensure that development is compatible, sympathetic and integrated with these values.*
4. *Create lot/s that are of sufficient size to sustain the long-term protection and management of these values.*
5. *Encourage innovative subdivision design, such as consolidated cluster style development, that maximises the long-term protection and management of these values.*

The resort is proposed to be based around eco-tourism which will enable the appropriate and high standard management of the surrounding vegetation to ensure retention and improvement through endorsed management plans. Further linkages between the resort and eco-tourism practices can be explored through the structure planning process.

It is considered that the proposed development is consistent with the objectives of the Zone provided the appropriate conservation techniques and management plans are implemented through future structure planning, subdivision and development stages. This may also be a further opportunity to reduce fire risk and lower surrounding BAL levels to a more acceptable level.

State: *Planning Bulletin 83/2013 - Planning for Tourism*

Clause 6 of *Planning Bulletin 83* states:

*"6. Tourism sites*

*To help coordinate future land use and development of tourism infrastructure the local planning strategy should identify tourism sites and determine their strategic value and importance to tourism development. This will assist local government to determine the level and requirement for more detailed planning, such as the preparation of master plans which will facilitate intended development outcomes.*

*Tourism sites may include existing tourist accommodation developments or non-tourism zoned sites as the site should be assessed on its physical characteristics rather than existing built form or current zoning.*

*The identification of tourism sites does not imply that the site is suitable for immediate development or re-development. Sites may be identified to facilitate the long term protection of land for tourism purposes where economic conditions appropriate for development may not be reached for a number of years. In these circumstances, an appropriate planning framework is required to guide future development of sites at the point when the required level of demand exists. A specific zone should be used to identify these sites in the Scheme, and to indicate the land use and development parameters applicable.*

*General location criteria to determine the tourism value of the site includes:*

*Accessibility - the site has adequate existing or proposed transport links (such as major road or airport access).*

*Uniqueness - the site contains, or is in the vicinity of, an attraction or prominent and/or unique landmark of local, regional or State significance.*

*Setting - the setting of the site has an aspect and outlook that supports recreational tourism activities and/or the creation of a tourism character and ambience (e.g.: immediately adjacent to a beach).*

*Tourism activities and amenities - the site provides, has easy access to, or is capable of development of supporting activities and amenities such as tours, fishing, historic sites, walk trails, environmental interpretation, cafes, restaurants, shops and the like.*

*Supply of land - the site has an element of scarcity in that it may be the only opportunity, or one of the limited number of opportunities, to achieve a significant tourism development in an area. Site specific criteria to determine the tourism value of the site includes:*

*Suitability in a land use context - the site is located in a land use context that will not limit the extent of activities available to guests due to amenity impacts on adjoining residents or where the adjoining uses potentially detract from the tourism character of the site (e.g.: located within a residential area).*

*Capability - the site has the capacity to be developed for tourism purposes and accommodate the associated services in a manner that does not detract from the natural attributes of the site or result in environmental degradation. Examples include: clearing for bushfire protection, sewerage capacity, water supply and rubbish disposal.*

*Size - the size of the site should be adequate to accommodate a sustainable tourism facility with respect to its design, operation and function, and its site specific and wider impacts and consideration of future grown/expansion. This will require a site to be able to be developed without compromising the sustainable use of natural and cultural resources or existing social structures. Development of the site should also contribute to the delivery of diversified and balanced tourism opportunities.*

*Function - the use of the site meets a particular accommodation, market need and/or ensures a range of tourism accommodation with in the locality. Examples are: beachfront caravan parks, school holiday camps and Crown tourism leases.*

*These criteria are to guide local government in the assessment of the strategic value of tourism sites and determination of the value will be based on the outcome of the assessment of the site against all criteria."*

It is considered that Lot 101 does have sufficient qualities to justify supporting a tourism component to the proposed development.

Lot 101 is environmentally significant in terms of vegetation coverage and offers patrons an opportunity to experience native bushland specific to the area.

Further development of tourism linkages can be undertaken at the structure planning stage which will include various management plans and education opportunities.

Local: *Local Planning Strategy 2001-2015*
The Shire's *Local Planning Strategy 2001-2015* ("*LPS*") identifies Lot 101 as able to be developed. Lot 101 was previously rezoned to "Rural Conservation" and, as such, is required to be developed utilising the best methods to retain and enhance the vegetation currently on site. It is considered that the current proposed development area is significant, vegetation protection measures will be required to be put in place to ensure the vegetation is protected and managed at an acceptable level. This will be further addressed at structure planning stage and a high level of conservation will be required to be met.

State: *Local Biodiversity Strategy - March 2010*
Lot 101 is identified under the *Local Biodiversity Strategy* as being located within the "Bindoon Precinct". The objectives of the area are to retain and manage vegetation of high significance through appropriate development. It is considered that the proposed development will achieve a high level outcome based upon implemented conservation management plans and eco-tourism links. These will be introduced at structure planning stage and will require further consideration at that point.

**Financial Implications**
The promotion of tourism based development is considered to be a financial boost to the Shire's economy and will promote future possible investments.

**Strategic Implications**
An increase in development in the area will have an impact on local roads and infrastructure. However, upgrades to roads and other infrastructure may be able to be conditioned at subdivision stage.

**Site Inspection**
The Executive Manager Development Services has been to the site. Currently the site is vegetated and undeveloped.

**Triple Bottom Line Assessment**
*Economic implications*
Promoting tourist opportunities within the Shire can have the effect of increasing the economy of the Shire and surrounding areas. Increasing visitors to the area can also provide opportunity for future investment.

*Social implications*
The proposed development will incorporate a resort and associated infrastructure. The communal facilities such as gym, restaurant and spa etc are proposed to be made available for public use for functions etc. Supporting possible social facilities within the Shire will enable the community to remain within the Shire for social gatherings.

*Environmental implications*
There are significant environmental implications associated with the proposed development. These will be discussed in the comments section below.

**Comment**

Lot 101 has previously been approved for subdivision in a rural residential style development under a previous Scheme Amendment and structure planning process (**Attachment 1**).

It is considered that there are a number of shortfalls in the previously approved subdivision such as limited conservation values, asset protection and fire mitigation and maximising development potential. The current proposal offers Council another opportunity to support a development proposal which will, whilst proposing to intensify the development, provide a more sustainable environmental and viable outcome.

The proposal currently before Council does not propose to increase the previously approved development area but, rather, to increase its density by incorporating a resort and short term accommodation/residential components to the previously approved residential lots.

The short term accommodation/residential component has decreased lot sizes in order to accommodate the 5ha resort lot. The resort lot will accommodate a hotel type structure as well as:

1. Eight short term villas;
2. A restaurant and bar with alfresco area;
3. A gym, spa and swimming pools;
4. An activity centre; and
5. A marine fishing pond and "fishing village"

The development is proposing to promote an eco-tourism experience and, whilst it is considered to be able to be supported, it is envisaged that better links be created to demonstrate the eco-tourism concept.

In general terms of bushfire risk, it is considered that the development should allow for more than one exit point in the event of a fire. Brennan Road, located on the Eastern boundary of Lot 101, is not considered to be an acceptable second exit route because it does not join any existing road network and is only a gazetted road for approximately 1.2km. After this point, it becomes a sand track that is not a gazetted road. Consideration will be required to be given to establishing a second viable exit route in the event of a fire.

The previous approved subdivision allowed for 46 residential lots of approximately 1ha in size, one lot of 5ha allocated to public open space and the remainder of Lot 101 being left to conservation. The lot size was imposed to allow for maximum retention of vegetation to protect the conservation principles.

In order to accommodate the resort and golf course lot, the residential component in the current proposal have been reduced to lot sizes of 8,000m$^2$ with a building envelope of 2,000m$^2$. The minimum lot size will be provided for in the Schedule 12 provisions of 7,500m$^2$ and will be limited to 46 residential/short term accommodation lots. It is envisaged that placing a limit on the number of lots able to be created will prevent a further intensification of the development and, therefore, retain as much conservation quality as possible.

Due to the conservation qualities of Lot 101, it is envisaged that livestock such as horses and large hooved animals should be precluded from any lot created in the development area. A modification to Schedule 12 will be required to address this.

Consideration should also be given to the retention of Clause 12 of the proposed Schedule 12 provisions. Whilst the intent is to retain the conservation status of the remainder lot, placing a Conservation Covenant over the property will preclude the Department of Parks and Wildlife from future acquisition of the remainder lot. It is recommended that the requirement for a Conservation Covenant be removed from the Schedule 12 provisions.

In relation to the proposed Schedule 12 provisions as outlined above, it is considered to be acceptable subject to a number of minor modifications as follows:

1. Insert a new Clause after Clause 3 as follows:
   "*Livestock is not permitted to be kept on any lot within the development area or within the conservation area.*"

2. Insert a new Clause after Clause 6 as follows:
   "*The creation of any lots other than the resort lot shall not exceed 46 lots within the development area.*"

3. Remove Clause 12.

4. Alter the words in clause 14 "*The Structure Plan should…*" to "*The Structure Plan shall…*".

In light of the above, it is recommended that Council resolve to initiate Scheme Amendment No 61 with minor modifications.

**9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 050417**
**Moved Cr Tilbury / Seconded Cr Rossouw**
**That Council:**

**1. Pursuant to Section 75 of the *Planning and Development Act 2005* resolves to initiate an amendment to the *Shire of Chittering Town Planning Scheme No.6* to:**

**a. Delete the land use term 'tourism accommodation' in Schedule 1 and replace it with the following definition for 'tourism development':**

***tourist development* means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide—**
**(a) short-term accommodation for guests; and**
**(b) onsite facilities for the use of guests; and**
**(c) facilities for the management of the development.**

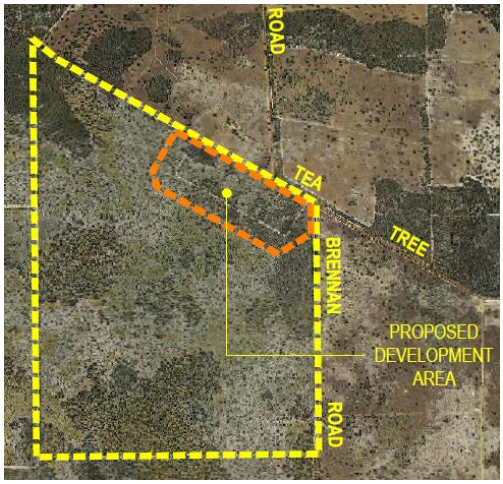
**b. Insert the following general definition for 'short-term accommodation' into Schedule 1:**

***short-term accommodation* means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three months in any 12 month period.**

**c. Delete the conditions for Rural Conservation Area 1 (Lot 101 Teatree Road, Bindoon) in Schedule 12 and replace with the following:**

| Not | Description of Land | Conditions |
|---|---|---|
| 1. | Lot 101 Tea Tree Road, Bindoon | 1. Subdivision and development is to be in accordance with an approved Structure Plan. |

2. Subdivision and development of the land shall be restricted to a 50ha portion of the lot, referred to hereafter as the 'development area' (in accordance with the Figure below).




3. The remaining portion of the land shall be retained as a single lot, hereafter referred to as the 'conservation area'.

4. Livestock is not permitted to be kept on any lot within the development area or within the conservation area.

**Development Area**

5. The permissibility of land uses within the development area shall be as follows:

| | |
|---|---|
| Single house (P) | Bed and breakfast (D) |
| Home business (D) | Residential building (A) |
| Resort (A) | Tourist development (A) |

All other uses are not permitted.

6. Within the development area one 'Resort' lot is permitted with a maximum lot size of 5 ha and a building envelope that shall not exceed 2 ha in area. A Resort, including associated facilities such as recreation (e.g. gymnasium, swimming pool, golf, bike riding, tennis, bowls, fishing), entertainment (e.g. food and beverage facilities) and management facilities, is to form part of an integrated component of the overall development of the site in terms of scale and character.

7. Except for the 'Resort' lot, all other lots within the development area shall have a minimum lot size of 7,500m$^2$ and a building envelope that does not exceed 2,000m$^2$ in area.

| | | | |
|---|---|---|---|
| | | | 8. The creation of any lots other than the resort lot shall not exceed 46 lots within the development area.<br><br>9. All buildings and onsite effluent disposal systems are to be confined to the building envelopes.<br><br>10. Subdivision and development within the development area is to be located to avoid impacts to significant vegetation, flora and fauna.<br><br>11. Subdivision and development within the development area shall not result in the clearing of native vegetation in the conservation area for any purpose.<br><br>**<u>Conservation Area</u>**<br>12. The permissibility of land uses within the conservation area shall be as follows:<br>Single house (P) Bed and breakfast (D)<br>Home business (D)<br><br>All other uses are not permitted.<br><br>13. Within the conservation area, the single building envelope shall not exceed 2,000m2 in area. Buildings and onsite effluent disposal system are to be confined to the building envelope.<br><br>14. No further subdivision of the conservation area is permitted.<br><br>**<u>Structure Plan</u>**<br>15. The Structure Plan shall provide sufficient information to address the requirements of the Scheme and the following:<br>(a) the location of significant vegetation, flora and fauna and areas to retained within the development area;<br>(b) the location of any proposed tourist development/resort including associated facilities;<br>(c) the provision of communal and private open spaces and landscaping on the site;<br>(d) the identification of building envelopes for all lots having regard for the environmental values of the site;<br>(e) the location of asset protection zones for the purpose of bushfire management including the location and extent of any required clearing outside of the building envelope;<br>(f) the location of fire breaks;<br>(g) the location of any water storage facilities for the purpose of bushfire management. |

| | | | |
|---|---|---|---|
| | | | 16. Prior to the approval of the Structure Plan, vegetation, flora and fauna survey reports are to be prepared in accordance with Environmental Protection Authority Guidance Statements and Commonwealth referral guidelines and conservation advice. Impacts to environmentally significant areas shall be minimised where possible, in accordance with condition 8 of this Schedule. Where impacts are unavoidable, the structure plan shall demonstrate that like-for-like vegetation, flora and fauna occurs within other parts of the development area or the conservation lot.<br><br>17. Prior to the approval of the Structure Plan, a Local Water Management Strategy shall be prepared and approved by the local government, on the advice of the Department of Water.<br><br>18. Prior to the approval of the Structure Plan, an Infrastructure and Servicing Management Strategy shall be prepared to address servicing matters including demonstration of a sustainable water supply and wastewater servicing to all lots. The Strategy is to be approved by the local government, on the advice of the Department of Water and the Water Corporation (if necessary).<br><br>19. Prior to the approval of the Structure Plan, a Bushfire Management Plan shall be prepared and approved by the local government, on the advice of the Department of Fire and Emergency Services. The Plan shall be implemented as part of subdivision works.<br><br>**<u>Development</u>**<br>20. Prior to the development of the 'Resort' lot, the following management plans are to be prepared to demonstrate how the site is to operate as an integrated tourism proposal:<br>(i) Operation Management Plan;<br>(ii) Waste Management Plan;<br>(iii) Traffic Management Plan.<br><br>21. The above conditions are to read in conjunction with the Scheme requirements for the Rural Conservation zone. Where conflict exists, the conditions of this Schedule shall prevail. |

**2. Resolves to number the proposed amendment as 'Amendment No. 61' to the *Shire of Chittering Local Planning Scheme No 6*.**

**3. Resolves that Amendment No. 61 is a 'standard' amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reasons:**

**a. The amendment is consistent with a local planning strategy for the scheme that has been endorsed by the Commission; and**

**b. The amendment is not a complex or basic amendment.**

**4. Pursuant to Regulation 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to proceed to advertise the Scheme Amendment.**

**5. Forwards the Scheme Amendment to the Environmental Protection Authority.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.27pm**

### 9.1.4 Proposed NBN Telecommunications Infrastructure: Lot 191 (RN 51) Hereford Way, Lower Chittering*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Aurecon Pty Ltd on behalf of NBN co |
| **File ref** | A10408; P081/16 |
| **Prepared by** | Nathalee Petersen, Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Report accompanying Planning Application<br>2. Schedule of Submissions<br>3. Photomontage of proposed telecommunications infrastructure<br>4. Assessment of state and local planning policies and strategies |

**Executive Summary**

Council's consideration is requested for proposed Telecommunications Infrastructure on at Lot 191 Hereford way, Lower Chittering. The application comprises of a 45m monopole structure with three (3) panel antennas, parabolic dish and associated ancillary equipment including one equipment shelter within a 80sqm fenced compound for the purposes of providing nbn communications.

The infrastructure is proposed to be located on land zoned for "Rural Residential", for which 'Communications Infrastructure' is an 'A' use. Therefore, the application is being referred to Council as objections were received during the public consultation period.

**IMAGE 1: LOCALITY PLAN**

**Background**
The subject site consists of 2.18 hectares of land and is currently used for residential purposes. It features a single residential dwelling accompanied by a shed with a firebreak running along the back. Moderately dense vegetation exists within the front of the property however lessens towards the middle and rear. The property sloped gently towards the back in a westerly direction.

The property is situated on the edge of the Maryville Downs Estate, close to Muchea East Road. The western boundary of the lot adjoins a large property zoned "Agricultural Resource", however, most surrounding land is dominated by further rural residential properties within the Maryville Estate.

A previous application for an NBN tower was proposed in the same location however was withdrawn in November 2016. Concerns from the Department of Defence (DoD) relating to the towers height were raised, subsequently slowing the progress of the application leading to withdrawal of the proposal. Having now received confirmation from the DoD that the height of the tower will not impact on the RAAF Base Pearce, the application has been resubmitted.

**Consultation**
Consultation was undertaken in accordance with Section 9.4 of the Shire of Chittering's *Town Planning Scheme No 6*. In accordance with the abovementioned provision of the Scheme, the application was advertised in the following methods:
(1) letter to nearby/affected landowners;
(2) sign placed on the site (attached to fencing on 51 Hereford Way, including advertisement, maps indicating proposed development;
(3) on the 'Have your say' page on the Shire's webpage; and
(4) on the Shire's Social Media page.

The application was advertised for a period of 21 days from 7 March until 4 April 2017.

The application was also advertised to a number of government and referral agencies such as (amongst others):
(1) Department of Planning;
(2) Department of Health;
(3) Department of Parks and Wildlife; and
(4) Chittering Landcare

During the advertising period, a total of 80 letters were sent directly to landowners, with a total of 15 submissions received (i.e. a reply rate of 18.75%).

Of the 15 submissions received; 11 were in support of the application, whilst four objected to the application.

Of those whom were supportive of the application, the basis of their support was the following:
(a) Availability of communication facilities
(b) Lifestyle

The basis of the submissions which were objecting to the proposal were for the following reasons:
(a) Visual impact
(b) Devaluing of property prices
(c) Health implications
(d) Current adequate provision of telecommunication services

Further analysis of these submissions is referred to in the Comments section of this report and also in the Schedule of Submissions (**Attachment 2**).

**Statutory Environment**
State: *Telecommunications Act (1996)*
*Planning and Development Act (2005)*
*Planning and Development (Local Planning Schemes) Regulations 2015*

Local: *Shire of Chittering Town Planning Scheme No. 6 (TPS6)*
Under *TPS6*, Lot 191 (RN 51) Hereford Way is zoned "Rural Residential". The objectives of this zone are:

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

At present, the land use definition most closely aligned with this type of development would be Telecommunications Infrastructure. In accordance with *TPS6* Telecommunications Infrastructure *"means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, in or in connection with a telecommunications network".*

*Part 9 – Procedure for Dealing with Applications for development approval*
*Cl. 66 In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application—*

*(c) any approved State planning policy;*

*(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located*

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

*(n) the amenity of the locality including the following —*
*(i) environmental impacts of the development;*
*(ii) the character of the locality;*
*(iii) social impacts of the development;*

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

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

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

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

**Policy Implications**

State: *State Planning Policy No. 5.2 – Telecommunications Infrastructure (2015)*
*State Planning Policy 2.5 Land Use Planning in Rural Areas (2012)*
*Visual Landscape Planning in Western Australia (2008)*

The above statutory and policy implications are addressed in detail under the **Comments** section.

**Financial Implications**

There are no financial implications associated with this development.

**Strategic Implications**

State: *State Planning Strategy 2050*

Local: *Shire of Chittering Local Planning Strategy (2001 – 2015)*
*Shire of Chittering Strategic Community Plan (2012 – 2022)*

The Shire's *Local Planning Strategy* does not specifically refer to telecommunications facilities, however it does state that *"the notable increases in employment lies in the fields of (…) communication and tourism"*, and that *"there is an increase in home-based occupations providing personal services, some using electronic commuting*". The availability of national broadband network facilities significantly increases the likelihood of communication based employment opportunities.

The *Strategic Community Plan* specifically refers to the infrastructure. The Strategy states "*that Council proactively participates in the National Broadband Network rollout – level of take up of new 'broadband' services*".

**Site Inspection**

A site inspection was undertaken by Shire Officers. Officers observed that the locality naturally undulates, gently rising in a north – easterly direction.

Much of the locality remains cleared of vegetation with large patches of mature tree and shrubs interspersed between the estate properties. The adjacent property contains a high level of dense vegetation.

In addition to this the applicant was required to supply photomontage images of the proposed pole, this helps to show the any proposed visual impact from the proposed infrastructure. Further information regarding the likely visual impact of the proposed infrastructure is attached as **Attachment 3**.

**Triple Bottom Line Assessment**

*Economic implications*

The economic implications as a result of the establishment of the Telecommunications Infrastructure may provide the following significant benefits to Chittering and in the long term the broader Shire of Chittering in the following ways:

(i) Meet the objectives outlined in the Shire of Chittering's *Strategic Community Plan 2012 – 2022* in terms of supporting local business and advocating for improved broadband access;

(ii) Provide opportunities for local businesses to conduct business activities over the internet in a more efficient and time effective way due to faster speeds.

A number of submissions advised that they believed there would be a negative economic impact, in that the development of the Telecommunications Infrastructure would result in the devaluation of private property as a result of its construction. Property devaluation is not a planning consideration under *Section 10.2 Matters to be considered by Local Government* in the *Shire of Chittering Town Planning Scheme No. 6* and is further addressed in the **Attachment 3** - schedule of submissions.

Economic sustainability for the Shire ultimately relies on the availability of services for which Telecommunications Infrastructure is viewed as a key service that has the potential to provide further opportunity for 'home' type businesses to flourish.

*Social implications*

The negative social aspects mentioned in the submissions include:

(1) a diminished level of visual amenity for residents living in close proximity to the property;

(2) devaluation of property;

(3) health implications

These concerns will be discussed in detail in the **Comments** section of the report.

*Environmental implications*

No concerns from government agencies or land owners relating to environmental implications were raised during the submission period. Furthermore, the proposed location is generally cleared of vegetation with no additional removal required for the tower.

**Comment**

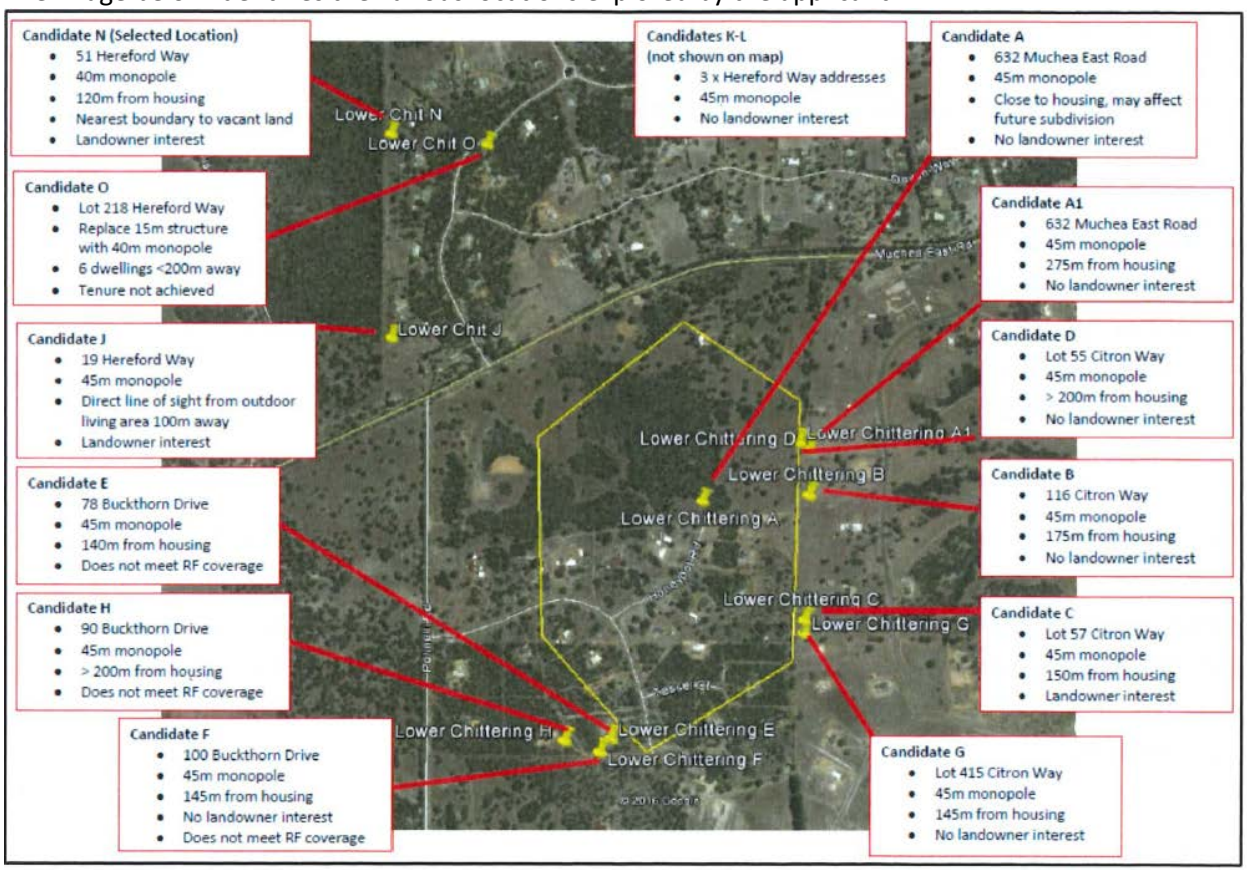
*Site assessment*

The applicant has undertaken various studies into the suitability of a number of sites from their own research and also those suggested by members of the community. On this occasion the applicant has ascertained that the subject location provides the ideal location to meet its coverage objectives.

It should be noted that the proposed tower is located on privately owned land, containing a single dwelling located at a distance of approximately 70 metres from the compound. The applicant's report has ensured that residents of the dwelling will not be affected by predicted EME levels.

The applicant in the accompanying planning report submitted to the Shire with the development application (see applicant's report for alternative locations (by applicant)), indicated a number of sites within the vicinity area which had been investigated in order to identify a suitable location for the Telecommunications Infrastructure.

The image below identifies the various locations explored by the applicant.




A full explanation for each of the identified locations is located within the applicant's report.

*Consultation*

- *NBN Consultation*
  Prior to the lodgement of the application, NBN Co held a community information session at Immaculate Heart College on 9 June 2016 with residents. Feedback forms collected at the session reflected current unreliable service in the vicinity.

- *Internal Consultation*
  The Shire's Planning Officers referred the application internally to the Shire's Principal Environmental Health Officer and the Economic Development and Communications Officer with no objections received.

- *Shire of Chittering public consultation*
  In accordance with *Section 9.4* of the *Shire of Chittering Town Planning Scheme No 6*, the application was advertised for a period of 21 days. During the advertising period, a total of 80 letters were sent directly to landowners, with a total of 10 submissions received. In addition to letters sent, signage was placed on the property in addition to the application being placed in a newspaper advertisement and also on the Shire's social media account and 'Have Your Say' page on the Shire's website.

  Of the submissions received, 11 were in support of the application, whilst four objected to the application.

Officer's comments regarding the submissions are addressed within this report and also in the Schedule of Submissions (see **Attachment 2**).

It should be noted the applicant only provided one response intended to answer all objections as oppose to replying to each response separately.

**Statutory Provisions**

Local: *Shire of Chittering Town Planning Scheme No. 6*

In assessing the application, the Planning Officers have addressed Part 10 – Procedure for Dealing with Applications, *Section 10.2 – Matters to be considered by Local Government* (see below).

*Part 10 – Procedure for Dealing with Applications*

*10.2 Matters to be considered by Local Government*

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

*(c) any approved State planning policy;*

State: *State Planning Policy 5.2 – Telecommunications Infrastructure* (*SPP5.2*) provides the most comprehensive guide to determining such applications. *SPP5.2* provides clear guidance for information which is to be included in any planning application and read in conjunction with the *'Guidelines for the Location, Siting and Design of Telecommunication Infrastructure'* (2008). This has been addressed in **Attachment 4**.

**Policy implications**

State: *State Planning Policy 5.2 Telecommunications Infrastructure (SPP5.2)*

Policy objectives:

*a) facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;*

*b) manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;*

*c) ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,*

*d) promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.*

Both the applicant and Shire officer's response to the policy measure outlined in *SPP5.2* are outlines in attachment 4.

*State: Visual Landscape Planning in Western Australia (2008)*

The applicant and Shire officers' response is contained within **Attachment 4**.

*Strategic*

From a strategic perspective the State Government's *State Strategic Strategy 2050* outlines the developmental objectives in which the State of Western Australia envisages to achieve broadly amongst urban and regional localities throughout the state. Additionally, the Shire has a number of documents which outline the Shire's objectives. These objectives outline a variety of measures in which the Shire envisages to achieve in terms of economic, social and environmental from a short, medium to long term perspective.

The *State Planning Strategy 2050* (2014) in addition to the Shire of Chittering *Local Planning Strategy* (2001 – 2015), *Strategic Community Plan* (2012-2022) and *Biodiversity Strategy* (2010) in relation to the tower are explored in further detail in **Attachment 4**. The proposal is determined to consistent with the objectives in the Shire's variance strategic documents.

**Conclusion**

The application for the Telecommunications Infrastructure located at No.51 Hereford Way, if approved has the potential to generate a significant improvement in communications in the surrounding Rural Residential areas via high speed internet. This development may also have the potential to provide to a broad range of residents and businesses with social and economic benefits with smaller benefits to the environment to the Maryville Estate itself.

To this end, it would be a step towards achieving its strategic goal as detailed in **Attachment 4** of the Shire's *Strategic Community Plan* in supporting local businesses and advocate (successfully) for the improved broadband access which the Telecommunications Infrastructure has the potential to achieve. This potentially may entice people into the Shire to sit, stay and engage in the area as opposed to simply 'bypassing'.

There will be no significant environmental impact upon the subject site. In addition to this, the major concerns in relation to visual amenity can be addressed through screening, siting and additional conditions imposed on the application.

It is understood that there may be some visual impact pertaining to the pole, therefore Council may consider requiring the monopole structure to be painted in a pale eucalypt colour as opposed to the untreated galvanized steel.

In assessing the application for the proposed Telecommunications Infrastructure, it is highlighted that the subject location provides the most appropriate location for such a development due to:

- the locations ability to provide coverage to a significant catchment of potential users covering a large portion of people living in the Maryville Downs Estate and also further north. This location is seen by the applicant as providing the most evenly distributed coverage for the nbn sectors which in turn provides optimal network service. Other locations explored by the applicant indicate a diminished catchment of potential users and a reduced efficiency of the service. Other alternative sites explored may result in a larger, more visually obtrusive structure which may not even with the increased height, meet the residential catchment as the subject location;
- the applicant has assessed the proposal against relevant state and local policies to ensure the least visual impact possible;
- there is no impact upon the environment as a result of this application.

In light of the above, it is recommended that Council approve the application subject to conditions.

**9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060417**
**Moved Cr Tilbury / Seconded Cr Rossouw**
**That Council grant planning approval for the proposed Telecommunications Facility at Lot 191 (RN 51) Hereford Way, Lower Chittering subject to the following:**

1. **All development is to be in accordance with the approved plans.**

2. **Screen planting is to be installed surrounding the proposed cabinets and associated infrastructure. All planting shall be native and compatible to the area.**

3. **Any soils deposited or disturbed on-site shall be stabilised to the satisfaction of the Chief Executive Officer.**

4. **Stormwater generated from the development shall be managed on-site to the satisfaction of the Chief Executive Officer.**

5. **An asset protection zone is to be created around underlying infrastructure associated with the proposed tower.**

**<u>Advice Notes</u>:**

1. **The applicant is to register the tower with the Aviation Authority/RAAF.**

2. **A building permit shall be issued by the Shire of Chittering prior to the commencement of any work on the site.**

3. **Any noise emitted during the operation of the tower shall be in accordance with the *Environmental Protection (Noise) Regulations 1997*.**

4. **This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where planning approval has lapsed, no further development is to be carried out.**

5. **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.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.30pm**

### 9.1.5 Proposed Tunnel Houses: Lot 1907 (RN 166) Chittering Street, Muchea*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | A. Yewers |
| **File ref** | A5015 |
| **Prepared by** | Nathalee Petersen, Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Proposed Plans<br>2. Schedule of Submissions<br>3. Property Management Plan |

**Executive Summary**

Council is requested to consider and determine the construction of 71 tunnel houses proposed at RN 166 Chittering Street, Muchea. The 71 tunnel houses are proposed to be 8.5 metres in width and 5 metres in height and can vary in length from 90 to 145 metres. It is determined the proposed structures would be constructed over an existing 8 hectares of strawberry fields within the eastern half of the property. The item is referred to council as the Shire received objections during the referral period.

**IMAGE: LOCALITY PLAN**

**Background**

The proposed application is for an existing business known as the 'Berry Sweet Strawberry Farm'. The strawberry farm is located within a portion of the 64.8 hectare of the subject site of which the tunnel houses are proposed to shade an existing 8 hectare strawberry field. The applicant is seeking approval for 71 tunnel houses measuring 5 metres high, 8.5 metres wide and 90 to 145 metres long respectively.

The farm was originally operating without approval to which the Shire requested a 'Farm Management Plan' be submitted detailing all aspects of the operation occurring on the property. This Plan was subsequently submitted and assessed by the Shire with no major concerns raised. The farm now continues to operate as a commercial strawberry farm and is not open to the public.

Surrounding land uses can be summarised as cleared pasture with portions allocated to sand extractions. Specifically, Lot 1907 borders the Bindoon Army Reserve to the west, White Toro Sand extraction to the north, a market garden to the east and residential development to the south. The property is located in close proximity to the Muchea townsite however is it should be noted that all surrounding land, with the exception of Lot 854 Chittering Street (directly south) is zoned for 'Agricultural Resource'. It should also be known that strawberry farms are common to the area and are less intensive on the agricultural use spectrum.

**Consultation**

Consultation was undertaken in accordance with Section 9.4 of the Shire of Chittering's *Town Planning Scheme No 6*. In accordance with the above mentioned provision of the scheme, the application was advertised via letters to nearby land owners who may be impacted by the proposal.

Following letters being posted, nearby landowners were given 14 days to comment on the proposed tunnel houses from 27 January to 10 February 2016. Reasons for the delay in the item being presented to Council are attributed to a late objection being received by the Shire. One objection was received during this time and one received outside of the timeframe, however, the Shire determined that both objections were to be considered. Both submissions raised the same concerns relating to:

- Maintenance of the proposed tunnel houses should they be approved
- The potential exacerbation of rubbish on site
- Chemical use associated with the farm operations
- Increased traffic generated by the proposal
- Impact on amenity
- Devaluation of property
- Stable flies

The proposal is not intended to intensify the current operations on site and subsequently, it is not determined that increased traffic or rubbish will be a result of the tunnel houses. The Shire's Principal Environmental Health Officer (PEHO) has stipulated stable flies are bred through the use and spreading of poultry manure and are not attracted by vegetable decay. Furthermore, a site inspection conducted by the Shire's PEHO and Ranger on 4 May 2016 found no evidence of stable fly breeding. Lastly, property devaluation is not a planning consideration under *Section 10.2 Matters to be considered by Local Government* in the *Shire of Chittering Town Planning Scheme No 6* and therefore not able to be considered. This is further explored in **Attachment 2** – Schedule of Submissions.

**Statutory Environment**

State: *Planning and Development Act 2005*

Local: *Shire of Chittering Town Planning Scheme No 6*
The property is zoned for Agricultural Resource. The objectives of the zone are as follows:

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

The proposed tunnel houses are determined to be compatible and consistent with the above objectives of the Zone due to the preservation of existing crops.

In relation to the existing land use on site, 'Agriculture – Intensive' is most applicable and is defined under the scheme as:

> *means premises used for trade or commercial purposes, including outbuildings and earthworks, associated with the following-*
> *(a) the production of grapes, vegetables, flowers, exotic and native plants, or fruit and nuts;*
> *(b) the establishment and operation of plant or fruit nurseries;*
> *(c) the development of land for irrigated fodder production and irrigated pasture (including turf farms);*
> *(d) aqua culture.*

It is considered that this application is consistent with the objectives of the "Agricultural Resource" Zone as stipulated in *Town Planning Scheme No 6* (*TPS6*).

**Policy Implications**
State: *State Planning Policy 2.5 – Rural Planning*
The proposal is located on land zoned for agricultural purposes under *TPS6* and therefore relates to *State Planning Policy 2.5 (SPP2.5)*.

Section 5.8 Intensive Agricultural of *SPP2.5* is considered to be most relevant to the proposed tunnel houses and should be addressed in assessment of the application. WAPC policy in regards to intensive agriculture is:

*(a) intensive agriculture is generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed;*
*(b) intensive agriculture sites of State significance should be protected from encroachment;*
*(c) in considering buffer distances between intensive agriculture and sensitive land uses, the requirements of clause 5.12 should be observed, and the following matters may also affect the buffer –*
  *(i) types of chemicals used and their method of application;*
  *(ii) the characteristics of the site/s, including vegetation, topography and prevailing winds;*
  *(iii) potential mitigation approaches, including fencing, vegetation buffers, open space, road reserves and other compatible uses; and*
  *(iv) potential staging and/or expansion intention of the intensive agriculture operator; and*
*(d) where an intensive agriculture proposal may affect the nutrient load of a river, estuary or associated tributary and the system and/or its receiving water body has no further capacity to assimilate nutrients without an adverse impact on ecosystem health, a reduction in nutrient export is to be demonstrated.*

Much of 5.8 (a) to (d) has been addressed in the proponents' property management plan including:

- Types of chemicals used and their method of application
- Characteristics of site including vegetation and topography
- Nutrient management with regards to water bodies

The proposal is not intended to intensify the use, rather to shelter the crops already existing on site. Therefore, the main factors to consider in determining whether the proposal is consistent with the policy are:

- Potential mitigation approaches i.e. fencing, vegetation buffers etc.
- Impacts on rural amenity

The impacts of rural amenity linked to the scale of the proposal may be mitigated through implementation of vegetation buffers. Nevertheless, the proponents' proposal is determined to be generally consistent with *SPP2.5* as previous concerns raised by the Shire regarding environmental impacts have been addressed through the Property Management Plan. However, this could be considered as subjective because sheds, agricultural equipment and tunnel houses are seen by many as the makeup of visual rural amenity.

Local: *Local Planning Policy 9 – Tunnel Houses* (*LPP9*)
*LPP 9 – Tunnel Houses* was adopted by Council in 2006, therefore it is considered that it is generally out of date and needing of review, however, for the purpose of this application it has been assessed in accordance with this policy and will be discussed as follows.

The objectives of the Policy are as follows:

- *To protect the visual and natural amenity of the neighbourhood in which Tunnel Houses are proposed to be located*
- *To protect the environment from chemicals and nutrients entering into surface and subsurface waters*
- *To reduce land use conflict.*

Additionally, the Policy states:
*Tunnel Houses are considered as "Agricultural – Intensive" when produce is in large quantities, for resale. Agricultural – Intensive is a "P" (permitted) use in the Agricultural Resource Zone*. Nevertheless, the proposal still requires a planning application to be lodged as per *section 5.1(a)* in the Policy. *LPP 9* suggests tunnel houses are not advertised in Agricultural Resource zones however due to the number of tunnel house proposed coupled with the subject sites proximity to the Muchea Townsite, it was deemed reasonable to advertise.

Section 5.3 of *LPP9* outlines general requirements (a – g) with which any proposal for tunnel houses are to generally comply with. The applicant's previously submitted property management plan addresses some of these requirements. Section 5.3(b) of the Policy states tunnel houses are to be screened from nearby residents and from public roads. This requirement may be unreasonable in considering the properties location within a Rural Zone however can be addressed through conditions of approval requesting screen planting occur.

The proposed tunnel houses are considered to be 'Commercial' as per *Section 5.4* of *LPP9*. Consequently, the below is required:

*a) Tunnel Houses used for commercial purposes are to comply with car parking requirements specified in the Scheme and Local Planning Policy No. 13*

*b) Any signage associated with a Tunnel House is limited to one sign, not greater in area than 1.5m²*

*c) Commercial tunnel houses are to be designed with required facilities for workers and access for the disabled, in accordance with relevant regulations.*

Berry Sweet is not accessible to the public as picking is undertaken by hired workers. The Site Plan indicates a 'car park' south of the existing crops that links with the gravel access road. *Local Planning Policy 13 – Car Parking* (*LPP13*) does not include 'intensive agriculture' in its Car Parking Standards List of Uses as rural uses are not generally expected to require car parking. Therefore, to determine the appropriate number of spaces that may be required, the use most closely associated is chosen and the proposed car parking is at the discretion of the Shire.

It is determined that 'Industry – Light and Serviced' most closely resembles the land use which requires one bay per employee, plus four visitor bays. The Site Plan shows an area designated for parking of approximately 75 metres in length and 8 metres in width. Using the Shire's minimum standards in accordance with *LPP13*, this would cater for 27 parking spaces. This space also appears to be able to be extended. Notwithstanding, it is suggested the proposal provides for adequate parking facilities.

In addition to the above, the Shire's PEHO has advised the farm is to comply with Worksafe requirements outlined in *Codes of practice: First aid facilities and services; Workplace amenities and facilities* and *Personal protective clothing and equipment.*

It should also be noted Section 5.5 stipulates there is no restriction on the maximum area of Tunnel Houses in "Agricultural Resource Zones". Generally it is considered that this proposal is consistent with the objectives and intent of this policy.

**Financial Implications**
Nil

**Strategic Implications**
Nil

**Site Inspection**
Site inspection undertaken: Yes
An inspection of the site was undertaken in January 2017 by the Shire's Planning Officers when the application was first lodged. It was noted the surrounding landscape was dominated by cleared pasture, market garden and rural residential properties. The land is generally flat with a small upwards slope towards the west.

**Triple Bottom Line Assessment**
*Economic implications*
There are no known significant economic implications associated with this proposal.

*Social implications*
There were a number of concerns raised in the two submissions made regarding possible impact of this proposal on surrounding landholdings. As this is a development application consistent with the objectives of this Zone, it is considered no negative social impacts will result from this proposal.

*Environmental implications*
The tunnel houses are covering existing crops; therefore, no proposed clearing of vegetation is expected. It is suggested that the proposed tunnel houses may in fact assist in stopping any spray drift likely to occur.

**Comment**
The purpose of the proposed tunnel houses are to shelter existing crops and is not determined to intensify the operations of the current land use associated with the strawberry farm.

The subject application is consistent with the objectives outlined in *TPS6* for the "Agricultural Resource Zone". Furthermore, the proposal is generally consistent with policy measures outlined in *SPP2.5 Section 5.8* which have been addressed previously in the proponents' Property Management Plan. Notwithstanding, the Policy does stipulate that intensive agriculture is supported providing there is no impact to rural amenity.

The number of tunnel houses (71) is deemed to cause some effect on rural amenity, however it is determined by the Officer that this is acceptable due to the properties location within an "Agricultural Resource Zone" and also the subjective nature of that Policy Statement. The acceptance of such a large scale proposal is further reinforced by the Shire's *LPP9* stating there is no restriction on the number of tunnel houses permitted in the Agricultural Resource Zone. To reduce the impact on amenity the Officer recommends landscaping to occur along a portion of the eastern boundary. This will also address 5.3(b) in *LPP 9* general requirements.

Most of the requirements have been met via the previously submitted Property Management Plan and did therefore not trigger any major non-compliance issues that cannot adequately be addressed through conditions of approval, e.g. landscaping. The exception of this was the manure management which has subsequently been listed as a condition of approval that a Management Plan be supplied to the Shire.

There were concerns raised in public submissions from neighbours pertaining to the loss of visual amenity due to the proposed tunnel houses. Particularly, any future deterioration of the tunnel houses material. It is considered, should Council grant planning approval, a condition should be imposed requiring the maintenance of the tunnel houses to ensure that do not become unsightly or fall into disrepair.

In addition to the above, objections targeted the amount of traffic generated from the existing operation and feared approval of the application would trigger an increase in the volume of vehicles travelling down Chittering Street.

In conclusion, as this application simply proposes to cover existing crops as opposed to increasing or intensifying the operation, and is consistent with the objectives of the Zone it is considered Council should approve this application, subject to the recommended conditions below.

**9.1.5 OFFICER RECOMMENDATION**

Moved Cr Osborn / Seconded Cr King

That Council approves the proposed 71 tunnel houses at Lot 1907 (RN 166) Chittering Street, Muchea subject to the following conditions:

1. All development is to be in accordance with approved plans.

2. Where in the opinion of the Council, the proposed tunnel houses have been permitted to deteriorate to a point where they conflict with the objectives of the Scheme or ceases to be effective for the purpose for which they were erected, the Council may by notice in writing require the applicant to:
   a. repair or otherwise restore the tunnel houses to a standard specified by the Council in the notice; or
   b. remove the tunnel houses.

3. A Manure Management Plan is to be submitted to the satisfaction of the Shire.

4. A Landscaping Plan is to be submitted in accordance with Cl. 5.3 (b) detailing the following:
   *4.1 screen planting using native vegetation along a portion of the eastern boundary.*

Advice Note:

1. The applicant is advised to comply with the *Codes of practice: First aid facilities and services; Workplace amenities and facilities* and *Personal protective clothing and equipment.*

**AMENDMENT**

**Moved Cr Rossouw / Seconded Cr Osborn**

**That "Condition 4" be amended to read as follows:**

***"4. A Landscaping Plan is to be submitted in accordance with Cl. 5.3 (b) detailing the following:***

***4.1 screen planting using native vegetation be established and maintained to screen the structures from neighbouring residences."***

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/0**
**AND FORMED PART OF THE SUBSTANTIVE MOTION**
**8.42pm**

**9.1.5 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 070417**

**Moved Cr Osborn / Seconded Cr King**

**That Council approves the proposed 71 tunnel houses at Lot 1907 (RN 166) Chittering Street, Muchea subject to the following conditions:**

**1. All development is to be in accordance with approved plans.**

**2. Where in the opinion of the Council, the proposed tunnel houses have been permitted to deteriorate to a point where they conflict with the objectives of the Scheme or ceases to be effective for the purpose for which they were erected, the Council may by notice in writing require the applicant to:**

**a. repair or otherwise restore the tunnel houses to a standard specified by the Council in the notice; or**

**b. remove the tunnel houses.**

**3. A Manure Management Plan is to be submitted to the satisfaction of the Shire.**

**4. A Landscaping Plan is to be submitted in accordance with Cl. 5.3 (b) detailing the following:**

***4.1 screen planting using native vegetation be established and maintained to screen the structures from neighbouring residences.***

**<u>Advice Note</u>:**

**1. The applicant is advised to comply with the *Codes of practice: First aid facilities and services; Workplace amenities and facilities* and *Personal protective clothing and equipment.***

**THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0**

**8.43PM**

### 9.1.6 Section 70A Notification Authorisation: Freehold (Green Title) subdivision of Lot 202 (RN 58) Crest Hill Road, Lower Chittering*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | S. D. Kay |
| **File ref** | 18/03/130; WAPC Ref 154427 |
| **Prepared by** | Nathalee Petersen, Planning Officer |
| **Supervised by** | Bronwyn Southee, Executive Manager Development Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Section 70A Notification Document<br>2. Deposited Plan |

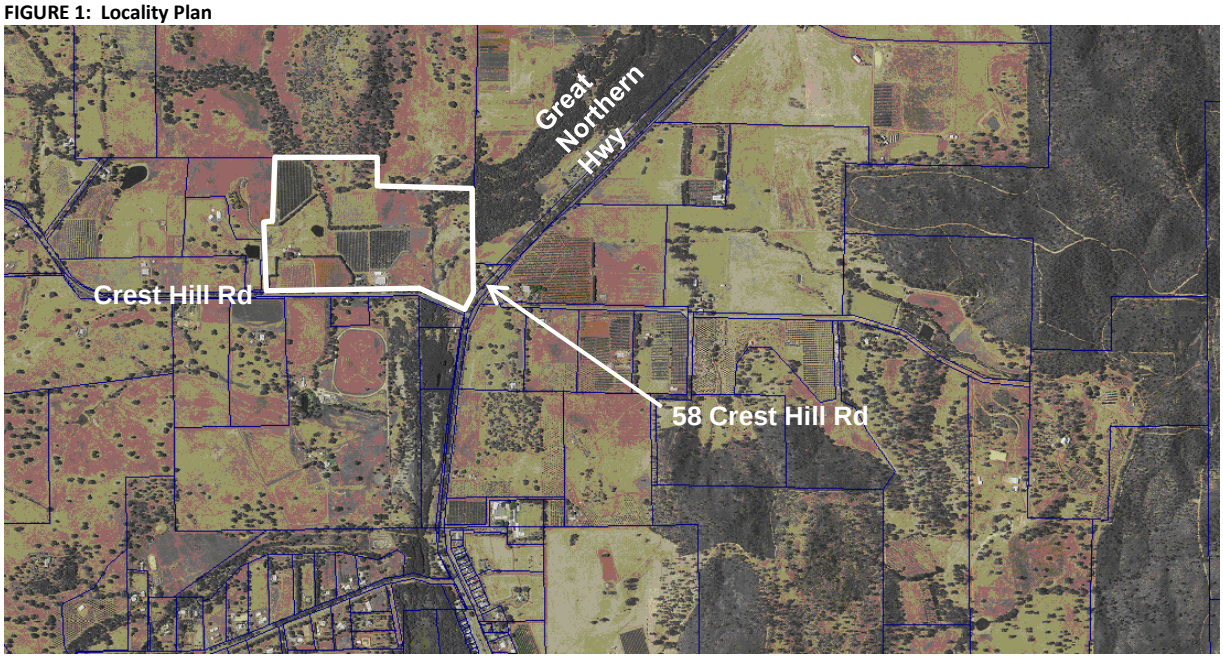
**Executive Summary**

Council's consideration is requested in relation to the execution of a Section 70A Notification for the subdivision of Lot 202 (RN 58) Crest Hill Road, Bindoon. The applicant has approval for the freehold subdivision of 58 Crest Hill Road into two lots being 16.17ha and 17.8497ha respectively.

**Background**

On 3 February 2017, the Shire was notified that the subdivision of 58 Crest Hill Road, Bindoon had been conditionally approved by the Western Australian Planning Commission.

**FIGURE 1: Locality Plan**




Conditions 3 and 4 of the subdivision approval requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), to be placed on the Certificate of Titles for the proposed lots. The purpose of the Section 70A Notification is to advise the future landowners that *'a reticulated sewerage service is not available to this lot' and 'a mains potable water supply is not available to the Lot'* and *'A mains potable water supply is not available to the lots'.*

The Shire of Chittering also requested that measures be taken to ensure the identification and protection of any vegetation on the site worthy of retention is not impacted by subdivisional works, prior to commencement of subdivisional works. This is deemed to have been satisfied by the Shire.

**Consultation**
Not applicable

**Statutory Environment**
State: *Transfer of Land Act 1893* (as amended)

**Policy Implications**
Local: *1.5 Execution of Documents*

**Financial Implications**
Nil

**Strategic Implications**
Nil

**Site Inspection**
Not applicable.

**Triple Bottom Line Assessment**
*Economic implications*
There are no known significant economic implications associated with this proposal.

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

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

**Comment**
In order to satisfy Conditions No 3 and 4 of the subdivision approval, the applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (see **Attachment 1**). The execution of this document requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

**9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080417**
**Moved Cr Rossouw / Seconded Cr Tilbury**
**That Council authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal in relation to the subdivision of Lot 202 (RN 58) Crest Hill Road, Bindoon (proposed as Lots 1 and 2 Crest Hill Road), upon:**

1. **The Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to a notice that *'a mains potable water supply is not available to the lot' and 'a reticulated sewerage service is not available to this lot'* on Lots 1 and 2 Crest Hill Road, Bindoon on Deposited Plan 91488; and**

2. **Any other relevant documents pertaining to subdivision WAPC 154427.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.43pm**

## 9.2 TECHNICAL SERVICES

Nil

## 9.3 CORPORATE SERVICES

### 9.3.1 Financial statements for the period ending 31 March 2017*

| | |
|---|---|
| **Report Date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 12/03/4 |
| **Prepared by** | Rowena Coshan, Finance Assistant |
| **Supervised by** | Rhona Hawkins, Executive Manager Corporate Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Monthly Statement of Financial Activity for period ending 31 March 2017<br>Bank Reconciliation as at 31 March 2017<br>List of Accounts Paid as at 31 March 2017 |

**Executive Summary**
Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid for the period ending 31 March 2017.

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

The statement of financial activity is to be presented at an ordinary meeting of Council within two (2) months after the end of the month to which the statement relates.

**Consultation**
Executive Manager Corporate Services
Executive Manager Technical Services

**Statutory Environment**
State: *Local Government Act 1995*
*Local Government (Financial Management) Regulations 1996*

**Policy Implications**
Nil

**Financial Implications**
Nil

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid as at 31 March 2017 as presented.

**9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090417**
**Moved Cr Tilbury / Seconded Cr Osborn**
**That Council:**

**1. endorse the Accounts Paid:**
   - **a. PR3893, PR3897**
   - **b. EFT 13756 – EFT13923**
   - **c. Municipal Fund Cheques 14221 - 14238**
   - **d. Direct Debits and Transfers as listed**
   - **e. Trust Fund payments as listed**

   **Totalling $1,103,898.91 for the period ending 31 March 2017.**

**2. receive the Bank Reconciliation as at 31 March 2017.**

**3. receive the Monthly Statement of Financial Activity for the period ending 31 March 2017.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.43pm**

*Nathalee Petersen left the chambers at 8.44pm*

### 9.3.2 Bindoon and Muchea Court Resurfacing

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 03/01/6 |
| **Prepared by** | Lisa Kay, Community and Club Development Officer |
| **Supervised by** | Rhona Hawkins, Executive Manager Corporate Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | Nil |

**Executive Summary**

Council is requested to endorse the resurfacing of the Muchea Hall Netball Courts and the Bindoon Multipurpose Courts at a cost of $75,286 Municipal funds in the 2017/2018 Budget, with $19,500 sourced from the Public Buildings and Amenities Reserve and the balance of to be covered within the 2017/2018 budget.

The Bindoon Multi-Purpose Court resurfacing has been identified in the *Shire of Chittering Sports and Recreation Plan 2012-2022, Review March 2016* (highlighted project for 2017/2018 financial year) however the project will not be eligible for grant funding from the Department of Sport and Recreation Community Sporting and Recreation Facilities Fund (CSRFF) Small Grants as the project is considered ongoing maintenance.

The Muchea Netball Court resurfacing works has been identified in the *Shire of Chittering Sports and Recreation Plan 2012-2022, Review March 2016* (highlighted project for 2018/2019 financial year) however repairs to the courts are required urgently to reduce risk to club members and increasing repair costs to the Council. This project is also ineligible for grant funding from the Department of Sport and Recreation CSRFF Small Grants as it is also considered ongoing maintenance.

**Background**

*Muchea Netball Courts*

The Muchea Netball Courts have been requiring maintenance since 2014 however works had been held off as utilisation of the courts had significantly reduced due to low membership numbers and the Muchea Netball Club withdrawal from the South Midlands Netball Association (SMNA) regional competition. Since 2015 the Club has been slowly rebuilding their membership base whilst participating in the Wanneroo Districts Netball Association (WDNA). To date they have 100 members comprising two (2) senior teams, that will compete in the South Midlands Netball Association and, eight (8) teams competing in the Wanneroo District Association for the 2017 Netball Season; as well as Net Set Go and junior's teams.

The resurfacing works to the Muchea Courts was identified in the *Shire of Chittering Sports and Recreation Plan 2016/2017*, yet was not seen as a priority project at review of this plan in March 2016 and; deferred to 2018 /2019 Sport and Recreation Plan projects for consideration. This decision was made based on the information that the Club only utilised the Courts for training sessions. Since this time, as outlined above, the Club has had a considerable increase to their membership numbers and now requires access to the courts for junior and senior competition within the South Midlands Netball Association (SMNA) and for training purposes of all teams during the 2017 netball season.

At the time of reviewing the *Shire of Chittering Sports and Recreation Plan 2012-2022, Review March 2016* it was also understood that the Muchea Netball Courts have experienced significant issues with a ground water problem that has impacted on the upkeep of the courts and would therefore require a complete reconstruction in 2018/2019 at an estimated cost of $120,000. This comprised:

(i) $80,000 Municipal funds; and
(ii) $40,000 CSRFF grant funding.

The Courts were recently viewed by the Department of Sport and Recreation (DSR) Regional Manager, Jenifer Collins, at the request of the Shire of Chittering Community and Club Development Officer (CCDO), Lisa Kay, who sought direction from DSR as to whether the resurfacing works could be considered under the Community Sports and Recreation Facility Fund (CSRFF) small grants. DSR advised that the works required at the Muchea Netball Courts would be considered a maintenance issue for the upkeep of the facility and therefore not eligible for CSRFF funding.

Additionally it was the opinion of the DSR Regional Manager and the Muchea Netball Club representative that the courts do not heed a complete reconstruction as the ground water issue is only impacting the two courts at the rear of the facility, which are only utilised by the community and the water drainage issues seems to have subsided considerably. The Muchea Netball Club focuses all their games and training activities on the three front courts of which they see as a priority for resurfacing.

A quote obtained for resurfacing works to the Muchea Netball Courts in 2013 from Techlay was $34,632 plus GST. Communications with the company suggest that the costs remain as quoted.

*Bindoon Multi-Purpose Courts*

The Bindoon Multi-Purpose Courts have been earmarked for resurfacing as part of the *Shire of Chittering Sport and Recreation Plan 2012-2022, Review March 2016* (highlighted project for 2017/18 financial year) for a total value of $220,000. This comprised:

(i) $74,000 Municipal funds;
(ii) $73,000 CSRFF grant; and
(iii) $73, 000 Club contributions.

Recent quotes have been sought by the Bindoon Sport and Recreation Association for court resurfacing at the Bindoon Multi-Purpose Courts:

(i) West Coast Synthetic Surfaces - $28,550; and
(ii) Sports Surfaces - $33,810.

These quotes are considerably less than originally identified under the *Sport and Recreation Plan 2012-2022*. The Bindoon Sport and Recreation Association acknowledge that the court surfaces are in a reasonable state of repair; however there are areas of wear that if not addressed, will lead to further issues and considerable costs to repairs.

As outlined above cost of resurfacing to the courts is considered ongoing maintenance of the facility and as such this project would not be considered eligible for CSRFF Small Grant funding.

**Consultation**
The CCDO emailed the Bindoon Sport and Recreation Association on 19 January 2017 seeking, in-principle, support for their contribution to the court resurfacing project. Following this contact the Bindoon Sport and Recreation Association sought two quotes for the cost of repairs to the Multi-Purpose Courts and identified that the original project costs outlined within the Shire of Chittering *Sport and Recreation Plan 2012-2022* are in excess of quoted costs.

Discussions have occurred with the Muchea Hall User Group since the 2013/2014 financial year with an allocation of Council funds being placed into Reserve each year to meet expected costs of resurfacing in the 2018/2019 financial year. As outlined above the Courts are in desperate need for resurfacing work prior the 2018/2019 year. Recent discussions with the Muchea Netball Club and the Regional Manager for the Department of Sport and Recreation highlighted that court usage has increased considerably since 2014 placing greater emphasis on the need for the courts to be repaired. Resurfacing to the courts is now an urgent matter as risk of injury to Club members and increasing maintenance and repair costs to the Shire should the courts be left in their current state could be significantly higher than the cost of maintenance repairs now.

**Statutory Environment**
Nil

**Policy Implications**
Nil

**Financial Implications**
The Shire of Chittering *Sport and Recreation Plan 2012-2022* identified an allocation of:
(i) $220,000 for the Bindoon Multi-Purpose Courts in 2017/2018 consisting of $74,000 Municipal funds, $73,000 club contribution and $73,000 grant contribution;
(ii) $120,000 for the Muchea Netball Courts in 2018/2019 consisting of $80,000 municipal funds, and $40,000 grant contributions.

As resurfacing is considered a maintenance requirement for the courts, these projects would not be eligible for funding from the Department of Sport and Recreation CSRFF Small Grant funding.

Recent quotes for resurfacing works highlight that the above indicated costing's far exceed the actual cost of repairs. The proposed resurfacing works for the Bindoon Multi-Purpose Courts, based on quotes obtained in 2016 and allowing a 10% contingency for cost increases and project variances, is estimated to cost $37,191. The cost of the project is to be covered as below:
(i) Shire of Chittering - $18,595.50; and
(ii) Bindoon Sport and Recreation Association - $18,595.50.

The proposed resurfacing works for the Muchea Netball Courts, based on quotes obtained in 2013 and allowing a 10% contingency for cost increases and project variances is estimated to cost $38,095 with total costs to be borne by Council.

These costs will need to be funded from the Public Buildings and Amenities Reserve.

**Strategic Implications**
Resurfacing works to the Bindoon Multi-Purpose Courts and the Muchea Netball Courts will enable the Shire to continue its alignment to our Strategic Community Plan objectives

- *Social: Building a Sense of Community – Improved services to community, strengthened social connections and active communities.*
- *Built Environment: Infrastructure for Future Lifestyle Choices*
- *Governance: Strong Leadership.*

The repairs to the Bindoon Multi-Purpose Courts and the Muchea Netball Courts also aligns with the aspirations and targets of the *Wheatbelt Blueprint*, particularly with regard to "*Liveable Communities - Diverse, safe, healthy and resilient communities where services and infrastructure reflect the needs and aspirations of residents*".

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**
*Economic implications*
There are no known significant economic implications associated with this proposal.

*Social implications*
The Bindoon Multi-Purpose Courts are home to the Bindoon Netball Association, the Bindoon Tennis Club and the Bindoon Basketball Association. The Muchea Netball Courts are home to the Muchea Netball Club. All of these clubs are run by voluntary committees who have a commitment to ensuring that sport and recreational options are available to our community. However their efforts need to be matched by Council in ensuring that the facilities are maintained to meet existing needs and in a manner in which the clubs take pride and ownership of these facilities.

From a community development perspective, sport and recreation can contribute to a community's identity, providing a focal point for personal interaction and community engagement. Sport and recreation can provide a sense of connection for many community members and helps bind people together through shared experiences and achievements. It is important that Council ensure that Shire owned facilities are maintained to a high standard where community pride and ownership will ensure that these facilities thrive.

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

**Comment**
Both the Muchea Hall, home to the Muchea Netball Club and the Chinkabee Complex, run by the Bindoon Sport and Recreation Association are important pieces of infrastructure for our communities. Both centres rely on the passion and commitment of volunteers to ensure that sports and recreation options are maintained and sustained within the Shire of Chittering. However there is also a strong reliance and requirement of Council to ensure that existing infrastructure continues to meet the needs of the Shire's clubs and their potential growth over the next few years.

Completion of these projects will assist the Shire to partially meet the needs of increased population demands over the next ten years by ensuring that existing Shire owned infrastructure is adequately maintained and upgraded.

**9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100417**
**Moved Cr Rossouw / Seconded Cr Tilbury**
**That Council:**

1. **Endorse the resurfacing of the Muchea Hall Netball Courts at a cost of $38,095.**

2. **Endorse the resurfacing of the Bindoon Multipurpose Courts at a cost of $37,191.**

3. **Authorises the transfer of funds ($19,500) from the Shire of Chittering's Public Buildings and Amenities Reserve with the balance of costs ($55,786) to be covered within the 2017/2018 budget.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.44pm**

### 9.3.3 2016-17 Budget Review to 28 February 2017*

| | |
|---|---|
| **Report Date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 12/07/4 |
| **Prepared by** | Rhona Hawkins, Executive Manager Corporate Services |
| **Supervised by** | Rhona Hawkins, Executive Manager Corporate Services |
| **Voting requirements** | **Absolute Majority** |
| **Documents tabled** | Programme Schedules |
| **Attachments** | 1. Statement of Financial Activity and Variance Report |

**Executive Summary**
Council is requested to consider adopting the review of the 2016-17 Budget.

**Background**
The *Local Government (Financial Management) Regulations 1996*, *Regulation 33A* requires that between 1 January and 31 March in each financial year a local government is to carry out a review of its Annual Budget for that year. Within 30 days after the review of the Annual Budget of a local government is carried out, it is to be submitted to Council. The Council is to consider the review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendation made in the review. Within 30 days after Council has made a determination, a copy of the Budget Review and determination is to be provided to the Department.

A Statement of Financial Activity incorporating year to date budget variations and 30 June 2017 forecasts for the period ending 28 February 2017 is presented with this report.

**Consultation**
Chief Executive Officer
Executive Manager Technical Services
Executive Manager Development Services
Human Resources/Payroll Officer
Community Emergency Services Manager
Building Coordinator

**Statutory Environment**
State: *Local Government (Financial Management) Regulations 1996*

**Policy Implications**
Nil

**Financial Implications**
Nil

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**

*Economic implications*

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

*Social implications*

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

*Environmental implications*

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

**Comment**

The below table summarises the changes contained within the Budget Review. The Net Current Asset surplus position after these changes is $9,388.

| | REVENUE | | | | EXPENDITURE | | |
|---|---|---|---|---|---|---|---|
| **OPERATING** | Adopted Budget | Amended Budget | Variance | | Adopted Budget | Amended Budget | Variance |
| General Purpose Funding | $6,652,481 | $6,580,074 | $72,407 | | $224,504 | $230,438 | ($5,934) |
| Governance | $33,959 | $39,959 | ($6,000) | | $1,095,485 | $1,141,810 | ($46,325) |
| Law, Order, Public Safety | $388,940 | $449,290 | ($60,350) | | $1,133,803 | $1,136,061 | ($2,258) |
| Health | $47,275 | $47,475 | ($200) | | $352,171 | $367,519 | ($15,348) |
| Education & Welfare | $22,550 | $25,050 | ($2,500) | | $93,686 | $95,181 | ($1,495) |
| Housing | $161,617 | $161,988 | ($371) | | $313,053 | $317,462 | ($4,409) |
| Community Amenities | $955,106 | $929,308 | $25,798 | | $2,046,022 | $2,060,948 | ($14,926) |
| Recreation & Culture | $167,698 | $105,374 | $62,324 | | $1,240,551 | $1,251,675 | ($11,125) |
| Transport | $2,571,730 | $2,744,683 | ($172,953) | | $4,468,241 | $4,422,897 | $45,344 |
| Economic Services | $108,528 | $92,650 | $15,878 | | $616,195 | $648,419 | ($32,224) |
| Other Property & Services | $371,312 | $377,807 | ($6,496) | | $46,104 | $47,842 | ($1,738) |
| | | | | | | | |
| **Totals** | $11,481,195 | $11,553,658 | ($72,462) | | $11,629,815 | $11,720,252 | ($90,437) |

Note: Negative represents an increase in both revenue and expenditure

*Major Operating Revenue variances highlighted in the review are:*

| | | |
|---|---|---|
| **General Purpose Funding** | | |
| Rate Revenue | Decrease in Rate Revenue due to the treatment of Rates Paid in Advance | ($88,762) |
| Other General Purpose Funding | Increase in revenue from instalment fees, interest and penalties | $8,300 |
| **Governance** | | |
| Administration | Increase relating to reimbursements | $6,700 |
| **Law, Order, Public Safety** | | |
| Fire Prevention | Increase in Reimbursements from the Local Brigade for Minor Equipment | $9,000 |

| | | |
|---|---|---|
| ESL | Increase in Operational Funding from Department | $51,250 |
| **Community Amenities** | | |
| Sanitation- Household Refuse | Decrease in Other Sanitation Disposal fees | ($10,000) |
| | Increase in Waste Collection fees | $5,000 |
| Sanitation - Other | Increase in Recycling Royalties | $13,500 |
| Sewerage | Decrease in Septic Inspections | ($7,000) |
| Town Planning | Decrease in revenue from Engineering Services | ($17,000) |
| | Decrease in revenue from Planning Services | ($10,000) |
| **Recreation and Culture** | | |
| Public Halls and Civic Centres | Decrease in Grant Revenue and User Contributions towards the Muchea Hall works as projects has been delayed | ($64,800) |
| **Transport** | | |
| Maintenance Roads, Bridges, Depots | Increase in Roads to Recovery Grant | $145,164 |
| | Increase in Reimbursements mostly attributed from WANDRA funding | $35,561 |
| **Economic Services** | | |
| Tourism and Area Promotion | Increase in Sponsorship and Grant Income | $6,050 |
| Building Control | Decrease in Building Levies and Permit Fees | ($20,050) |

*Major Operating Expense variances highlighted in the review are:*

| | | |
|---|---|---|
| **Governance** | | |
| Members of Council | Decrease in Members Election Expenses | ($6,500) |
| Other Governance | Increase in Legal Costs and Advertising | $4,670 |
| Administration | Increase in Salaries and Wages due to termination payouts ($89,132) | $92,072 |
| **Law, Order, Public Safety** | | |
| Fire Prevention | Decrease in Ranger Salaries | ($6,800) |
| | Increase in Other Minor Equipment which has be offset by a reimbursement from the Local Brigade | $9,000 |
| ESL | Increase in Maintenance of Land and Buildings | $5,000 |
| | Decrease in Insurance costs | ($8,412) |
| Animal Control | Decrease in Ranger Salaries | ($7,522) |
| **Health** | | |
| Other Health | Increase in costs associated with the Chittering Health Centre | $9,173 |
| **Housing** | | |
| Housing Seniors | Increase in Building Maintenance | $2,800 |
| **Community Amenities** | | |
| Sanitation- Household Refuse | Increase in maintenance of Bindoon Landfill and Recycling Facility | $13,473 |

| | | |
|---|---|---|
| Urban Stormwater Drainage | Decrease in Muchea Townsite Stormwater Drainage Maintenance | ($10,000) |
| Town Planning | Increase in Salaries and Wages | $17,821 |
| | Decrease in Legal Fees | ($10,000) |
| Other Community Amenities | Decrease in maintenance of Bindoon Hill Toilets | ($3,491) |
| **Recreation and Culture** | | |
| Libraries | Decrease in Library Salaries | ($4,723) |
| **Transport** | | |
| Maintenance Roads, Bridges, Depots | Increase in Depot Maintenance relating to the manner in which staff are allocating their time. This has been corrected. | $9,685 |
| | Decrease in Bridge Maintenance | ($51,639) |
| **Economic Services** | | |
| Tourism and Area Promotion | Increase due to extra wages associated with TASTE | $4,457 |
| | Decrease in the allocation to Avon Valley Tourism | ($2,000) |
| Building Control | Increase in Building Salaries | $20,777 |
| **Other Property & Services** | | |
| Gross Salaries and Wages | Increase overall in Salaries and Wages attributed to the termination payouts. Without these payments a significant saving would have been achieved. | $41,452 |

*Major Capital Expense variances highlighted in the review are:*

| | | |
|---|---|---|
| **Recreation and Culture** | | |
| Public Halls and Civic Centres | Decrease in expenditure due to the delay of works at Muchea Hall Pavilion and CCTV | ($98,500) |
| Other Recreation & Sport | Increase in expenses relating to the Bindoon Practice Wicket which is offset by a contribution from the cricket club | $5,000 |
| | Increase in signage at John Glenn Park | $1,000 |
| Heritage | Increase in expenditure on the Brockman Centre - Arts and Crafts Pergola | $3,180 |
| **Transport** | | |
| Construction Roads, Bridges, Depots | Decrease in costs on Blue Plains/Maddern Roads | ($1,000) |
| | Increase in costs associated with Binda Place | $209,735 |
| | Decrease in expenditure on Perry Road | ($3,809) |
| | Increase in expenditure on Morley Road | $12,232 |
| Road Plant Purchases | Decrease due to savings on Mower purchase | ($2,800) |

**9.3.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110417**
**Moved Cr Rossouw / Seconded Cr Angus**
**That Council**

1. **Adopts the Budget Review as presented in the Statement of Financial Activity for the period 1 July 2016 to 28 February 2017 and amend the 2016-17 Annual Budget accordingly; and**

2. **Forwards a copy of the Budget Review to the Department of Local Government and Communities within 30 days.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**BY AN ABSOLUTE MAJORITY**
**8.45pm**

## 9.4 CHIEF EXECUTIVE OFFICER

### 9.4.1 Amendment to Policy 1.14 Smoking, Other Drugs and Alcohol*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 04/03/1 |
| **Prepared by** | Tresa White, Human Resources/Payroll Officer |
| **Supervised by** | Alan Sheridan, Chief Executive Officer |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Policy 1.14 Smoking, Other Drugs and Alcohol, amended Policy |

**Executive Summary**
Council's is requested the adoption of an amended *Council Policy 1.14, Smoking, Other Drugs and Alcohol* to include reference to proposed drug and alcohol testing.

**Background**
The Shire of Chittering first implemented *1.14 Smoking, Other Drugs and Alcohol Policy* on 18 May 2011.

The original Policy has been subject to annual review since its implementation and as a result, designated smoking areas have been identified, in addition to a reduction in the social consumption of alcohol after working hours on Shire premises.

After a review of the Policy in late 2015, Council identified the need to implement a drug and alcohol testing program, as the original Policy does not address this issue.

Following extensive process of consultation (as outlined below), the Policy has been amended and is submitted to Council for adoption.

**Consultation**
The following were issued with a copy of the draft Drug and Alcohol Policy for review:
(i) All Staff
(ii) WA Local Government Association (WALGA)
(iii) Local Government Insurance Services (LGIS)
(iv) Union representatives

**Statutory Environment**
State: *Occupational Safety and Health Act (1994)*
*Fair Work Act (2009)*
*Fair Work Regulations (2009)*

**Policy Implications**
Local: *1.14 Smoking, Other Drugs and Alcohol*
This Policy is to be read in conjunction with the Shire's Disciplinary and Fitness for Work Policies, in addition to procedures relating to workplace behaviours, grievances, investigations and resolutions.

**Financial Implications**
As a result of the amended Policy, the Shire of Chittering will have to consider the additional fees of testing in the Annual Budget. An appropriate allocation will be included in the draft budget for consideration by Council.

Following a review of other Local Government's within our region and around WA, it is suggested that a random testing program of 50% of staff three times per year is appropriate and is in excess of what most Local Government's currently implement. Cause or impairment testing would be conducted on an as needs basis.

The testing fees are listed below and are subject to change, during the Annual Budget Process:

(i) Testing Fees
Random onsite screening (Saliva) $80 per test plus Laboratory for Positive Test Results $220

(ii) Travel Fees

| | |
|---|---|
| Travel to site | $85 per hour |
| Mileage | $0.78c per km |

The total cost of random testing per annum testing and travel costs) would be around $5,000 per annum. Allowing for secondary testing and impairment testing (if necessary), a budget allowance of $6,000 would be appropriate.

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**
*Economic implications*
There will need to be provision in the Annual Budget for the testing of all staff in addition to random and emergency testing and education programs.

*Social implications*
All staff and volunteers will need to be aware of the amended Policy, disciplinary and reporting requirements. An internal education and awareness program will be implemented following adoption of the Policy.

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

**Comment**
The amended Policy has been drafted to include provision for the testing of drugs and alcohol and the implementation of drug and alcohol awareness programs for employees.

**9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120417**
**Moved Cr King / Seconded Cr Rossouw**
**That Council:**

**1. Adopts updated *Policy 1.14 Smoking, Other Drugs and Alcohol*.**

**2. Include a budget allocation in the 2017/18 draft budget for drug and alcohol testing of staff.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.50pm**

### 9.4.2 Draft Strategic Community Plan 2017-2027*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 04/01/1 |
| **Prepared by** | Alan Sheridan, Chief Executive Officer |
| **Supervised by** | Alan Sheridan, Chief Executive Officer |
| **Voting requirements** | **Absolute Majority** |
| **Documents tabled** | Nil |
| **Attachments** | 1. Draft Community Strategic Plan 2017-2027 |

**Executive Summary**
Council is requested endorse the Draft Community Strategic Plan 2017-2021 for the purpose of public advertising and feedback from the community.

**Background**
The Integrated Strategic Planning Framework provides the basis for strategic planning in local government. Its purpose is to ensure integration of community priorities into strategic planning for Councils, in addition to delivering the objectives that have been set from these priorities. The Community Strategic Plan is the long term (10 year) plan for the future which reflects both the Community and Council's aspirations for the future of the Shire. A raft of other plans and documents sit under the Community Strategic Plan including the Corporate Business Plan (a more detailed five year plan), Long Term Financial Plan, Asset Management Plans and Workforce Plan.

The Shire of Chittering released its first Strategic Community Plan (SCP) in 2012 recently commenced a review of the current plan. An important part of developing this SCP is consultation with the community to understand what it is that they want to see in the Shire of Chittering. The community engagement process, which occurred between September and December 2016, involved two open invitation workshops in October, a Chittering Community Planning and Action Group (CPPAG) workshop in November and a Youth Focus Group workshop also in November. The aim of the workshops was to hear from a wide variety of residents and businesses. Community members were also encouraged to provide feedback through direct communication with the Shire.

**Consultation**
As noted above, community consultation was undertaken between September and December 2016. Councillors have been consulted via a number of briefing sessions, the most recent of these being held on 22 March 2017.

**Statutory Environment**
Local Government is required to have an Integrated Planning Framework in place and to review the plans which make up the Planning Framework on a regular basis. The Strategic Community Plan is scheduled for review in financial year 2016/17.

State: *Local Government Act 1995, Section 5.56*

***5.56. Planning for the future***

*(1) A local government is to plan for the future of the district.*

*(2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Section 19C & 19D of the Local Government Administration Regulations states;

***19C. Strategic community plans, requirements for (Act's. 5.56)***

*(1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.*

*(2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.*

*(3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.*

*(4) A local government is to review the current strategic community plan for its district at least once every 4 years.*

*(5) In making or reviewing a strategic community plan, a local government is to have regard to—*

*(a) the capacity of its current resources and the anticipated capacity of its future resources; and*

*(b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and*

*(c) demographic trends.*

*(6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.*

*(7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*

**Absolute majority required.*

*(8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

*(9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.*

*(10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.*

***19D. Adoption of plan, public notice of to be given***

*(1) After the adoption of a strategic community plan, or modifications of a strategic community plan, under regulation 19C, the local government is to give local public notice in accordance with subregulation (2).*

*(2) The local public notice is to contain —*

*(a) notification that —*

*(i) a strategic community plan for the district has been adopted by the council and is to apply to the district for the period specified in the plan; and*

*(ii) details of where and when the plan may be inspected; or*

*(b) where a strategic community plan for the district has been modified—*

*(i) notification that the modifications to the plan have been adopted by the council and the plan as modified is to apply to the district for the period specified in the plan; and*

*(ii) details of where and when the modified plan may be inspected.*

**Policy Implications**

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

**Financial Implications**
There is no direct financial implication from the adoption of a Strategic Community Plan, however the purpose of such a plan is to guide the allocation of resources and funding are allocated towards the priorities as articulated within the Plan.

**Strategic Implications**
This Community Strategic Plan sets the longer term strategic direction for Council and provides direction for the allocation or priorities and resources. Activation of the Strategic Community Plan is via a number of subordinate plans including the Corporate Business Plan, Long Term Financial Plan, Asset Management Plans and Workforce Plan.

A number of other supporting plans have been developed over the past five years including a Community Development Plan, Sports and Recreation Plan, Trails Network Master Plan, Safety and Crime Prevention Plan, Disability Access and Inclusion Plan, Communication Plan and Aged Care Plan.

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**
*Economic implications*
Economic Development and job creation is a strong focus in the revised plan.

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

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

**Comment**
The draft plan is tabled for Council endorsement prior to being advertised for public comment.

**9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130417**
**Moved Cr Rossouw / Seconded Cr Angus**
**That Council:**
**1. Resolves to adopt the Draft Strategic Community Plan 2017-2027; and**

**2. Advertise the draft plan for public comment and then return the draft plan to Council for final consideration following the public comment period.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**BY AN ABSOLUTE MAJORITY**
**8.51pm**

### 9.4.3 Memorandum of Understanding: Community Emergency Services Manager*

| | |
|---|---|
| **Applicant** | Shire of Chittering |
| **File ref** | 04/18/27 |
| **Prepared by** | Natasha Mossman, Executive Support Officer |
| **Supervised by** | Alan Sheridan, Chief Executive Officer |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. Memorandum of Understanding |

**Executive Summary**
Council is requested to authorise the Chief Executive Officer to sign the Memorandum of Understanding (MOU) for the Provision of a Community Emergency Services Manager for a further three year period ending 2020, as the current MOU expires on 30 June 2017.

**Background**
At the Ordinary Meeting of Council held on 16 March 2011, Council resolved to appoint a Community Emergency Services Manager funded by the Department of Fire and Emergency Services (60%) and the Shire of Chittering (40%).

The new MOU is virtually a mirror of the existing Agreement. The document includes minor updates to terminology and removes some of the background information which was necessary for the first agreement, but which is now superfluous. The funding split remains the same and the officer continues to be an employee of Chittering Shire Council.

**Consultation**
Craig Garrett, Department of Fire and Emergency Services
Alan Sheridan, Chief Executive Officer
Jamie O'Neill, Community Emergency Services Manager

**Statutory Environment**
Nil

**Policy Implications**
Nil

**Financial Implications**
The Shire remains responsible for 40% for costs associated with the Community Emergency Services Manager position. Appropriate funding allocations (similar to previous financial years) will appear in the draft budget.

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**

*Economic implications*

Not applicable

*Social implications*

Not applicable

*Environmental implications*

Not applicable

**Comment**

Jamie O'Neill has been in the role for the past six years and has proven to be very successful in re-engaging with the bush fire brigades and improving communication between the Shire and Brigades.

Some of the program achievements over this period include:

- Implemented approved training within the brigades and the ability to training Volunteers to an advanced level locally.
- Increased Local Government Grant Scheme Operating Budget by $100,000.
- Processes now in place to ensure accurate recording of training records and member information both at Shire and DFES levels.
- Volunteers are now supplied improved PPC.
- Increased accredited trainers within the Brigades.
- Improved communication and relationships between Brigades, Shire and DFES.
- Development of Brigade Stations to Incident Control Centres.
- Increased budget for volunteers.
- Increased support for volunteers at incidents both within Shire and regionally.
- Development of the LEMC and LRC to ensure Shire compliance with the *Emergency Management Act 2005*.
- Development of LEMA and Recovery Plan.
- Establishment of Local Welfare Centres.
- Increased community engagement within the Shire including the development of a Bush Fire Ready group and two facilitators.
- Improved community awareness of Bush Fire planning with improved fire break notice and enforcement.
- Improved commitment towards mitigation including maintenance on it Strategic fire breaks, reserves and currently undergoing fuel load assessment and risk assessment on Shire reserves.
- Introduction of Brigades Constitution, Brigade General Instructions, Brigades Local Law and Brigade Procedure Manual.
- Implementation Fire Mitigation Tender and monitor the work undertaken by the awarded contractor.
- Successful engagement of appointed Bushfire Risk Planning Coordinator for a period of 18 months (to date).
- Replaced three Brigade light tankers (Wannamal, Bindoon, Lower Chittering) and one Incident Control Vehicle (Bindoon).

Council is requested to give consideration to continuing this partnership with Department of Fire and Emergency Services and authorising the Chief Executive Officer to sign the new MOU.

**9.4.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140417**
**Moved Cr Osborn / Seconded Cr Rossouw**
**That Council:**

1. **Authorises the Chief Executive Officer to sign the Memorandum of Understanding for the provision of a Community Emergency Services Manager as attached for a three year period.**

2. **Advises the Department of Fire and Emergency Services of "Condition 1." above and forward a copy of the signed Memorandum of Understanding.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.51pm**

# 10. REPORTS OF COMMITTEES

## 10.1 Chittering Bushfire Advisory Committee: 14 March 2017*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 09/02/4 |
| **Prepared by** | Natasha Mossman, Executive Support Officer |
| **Supervised by** | Jamie O'Neill, Community Emergency Services Manager/Chief Bushfire Control Officer |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. "Unconfirmed" Chittering Bushfire Advisory Committee Minutes from 14 March 2017 |

**Executive Summary**
Council's consideration is requested to consider one recommendation from the Chittering Bushfire Advisory Committee meeting held on 14 March 2017

Council's consideration is also requested to receive the "unconfirmed" minutes from the Chittering Bushfire Advisory Committee meeting held on 14 March 2017.

**Background**
The Chittering Bushfire Advisory Committee met on Tuesday, 14 March 2017 and during the meeting the following was raised:
*Changing the date of the June 2017 meeting date*
During the meeting Brigade members raised concerns with the 13 June 2017 meeting date. Their concerns were around having a meeting during the month when the Brigades are conducting their Annual General Meetings is not appropriate. The Committee requested the Chief Bushfire Control Officer to change the date to 11 July 2017. As the Committee did not vote on this recommendation, the Chief Bushfire Control Officer requests Council to consider moving the June meeting date so that the Brigades can conduct their Annual General Meetings during June.

**Consultation**
Chittering Bushfire Advisory Committee

**Statutory Environment**
State: *Local Government Act 1995, Section 5.8*
*Bush Fires Act 1954, Section 67*

Local: *Bush Fire Brigades Local Law 2012* (Gazetted 21 January 2013, No 7)

**Policy Implications**
Nil

**Financial Implications**
There will be a cost to advertise the amended change of meeting date in the local newspaper.

**Strategic Implications**

Local: *Strategic Community Plan 2012-2022*

*Social – building a sense of community*

Outcome Access to local services

Strategies Improve services to community

- Enhance emergency services
- Educate fire protection

Outcome Strengthened social connections

Strategies Facilitate and nurture community interaction

- Support volunteers

*Natural Environment – preserving and enhancing our natural environment*

Outcome Environmental leadership

Strategies Promote and support sustainable lifestyle choices

- Encourage better fire protection practices

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

*Economic implications*

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

*Social implications*

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

*Environmental implications*

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

**Comment**

The minutes of the Chittering Bushfire Advisory Committee meeting held on 14 March 2017 are presented to Council to be received.

**10.1 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION 150417**

**Moved Cr Tilbury / Seconded Cr Rossouw**

**The Council:**

1. **Receives the unconfirmed minutes of the Chittering Bushfire Advisory Committee meeting held on Tuesday, 14 March 2017.**
2. **Amends the Chittering Bush Fire Advisory Committee meeting dates from 13 June 2017 to 11 July 2017; and that the meeting will commence at 7pm and be held in the Shire of Chittering Council Chambers.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**

**8.51pm**

## 10.2 Audit Committee: 15 March 2017*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 12/01/1 |
| **Prepared by** | Natasha Mossman, Executive Support Officer |
| **Supervised by** | Rhona Hawkins, Executive Manager Corporate Services |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. "Unconfirmed" Chittering Audit Committee meeting minutes from 15 March 2017 |

**Executive Summary**
Council's consideration is requested to receive the minutes from the Chittering Audit Committee meeting held on 15 March 2017.

**Background**
The Chittering Audit Committee meeting met on 15 March 2017 where the following formal recommendation was resolved:

*6.2 OFFICER/COMMITTEE RECOMMENDATION*
*Moved Cr Tilbury / Seconded Cr Rossouw*
*That the Audit Committee reviews the Local Government Compliance Audit Return for the period 1 January 2016 to 31 December 2016 and presents to Council for adoption.*
*THE MOTION WAS PUT AND DECLARED CARRIED 5/0*
*4:21PM*

As the Local Government Compliance Audit Return was required to be adopted before 31 March 2017, a late item was tabled at the March Ordinary Council Meeting. Accordingly, Council resolved the following:

*13.1 OFFICER RECOMMENDATION/COUNCIL RESOLUTION 150317*
*Moved Cr Tilbury / Seconded Cr Rossouw*
*That Council:*
*1. endorses the Local Government Compliance Audit Return for the period 1 January 2016 to 31 December 2016 as detailed in Attachment 1.*

*2. authorises the Shire President and Chief Executive Officer to sign the Local Government Compliance Audit Return for the period 1 January 2016 to 31 December 2016 as detailed in Attachment 1 and submit it to the Department of Local Government and Communities.*
*THE MOTION WAS PUT AND DECLARED CARRIED 7/0*
*8:08PM*

There were no other formal recommendations raised at the Chittering Audit Committee meeting held on 15 March 2017.

**Consultation**
Chittering Audit Committee

**Statutory Environment**
State: *Local Government Act 1995, Section 5.8*

**Policy Implications**
Nil

**Financial Implications**
Nil

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**
*Economic implications*
There are no known significant economic implications associated with this proposal.

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

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

**Comment**
The minutes of the Chittering Audit Committee meeting held on 15 March 2017 are presented to Council to be received.

**10.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160417**
**Moved Cr King / Seconded Cr Rossouw**
**That Council receives the unconfirmed minutes of the Chittering Audit Committee meeting held on 15 March 2017.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.52pm**

## 10.3 Local Emergency Management Committee: 22 March 2017*

| | |
|---|---|
| **Report date** | 19 April 2017 |
| **Applicant** | Shire of Chittering |
| **File ref** | 09/02/1 |
| **Prepared by** | Natasha Mossman, Executive Support Officer |
| **Supervised by** | Alan Sheridan, Chief Executive Officer |
| **Voting requirements** | Simple Majority |
| **Documents tabled** | Nil |
| **Attachments** | 1. "Unconfirmed" Chittering Local Emergency Management Committee meeting minutes from 22 March 2017 |

**Executive Summary**
Council is requested to receive the minutes from the Chittering Local Emergency Management Committee meeting held on 22 March 2017.

**Background**
The Chittering Local Emergency Management Committee meeting met on 22 March 2017 where the following formal recommendation was resolved:

*6.6 OFFICER/COMMITTEE RECOMMENDATION*
*Moved Jamie O'Neill / Seconded Jim Garrett*
*That the:*
1. *Local Emergency Management Committee meeting dates for 2017 are as follows:*
   a. *Wednesday, 22 March;*
   b. *Wednesday, 24 May;*
   c. *Wednesday, 23 August; and*
   d. *Wednesday, 22 November.*
2. *The Local Emergency Management Committee meetings will be held in the Council Chambers, 6177 Great Northern Highway, Bindoon commencing at 10.00am (unless otherwise advised).*

*THE MOTION WAS PUT AND DECLARD CARRIED 10/0*

**Consultation**
Chittering Local Emergency Management Committee

**Statutory Environment**
State: *Local Government Act 1995, Section 5.8*

**Policy Implications**
Nil

**Financial Implications**
There will be a one off charge for advertising the Committee meeting dates in *The Advocate*.

**Strategic Implications**
Nil

**Site Inspection**
Not applicable

**Triple Bottom Line Assessment**

*Economic implications*

Not applicable

*Social implications*

Not applicable

*Environmental implications*

Not applicable

**Comment**

The minutes of the Chittering Local Emergency Management Committee meeting held on 22 March 2017 are presented to Council to be received.

**10.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 170417**

**Moved Cr Rossouw / Seconded Cr Tilbury**

**The Council:**

1. **Receives the unconfirmed minutes of the Chittering Local Emergency Management Committee meeting held on Wednesday, 22 March 2017.**

2. **Approves the Local Emergency Management Committee meeting dates for 2017 are as follows:**
   a. **Wednesday, 22 March;**
   b. **Wednesday, 24 May;**
   c. **Wednesday, 23 August; and**
   d. **Wednesday, 22 November.**

3. **Confirms that the Local Emergency Management Committee meetings will be held in the Council Chambers, 6177 Great Northern Highway, Bindoon commencing at 10.00am (unless otherwise advised).**

4. **Approves the advertising of the 2017 Local Emergency Management Committee meeting dates in accordance with the *Local Government (Administration) Regulations 1996*.**

**THE MOTION WAS PUT AND DECLARED CARRIED 6/0**
**8.52pm**

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

Nil

## 12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

## 14. MEETING CLOSED TO THE PUBLIC

### 14.1 Matters for which the meeting may be closed

Nil

## 15. CLOSURE

The Presiding Member declared the meeting closed at 8.53pm.

Shire of Chittering

6177 Great Northern Highway
PO Box 70 Bindoon WA 6502
T: 08 9576 4600 F: 08 9576 1250
E: chatter@chittering.wa.gov.au
www.chittering.wa.gov.au

Office hours: Monday to Friday
8.30am - 4.30pm