

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

Wednesday, 19 August 2015

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 6.03pm

Closure: 7.40pm



These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 16 September 2015.

SIGNED BY

Person presiding at meeting which minutes were confirmed

DATE

Disclaimer

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

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

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

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

TABLE OF CONTENTS

1.	DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS.....	1
2.	RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE.....	1
	2.1 Attendance.....	1
	2.2 Apologies.....	1
	2.3 Approved leave of absence.....	1
3.	DISCLOSURE OF INTEREST.....	1
4.	PUBLIC QUESTION TIME	2
	4.1 Response to previous public questions taken on notice	2
	4.1.1 Steve Vallance, Muchea.....	2
	4.1.2 David Barnard, Lower Chittering	2
	4.1.3 Marcus Edmonds, Mooliabeenee.....	3
	4.2 Public question time	3
	4.2.1 Steve Vallance, Muchea.....	3
	4.2.2 Clint O’Neil, Chittering.....	4
	4.2.3 David Barnard, Lower Chittering	6
	4.2.4 Lee Martin, Bindoon	6
	4.2.5 John Curtis, Bindoon.....	7
	4.2.6 Patricia Tabor, Mooliabeenee	8
	4.2.7 Barni Norton, Bindoon.....	8
	4.2.8 Chris Waldie, Bindoon	8
	4.2.9 Lois Jones, Bindoon (on behalf of Don Gibson, Bindoon).....	9
	4.2.10 Unknown (questioner did not provide their name)	9
	4.2.11 Unknown (questioner did not provide their name)	9
	4.2.12 Bill Nobes, Bindoon.....	9
	4.2.13 Lois Jones, Bindoon (on behalf of Don Gibson, Bindoon).....	10
	4.2.14 Maggie Edmonds, Mooliabeenee	10
	4.2.15 John Nagel, Bindoon	11
5.	PRESENTATIONS / PETITIONS / DEPUTATIONS	11
	5.1 Petitions	11
	5.2 Presentations	11
	5.3 Deputations.....	12
	5.3.1 Item 9.1.3 Proposed Industry ‘Rural, Bagging of Manure and Compost’ – Lot 12 (RN 101) Timaru Road, Muchea.....	12
6.	APPLICATIONS FOR LEAVE OF ABSENCE	12
7.	CONFIRMATION OF MINUTES	12
	7.1 Special Council – 14 July 2015.....	12
	7.2 Ordinary Council – 17 July 2015.....	12
8.	ANNOUNCEMENT FROM THE COMMISSIONER.....	13

9.	REPORTS.....	14
9.1	DEVELOPMENT SERVICES.....	14
9.1.1	Temporary Road Traffic Suspension: Chittering Road, Chittering Valley Road and Muchea East Road for Public Event – Time Trials (Cycling)*	14
9.1.2	Proposed Rural Industry, Transport Depot and Retrospective & Proposed Associated Development: Lot 2929 (RN 299) Brand Highway, Muchea*	17
9.1.3	Proposed Industry “Rural, Bagging of Manure and Compost” - Lot 12 (RN 101) Timaru Road, Muchea*	28
9.1.4	Section 70A Notification Authorisation: Lot 67 Archibald Street, Muchea*	37
9.1.5	AROC Strategic Waste Management Plan 2015 to 2020.....	39
9.2	TECHNICAL SERVICES	44
9.3	CORPORATE SERVICES.....	45
9.3.1	Financial statements for the period ending 31 July 2015*	45
9.4	CHIEF EXECUTIVE OFFICER	47
9.4.1	2015 Local Government Elections	47
9.4.2	Vesting Order: Lot 8017 on DP 400412, Santa Gertrudis Drive, Lower Chittering to the Shire of Chittering*	50
9.4.3	Chittering Health Centre: Lease of Northern Wing*	52
10.	REPORTS OF COMMITTEES	59
11.	MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	59
12.	QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	59
13.	NEW BUSINES OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	59
14.	MEETING CLOSED TO THE PUBLIC	59
14.1	Matters for which the meeting may be closed	59
15.	CLOSURE.....	59

* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Commissioner, Graham Partridge OAM, declared the meeting open at 6.03pm.

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

2.1 Attendance

Commissioner:

Mr Graham Partridge OAM Presiding Person

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Mr Jim Garrett	Executive Manager Technical Services
Miss Bronwyn Southee	Executive Manager Development Services
Mr Glenn Sargeson	Principal Environmental Health Officer
Mrs Karen Parker	Manager Human Resources
Ms Karen Dore	Economic Development / Communication Officer (Minute Taker)

There were 48 members of the public in the Gallery at the commencement of the meeting.

2.2 Apologies

Nil

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 Steve Vallance, Muchea

The young men in question had driven the fire truck to Upper Swan to refuel it, removed rubbish from it, had not detailed it but it was going to be going out to a fire again.

Question 3: Is anything going to be done about the fact that the Shire had been given false report on the matter? Or is this sort of leadership going to be tolerated?

Response 3: I have been advised that no one was sacked from Muchea Brigade, the members were stood down from operations not the Brigade until they spoke with the Captain and they were all made aware of that.

Both Ian and the CESM met with the Muchea members in question on the 23 January 2015 also present was Dennis Harvey and Paul Martin to discuss this issue, they raised the following points:

- *Concerns with the Captains mental health – unsubstantiated*
- *Communication issues – followed up with Captain and changes will be made to advising members of meetings – this has been completed.*
- *FCO responsibilities – also unsubstantiated.*

A meeting was also held with Captain Peter Hall, DCBFCO Ian Hollick and the CESM on 30 January 2015 to discuss the previous meeting; Peter agreed he will address some Brigade communication issues. The Brigade members are now informed of Brigade meetings minutes and regular updates are sent to members. Peter stands by the decision to stand the members down from operations but reiterated that he was available to run through the required training to ensure members followed correct procedure; this was fully support by DCBFCO and the CESM.

In conclusion those members in question, disregarded the authority of the Captain and Crewleader and failed to follow basic Brigade procedure both at the Incident and on return to the Station.

Both Dennis and Tristan Harvey resigned at the following Muchea general meeting this was done during the meeting in front of all those members present the decision was made by them, they were not sacked.

4.1.2 David Barnard, Lower Chittering

Question 1: In view of the action taken yesterday to suspend the meeting on the grounds of interruptions, please explain why not only was I not afforded relief during the previous month's meeting but my text was deliberately excused from the minutes.

Response 1: Unfortunately, the conduct of various community members in the public gallery at the last Council meeting was inappropriate, disruptive and was called in to order on a number of occasions.

The President requested on a number of occasions that you state your question, and discontinue making statements, you elected to ignore the request and continued to make statements.

The minutes generally only record a summary of the questions asked in accordance with section 6.7 (10) of the Shire's Local Government (Council Meetings) Local Law 2014, not statements made prior to asking a question.

Public Question time is reserved for members of the public to ask questions of the Council.

Question 2: Is Chittering Councils policy in line with the generally trusted belief that safety of the public life and property is their primary concern? But at the same time they have no concern about the proven appalling record of death, injuries and damage to property, caused by rallies run under CAMS regulations.

Response 2: The Shire of Chittering recommended approval for the proposed Targa West event on the basis that a risk analysis was undertaken and it was determined appropriate management measures were in place to mitigate any possible risk to life or property.

4.1.3 Marcus Edmonds, Mooliabeenee

Question 1: How much of ratepayers money did the Shire pay McLeods Solicitors for this approximately 35page second lease document?

Answer 1: Approximately \$942 has been charged by McLeods for the preparation of the second lease.

4.2 Public question time

The following questions were submitted prior to the Council meeting and as the questioners were not present at the meeting, the responses will be provided in writing:

4.2.1 Steve Vallance, Muchea

Question 1: How much will be saved by not paying the 7 councillors for the 3 months we are without them?

Answer 1: Approximately \$8,993.

Question 2: How much will the commissioner cost to replace them for 3 months? Including travel and any accommodation that may be required.

Answer 2: \$30,481 including estimated travel expenses. It is unlikely there will be any accommodation costs.

Question 3: How much is the Chief Executive Officer's total remuneration package as it currently stands?

Answer 3: Chief Executive Officer Salaries are set in accordance with recommended ranges provided by the Salaries and Allowances Tribunal (SAT). SAT has determined the Shire of Chittering to be a level 3 band (\$154,045 - \$252,917), Middle of the range is \$203,481. The total remuneration package of the CEO is \$205,824.

Question 4: Did he still have 1 year still to go on his contract when it was recently renewed?

Answer 4: Yes. In regards to the contract renewal process the Chief Executive Officer's contract states:

"You must, not later than 9 months before the expiry of the Term, notify the Council in writing whether or not you seek a renewal of this Contract and, if so, for what term."

Question 5: How long was that contract renewed for?

Answer 5: A new contract was granted for 5 years in total.

Question 6: How long before the 4 Councillor resignations was the Chief Executive Officer's contract extension agreed to?

Answer 6; The Chief Executive Officer's annual performance review was commenced in November 2014, and completed at the May 2015 Ordinary Council Meeting. The Chief Executive Officer requested a renewal of his contract at the June 2015 Ordinary Council Meeting.

Question 7: How long before the 4 resigning councillors quit was the Chief Executive Officer aware of their intentions?

Answer 7: Several months prior to the June Ordinary Council meeting a number of Councillors had informally commented amongst themselves at the end of various Ordinary Council meetings about resigning from Council.

After the events of the June Ordinary Council meeting it became more apparent to the Chief Executive Officer that there was a real possibility that some Councillors may resign, as a number of individual Councillors had stated that they had, had enough of the recent happenings.

Question 8: Did the Chief Executive Officer have any input into the idea, planning and/or execution of this maneuver?

Answer 8: No

Question 9: Did the Chief Executive Officer have any input of any sort into the wording of the document provided by those 4 resigning councillors as justification for their actions?

Answer 9: No

4.2.2 Clint O'Neil, Chittering

It would be my understanding that it would be in the community's interest to ensure that the proposed land area identified in the management order (Lot 8017) would be free of any encumbrances and liabilities that may have consequential impacts on ratepayers.

Shire correspondence dated 14 March 2006 identified that Council approved and endorsed a conditional development plan for the Maryville Downs estate on the 28 June 2002.

Of relevance to the management order, the development plan identified a 10 hectare POS sport and recreation reserve bounded by Muchea East/Chittering Road to the south and Santa Gertrudis Drive to the west. A condition of development was stated as *'all created Lots fronting*

Muceha East and Chittering Roads are to be set back 10 metres from the existing road reserve, with the land ceded to the Crown, to accommodate future road widening'.

Question 1: Does the surveyed title for the POS reserve reflect a 10 hectare area after the 10metre setback from Muceha East/Chittering Roads or in the alternate has the surveyed title omitted the 10 metre setback such that only a smaller land area is available and the title may breach a condition of development?

Answer 1: The POS parcel is 10.137 hectares. The widening of Muceha East/Chittering Roads would not be considered to breach the requirement for a 10 hectare POS, as it would be a future requirement of development/subdivision approval and not result in significant impact on the intended purpose or use of the POS.

The developer was required to undertake some preliminary works to the POS area (15 March 2006), stated as 'Satisfactory arrangements being entered into between the developer and the local authority in relation to construction of oval and replanting the water course and associated wetlands'. To date there would appear to be no developer activity to satisfy the condition.

Question 2: Has the developer made satisfactory, enforceable arrangements with the local authority to ensure that ratepayers are not encumbered with environmental restoration works and construction of the oval?

Answer 2: The Deed of Agreement, which has been amended since 2006, required the ceding of the POS to the Shire only. Therefore, it will be the Shire's responsibility to develop the ceded POS. Any required contribution to a specific upgrade to community infrastructure will be stipulated in the Development Contribution Plan for the Community Infrastructure; this document is in draft form at the moment but will be released for public comment prior to its finalisation. Any environmental restoration works within Stage 12 of Maryville Downs Estate will be the requirement of the Developer.

It is my understanding that dams are prohibited within the estate area. It would appear that there is a constructed dam on Lot 8017.

Question 3: Is it the Shire's (ratepayers) or the previous owner/developer's responsibility to remove the dam and restore the land to its natural state?

Answer 3: The dam in question was constructed in the mid-1980s which predates the development of Maryville Downs. The prohibition of dams relates to new dams proposed.

A site inspection of the Lot's connection to Santa Gertrudis drive appears to limit access to the Lot due to the water course referred to at Q2 and the requirement for a 3.0 metre boundary fire break.

Question 4: Does the Shire consider that a safe and efficient sealed road access to the Lot and facilities that may be constructed on the Lot, can be created without impacting on the water course fringing vegetation and mature native trees in close proximity to the entrance?

Answer 4: The POS lot has multiple access points to which the Shire will assess and determine at the appropriate time.

4.2.3 David Barnard, Lower Chittering

I refer to my question asked at the Council Meeting on 16 July 2014, which you responded as follows:

“Whilst many risks can be assessed and treatments provided, it is not possible to state that all risks associated with the event can be effectively controlled/mitigated, simply for the fact that if someone chooses to watch the event they must make their own risk assessment as to the likelihood and consequences of their decision.”

Question 1: Has Council or the Local Authority Officers made any attempt to assist the residents in Maryville Downs to make their own risk assessment in the light of not only the hazards, including death or serious and permanent disablement, identified in the Targa West and CAMS disclaimers but also the roll-overs, property transgressions, and many recorded highly dangerous incidents raised in questions and submission from the public which Council has on record?

Answer 1: Council had LGIS Risk undertake an assessment of the Risk Management Plan for the event. In addition, the Safety Plan for the event had various public safety requirements and procedures, which included spectator exclusion zones, which were monitored by the Safety cars and marshals on the day. It is understood that the event was held in the Shire of Chittering for the second year in a row without incident to public safety.

Question 2: Did you at any point in advance of the Targa West Rally in 2014 and 2015 see fit to warn the Public in Maryville Downs that you knew that the Assessments rated “Risk of Death” and “Injury leading to Permanent Serious Disablement” stood at “Almost Certain” and that the Council’s position was as stated in Response 4, above, and as no information on treatments specific to the MVD stage were made available to the public that they must make their own risk assessment?

Answer 2: There were no activities within the event after the identified risk treatments had been applied with a rating of “Almost Certain”. Information relating to the event, including the Risk Management Plan was made publicly available.

The following questions were asked during the meeting:

4.2.4 Lee Martin, Bindoon

Question 1: Gary, what attempt was made by you to counsel or advise the four (4) Councillors who resigned after the last meeting, prior to them tendering their resignation?

Answer 1: The Chief Executive Officer advised that he had no involvement in the matter prior to the day of the meeting. He further advised that he was not aware of the Councillors intent to resign together.

Question 2: Did you advise the President of the resignations?

Answer 2: The Chief Executive Officer informed the Gallery that he had advised the Shire President as soon as he became aware of the situation.

Question 3: With regard to the lease of the Medical Centre, who did the assessing?

Mr Martin did not allow time for a reply.

Question 4: With regard to Attachment 2, Page 97 it states ‘the whole of the Medical Centre’ is going to be leased to Jupiter.

Answer 4: The Chief Executive Officer advised that the statement referred to had been clarified with the proponent so that the understanding was “northern wing”.

The Commissioner sought clarification from the Chief Executive Officer on the doctors committed to the practice.

The Chief Executive Officer advised that Dr James [Ogundipe] had advised that it would be himself and Dr Oo who would offer one (1) full-time position and that he was not sure who would do what days, something like 3 days one doctor, and 2.5 days the other doctor. Furthermore, that Dr James had a total of four doctors including himself.

Jupiter was offering the back-up of a network of over forty (40) doctors to provide continuity of service.

Mr Martin continued to discuss his thoughts on the matter.

The Chief Executive Officer advised that the requirement for two (2) doctors had been a community requirement for a long time. Jupiter’s offer was for a five and a half (5.5) day service, including two (2) evenings and a Saturday morning, along with bulk billing for all patients over sixty-five (65) years of age. And, whilst the focus is not on money, Jupiter are offering a greater rental amount. With regard to the sub-letting, there was a request in their ROI to address that condition.

The Commissioner took the opportunity to remind the Gallery that this part of the Meeting was in Public Question Time.

4.2.5 John Curtis, Bindoon

Question 1: What is the latest news on the sewage?

Answer 1: The Chief Executive Officer advised that WaterCorp had been approached for more details however currently there was no commitment to provide the requested information, including dates. However, there was a possibility of the proposed works being considered in the 2017 Capital Works Program.

Question 2: Can Council look into changing the yellow bin pick-up to 3-monthly?

Answer 2: The Chief Executive Officer empathised with Mr Curtis and said that whilst he understood that some people did not use their recycling bins to the full capacity, that there were other residents who had the opposite problem.

The Principal Environmental Health Officer advised that since the recycling service had commenced ten (10) months ago that several hundred tonnes of recyclables had been sent to be recycled and the amount sent to landfill had decreased.

The Commissioner stated that it was unfortunate that individual pick-ups were not possible.

4.2.6 Patricia Tabor, Mooliabeenee

Question 1: Do you consider that totting up 'brownie points' is a suitable system? Each Doctor's qualifications should be of paramount importance.

Answer 1: The Commissioner advised that the use of a scaled, transparent assessment is of utmost importance and that all applicants were treated equally under the ROI system.

4.2.7 Barni Norton, Bindoon

Question 1: *(as supplied)* The Councillors that resigned have distributed various allegations directed against myself as a Chittering Shire Councillor and included then Councillor Don Gibson in those allegations.

These allegations have been distributed on Facebook, newspaper, and in email, and supposedly present the position of the four councillors that resigned from Council. The allegations ignore the facts of the series of issues that faced the previous Chittering Shire Council members, and as such represent the opinion of those resigned councillors.

This mischievous set of unsupported and untrue allegations bears the imprimatur of Council and taints the many good works of Council and as such I request to know what the current Council management plans to do about retracting and correcting the misinformation that has been distributed?

Answer 1: As requested the question was taken on notice.

Question 2: Without the current Council management taking action to address the misinformation to the public, should I, and the ratepayer public, assume that the current Council management supports the misinformation?

Answer 2: As requested the question was taken on notice.

4.2.8 Chris Waldie, Bindoon

Question 1: With regard to the change to GRV, I have no problem with this in principle, however the rate in the dollar (9.3c) is an issue. I would like to know why the rate is so high, my rates have gone up 69%. This is a gross dipping into the purses of limited and fixed income residents.

Answer 1: During the meeting no response was provided. Following the meeting the following has been provided:

The rate in the dollar has decreased from 11.4878 to 9.3. Larger metro councils have a much larger rate base which allows a lesser rate in the dollar.

Question 2: With regard to the previous meeting, I am surprised that the Chief Executive Officer was aware of the Councillors actions and did nothing. I would like to move a motion of no confidence in the Chief Executive Officer.

Answer 2: As recorded the Commissioner advised that he felt that the comment was unfair, and confirmed that he had heard what they had to say and would take it on notice.

4.2.9 Lois Jones, Bindoon (on behalf of Don Gibson, Bindoon)

Question 1: Have you arrived at a sensible reason for the resignation of the four (4) Councillors?

Answer 1: The Commissioner advised that he was here because of the resignations in order to maintain good governance and that it was not his responsibility to delve into previous decisions taken of this nature.

Question 2: Have you looked into the overspend of administration costs causing the deferral of safety related roadworks?

Answer 2: The Commissioner advised to the negative as this matter had not been brought to his attention and that the previous elected Council approved the budget.

The Chief Executive Officer asked for additional details as Administration costs had been cut by over \$100,000 in the current budget following a capability and capacity review which had led to staff cuts, including a redundancy.

Mrs Jones advised that as she was asking the question on behalf of Mr Gibson she did not have any further information.

4.2.10 Unknown (questioner did not provide their name)

Question 1: I am disappointed by the 'en-masse' resignation, there was nothing in the Minutes for the three (3) meetings prior that would lead anyone to believe that the Council wasn't operating properly. If at the upcoming Election all seven (7) ex-Councillors stand, run and get elected, is that allowed? Should the Councillors that resigned be disqualified?

Answer 1: The Commissioner advised that he could not speak for the former Councillors. He further advised that he had had sought advice could confirm that there was nothing to stop them from standing.

4.2.11 Unknown (questioner did not provide their name)

Question 1: You say that what has happened prior is not your problem but I suggest it is and needs to be investigated further. How many ex-Councillors are there in this room that do not live in the Shire?

Answer 1: The Commissioner advised that there were currently no Shire Councillors.

The Chief Executive Officer clarified that of the ex-Councillors there was only one (1) that did not live in the Shire.

4.2.12 Bill Nobes, Bindoon

Mr Nobes spoke at length with regard to the local Member (Mr Shane Love) and the local Medical Services.

No question was forthcoming.

The Commissioner reminded the Gallery that this was public question time, and requested that Mr Nobes organise to meet with him at a later time to discuss the matter in more detail and he will read the documentation.

4.2.13 Lois Jones, Bindoon (on behalf of Don Gibson, Bindoon)

Question 1: Can the \$10,000 payment to the Chief Executive Officer to vacate the Shire house be explained given his daily travel to Ellenbrook in a Shire vehicle?

Answer 1: The Chief Executive Officer advised that travel costs have always been incorporated in his contract and that the Shire house had been negotiated out of his contract.

Question 2: Who is currently supervising the outside workers and machinery during this last month?

Answer 1: The Chief Executive Officer advised that the Executive Manager Technical Services had taken on this role with the assistance of the Leading Hands whilst the Works Manager position was vacant. He further advised that the Work Manager position is currently being advertised.

4.2.14 Maggie Edmonds, Mooliabeenee

Question 1: With regard to the rooms in the north wing, are they not be leased out for the benefit of the medical practice?

Answer 1: The Chief Executive Officer advised that the proponent had requested that they be able to sub-let rooms to other medical operators (such as the Chiropractors) as part of their ROI. The Chief Executive Officer further stated that Dr James (Ogundipe) had been advised the terms were negotiable.

Ms Edmonds commented that there would be a discrepancy in the tenders as other tenderers would have believed this not to be the case and therefore the rent offered would differ.

Question 2: *(as submitted)* The Chief Executive Officer has stated in the agenda that Bullsbrook Medical Centre has failed to meet the requirements for 2 full time doctors. In their application, Bullsbrook Medical Centre stated that they would employ one full time doctor when the business first opens, 1.5 doctors in 6 months' time and 2 full time doctors in 12 months' time. But, if the patient demand grew more quickly than this business plan, Bullsbrook Medical Centre stated clearly that would bring forward the number of doctors to cover this extra demand.

This is a prudent business like approach to take to severely run down patient list, which I submit is a lot less than 1100 patients claimed to be on the books. Well, even if 1,100 are on the books, very many of those I suggest have gone to doctors elsewhere and may – or may not – return to Bindoon.

The Jupiter Medical Group have only one registered doctor at this time. They do not have a second doctor as she is not qualified, and yet Jupiter was given full points for supplying 2 full time doctors. The second doctor is still to sit her exam, which may take months or years to pass.

Yet, Jupiter was given full points for supplying 2 full time doctors; why was this, as it is patently untrue.

Answer 2: The Chief Executive Officer advised that they weren't awarded full points. The Chief Executive Officer noted that while Jupiter were not offering two (2) doctors to start, it would happen after two (2) months and be full-time within the twelve (12) months. Dr James (Ogundipe's) proposal was to offer two (2) doctors full-time after twelve (12) months.

4.2.15 John Nagel, Bindoon

Question 1: I refer to an emailed dated 27 July 2015 where Dr James (Ogundipe) and Dr Hayward requested to see the Chief Executive Officer with regard to a locum service for 2 months between August and September, he refused to see them. Isn't the Chief Executive Officer supposed to have the best interests of the community in mind?

Answer 2: The Chief Executive Officer advised that he was not aware of the email that Mr Nagle was referring to.

The Commissioner requested that Mr Nagel organise a meeting with him, and again took the opportunity to remind the Gallery that this was Public Question Time.

Mr Nagel stated that he and his wife had been told that they weren't allowed to comment as it would jeopardise the contract, and that the evidence was in the email.

Response: The Chief Executive Officer requested further clarification and for a copy of the email that provided the alleged evidence.

Question 2: I refer to the Minutes from the last Meeting which references the Minutes of June 2012 and Cr Hawes Declaration of Interest. There is reference to the "practice manager's daughter" whereas it should state "doctors daughter".

Answer 2: The Commissioner thanked Mr Nagel for the advice and assured him that it would be looked into.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Item 9.1.3 Proposed Industry 'Rural, Bagging of Manure and Compost' – Lot 12 (RN 101) Timaru Road, Muehea

Mrs Mary Day and Mr Geoff Murphy made a deputation on behalf of Timaru Road residents. The deputation covered the following items:

- Red sign erection/residents objection notices
- Site for proposed industry
- Wetlands
- Compost and stockpile manure
- Battleaxe road
- Transport
- Flies and odour
- Health
- Transformer
- Sealed shed/pad and waste water
- Water licence
- Should we have industry/commercial business in one area

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Special Council – 14 July 2015

7.1 OFFICER RECOMMENDATION

That the Minutes of the Special meeting of Council held on Tuesday, 14 July 2015 be confirmed as a true and correct record of proceedings.

THE COMMISSIONER DEFERRED THE RECOMMENDATION FOR CLARIFICATION

7.2 Ordinary Council – 17 July 2015

7.2 OFFICER RECOMMENDATION – RESOLUTION 010815

The Commissioner endorsed

“That the minutes of the Ordinary meeting of Council held on Wednesday, 17 July 2015 be confirmed as a true and correct record of proceedings.”

THE COMMISSIONER DECLARED THE MOTION CARRIED

8. ANNOUNCEMENT FROM THE COMMISSIONER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Temporary Road Traffic Suspension: Chittering Road, Chittering Valley Road and Muchea East Road for Public Event – Time Trials (Cycling)*

Report Date	19 August 2015
Applicant	Roues Chaudes Cycle Club
File ref	26/01/0004
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Cycling Route Plan2. Certificate of Public Liability Insurance3. Events Traffic Management Plan dated 30 June 20154. Road Closure Form

Background

The Commissioner's consideration is requested for a proposed public event, being the RCCC Winter Road Series event, which proposes a graded cycling race in the Shire of Chittering.

The cycling event is proposed to be held on 5 September, 10 October and 22 November 2015. The race starts and finishes on Chittering Valley Road as per the racing route (attachment 1). Approximately 150 participants will be involved in the event, with approximately 20 additional support staff and spectators. The event is proposed to run from 1200hrs to 1700hrs on the above mentioned days with the race spread out over various grades for men and women. The use of the Lower Chittering Hall, Oval and toilet facilities will be from 1100hrs to 1800hrs.

The event holders have submitted a road closure form to be signed by the Shire for Chittering Road and Chittering Valley Road. The form outlines the event is to only require half the carriageway of these roads and seek approval for cyclists to ride in greater than 2 at a time. The event holder has submitted a Traffic Management Plan (including risk management measures).

Consultation

The Applicant will be required to notify affected landowners in advance of the event should the Commissioner approve the application in accordance with the requirements of the *Road Traffic Act 1974*.

Local Government Insurance Services (LGIS) were notified of the proposed event and did not raise any objection or requirements.

The use of the Lower Chittering facilities has been dealt with by the Shire administration and approved subject to hire fees.

Internal

Executive Manager Technical Services
Administration Support

Statutory Environment

State: *Road Traffic Act 1974*
Road Traffic (Administration) Act 2008
Road Traffic (Event on Roads) Regulations 1991

Policy Implications

State: *Policy for Concerts, Events and Organised Gatherings*
The proposed cycling event is not clearly covered by the Guidelines however a generic assessment (using the assessment checklist in the Guidelines) would consider the event to be low to medium risk.

Financial Implications

The use of Shire facilities is subject to hire costs in accordance with Council's Schedule of Fees and Charges 2015-16.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes.
The Shire's Executive Manager Technical Services advised of no issues of the proposed route other than some steep verges.

Triple Bottom Line Assessment

Economic implications

The proposed event does not require full road closure, which can allow for daily local business to occur with minimal impact and is proposed to only be held for half a day on three occasions over a three month period being 5 September, 10 October and 22 November 2015.

Social implications

The temporary traffic suspension will not close the entire carriageway, which will still be open to traffic. It is not believed that the cycling event will cause significant nuisance to landowners and businesses in the area. A requirement of road closure requires prior notification to affected landowners and the public to assist in minimising this nuisance.

It can be viewed the cycling event will provide exposure to the scenic region for tourism and improve social capital.

Environmental implications

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

Comment

The application for the temporary road traffic suspension has been assessed and cleared by the Shire's Executive Manager Technical Services. Cyclists may ride in groups of more than two but only utilise half the road. The road will remain open and trafficable for normal road traffic with traffic management during the event.

The event holder has provided a Traffic Management Plan (TMP). The Shire's Executive Manager Technical Services assessed the TMP and requests one modification to require 'mobile traffic management at the front and rear of the cyclists'. A current certificate of insurance has also been provided with the application.

It is considered that the cycling race will have minimal impact on road users throughout the Shire and will be beneficial both socially and economically to the Shire of Chittering.

Discussion during the meeting

The Commissioner questioned whether this type of event had been held in the Shire before?

The Chief Executive Officer replied that the most recent similar event was held in January 2013, without incident.

9.1.1 OFFICER RECOMMENDATION – RESOLUTION 020815

That the Commissioner:

1. Requests the Applicant amend the Traffic Management Plan to include the requirement for 'mobile traffic management'.
2. Requests the Applicant to submit a written statement they have undertaken a route inspection prior to each of the three dates of the event confirming the state of the road infrastructure and the immediate surrounds are considered suitable and appropriate for the purposes of the event.
3. Upon completion of the above, Authorises the Chief Executive Officer to approve the Application for Temporary Suspension of the Road Traffic Act/Regulations under section 83 of the *Road Traffic Act 1974* for Chittering Road and Chittering Valley Road for the 5th September, 10th October and 22nd November 2015 subject to the following conditions:
 - a. The event is to be held in accordance with the Traffic Management Plan;
 - b. The Applicant to provide instructions to be given to the marshals for the operation of the event prior to the event;
 - c. The Applicant maintain the Certificate of Currency of Public Liability Insurance for the event period;
 - d. The Applicant advise local police stations prior to the event;
 - e. Any temporary road signage shall be approved prior by the Shire of Chittering prior to the event; and
 - f. The Applicant to advertise the details of the event prior to the date of the event in the following manner:
 - i. Advertise the application in accordance with the *Road Traffic Act 1974*;
 - ii. Send letters to all likely affected landowners notifying of the road traffic suspension and event details at least 14 days prior to the event;
 - iii. Send letters to relevant community groups, agencies and/or emergency departments at least 14 days prior to the event;
 - iv. Place signs at the intersections of the proposed route of the road suspension route; and
 - v. Place an advertisement on the Shire's website of notification of the road suspensions and event details.
4. Advise the Applicant that the race is to be conducted in accordance with the *Road Traffic Act 1974*.
5. Advise the Applicant that applications for any future events must be made at least 3 months prior to the date of the event.

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.1.2 Proposed Rural Industry, Transport Depot and Retrospective & Proposed Associated Development: Lot 2929 (RN 299) Brand Highway, Muchea*

Report date	19 August 2015
Applicant	Allerding and Associates
File ref	A5006; P116/15
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	<ol style="list-style-type: none">1. Initial planning application dated August 20122. Section 211 Notice dated 18 February 2015
Attachments	<ol style="list-style-type: none">1. Locality Plan2. Council Approval 20 March 20133. Council Approval for amendments 17 September 20144. New Planning Application dated April 20155. Acoustic Report dated 8 June 20156. Catchment Property Management Plan dated 31 July 20157. Site Plan dated 16 July 2015

Background

The Commissioner's consideration is requested for a proposed rural industry, transport depot and associated development as well as retrospective works as required by direction of the Minister for Planning under Section 211 of the *Planning and Development Act 2005*.

Due to the complexity of this application, the following is a brief account of what has occurred:

- (i) In March 2012 the Shire provided written advice to the landowner's consultant prior to the purchase of the land for transport depot, rural industry and landscape supplies at the subject property and the required process for Planning Approval.
- (ii) In August 2012 the landowner's consultant lodged a planning application (ref. P171/12 - Tabled Document No. 1) for the change of use of the land for transport depot, landscape supplies, rural industry and warehouse.
- (iii) Following lodgement of this application, the landowner's consultant held a community meeting in Muchea on their own accord to gauge the view and issues of nearby landowners. The proposal was advertised in September/October 2012. During the advertising period the landowner commenced works and was instructed by the Shire to cease all development/works. Due to the responses received in the advertising period, the consultant submitted a request to the Shire in February 2013 to amend the application to remove all association of landscape supplies from the application. It was confirmed this included that rock material was not to be part of the proposal.
- (iv) Council then granted planning approval 20 March 2013 (Attachment No. 2). This approval is the current planning approval for the land.
- (v) Landowner commenced development of hardstand and operations consistent with the initial application.
- (vi) The landowner's consultant requested Council reconsider conditions 2j and 2l from the March 2013 approval however this was not supported.
- (vii) The landowner's consultant then lodged a review with the State Administrative Tribunal (SAT) in June 2013 for conditions 2j and 2l of the approval. Following mediation, the landowner's consultant withdrew the SAT application and therefore the 2013 approval with conditions remained current.

- (viii) Due to Main Roads not providing support for direct access to Brand Highway, the landowner's consultant submitted a request to amend the relevant condition of the approval for a new access arrangement via Energy Place. Council approved this amendment at the 17 September 2014 Ordinary Council Meeting.

On 23 February 2015 the Shire received a Section 211 Notice of the Planning and Development Act 2005 advising the amendments to the existing Planning Approval (amending the access to Energy Place) adopted by Council were 'ultra vires' to the Scheme due to the use/development already being commenced on site. The Scheme only allows an amendment to a Planning Approval if the use or development subject to that approval has not commenced. The Shire has liaised with the landowner and new appointed consultants (Allerding Associates) to make a fresh planning application for the existing land uses, proposed development and retrospective development which was part of the amendment and initial application (attachment 2) required by the Section 211 Notice on the Shire.

The new planning application proposes the site to be used for the transportation, washing and storage (no longer bagging) of a quartz material from the landowner's extractive industry operations outside of the Shire. The rock product is mostly sold wholesale as a decorative garden product but also has other uses in road and building construction. The Applicant has also provided an Acoustic Report (in relation to the rock washing equipment) and a new Catchment Property Management Plan. All of these documents are attached to this report.

The fresh application aims to amend/update what was approved by Council to be in line with what is currently occurring and what was originally intended in the initial application. The following is a list of the changes from the original approval granted:

- (i) The Applicant seeks approval for the storage, washing and wholesale of the quartz rock material on the site which was removed from the initial application.
- (ii) The Applicant seeks the approval for the use of Energy Place for access which was aimed to be dealt with by the amendment to the approval in September 2014.
- (iii) The Applicant proposes selective vegetation screening on the southern edge of the hardstand as opposed to the property boundary vegetation screening.
- (iv) The Applicant seeks approval to bitumen seal the internal access road only and construct the hardstand/laydown areas with granite stone over crushed limestone.
- (v) The Applicant seeks approval to slightly modify the layout of the development, mainly being the location of two future sheds (noted as 'Y' and 'Z' on the site plan – Attachment 7).
- (vi) Inclusion of an additional residence on the property (to be treated separate to this application).
- (vii) Inclusion on the site plan of an equipment storage area.

The submission of this new application is a direction by the Minister for Planning to the Shire to process and rectify the previous amended approval which is not lawful under the Town Planning Scheme.

Consultation

Consultation of the original application was undertaken in September 2012 in accordance with section 9.4 of *Town Planning Scheme No 6*. As the new application has proposed minor variations to existing approved operations and initial planning application, it was considered no further advertising was required in accordance with the Scheme.

Internal liaison has been undertaken with Shire Officers. A site meeting was held on 5 June 2015 with Councillors and Shire Officers in attendance to discuss the operations undertaken on site and the proposal.

The Shire has liaised with the Ellen Brockman Integrated Catchment Group for assistance on environmental matters of the proposal; specifically for requirements of a Catchment Property Management Plan. The Shire's Principal Environmental Health Officer has reviewed the Catchment Property Management Plan and noted the comments and results indicating high level of hydrocarbons found in the southern monitoring point (Muchea Townsite side). The Shire's Principal Environmental Health Officer will investigate this as a compliance matter to assess the contributor/s and what actions can be taken.

Statutory Environment

State: Planning and Development Act 2005, Section 211

211. Minister may give orders to local government

- (1) A person aggrieved by —
 - (a) the failure of a local government to enforce or implement effectively the observance of a local planning scheme; or
 - (b) the failure of a local government to execute any works which, under a local planning scheme or this Act, the local government is required to execute, may make representations to the Minister.
- (2) The Minister may determine not to take any action in response to the representations or, if the Minister considers it appropriate to do so, the Minister may refer the representations to the State Administrative Tribunal for its report and recommendations.
- (3) For the purposes of making a report and recommendations on a referral under subsection (2), Part 14 applies with such modifications as may be necessary, as if the referral were an application for review.
- (4) On holding an inquiry or receiving a report and recommendations from the State Administrative Tribunal, the Minister may order the local government —
 - (a) to do all things necessary for enforcing the observance of the scheme or any of the provisions of the scheme; or
 - (b) to do all things necessary for executing any works which, under the scheme or this Act the local government is required to execute, as the case requires.
- (5) The Minister is not bound by the report and recommendations of the State Administrative Tribunal.
- (6) The local government may within 28 days of service of the order appeal against the order to a Judge who may —
 - (a) confirm, vary or annul the Minister's order; and
 - (b) make such order as to costs of the appeal as the Judge thinks proper.
- (7) The decision of the Judge is final and enforceable as an order of judgment of the Supreme Court.
- (8) Subject to any rules made by the Governor —
 - (a) the proceedings on an appeal are to be as the Judge directs; and
 - (b) subject to the direction of the Judge may, as regards the summoning and attendance of witnesses, the production of documents and costs, be regulated by the appropriate Rules of the Supreme Court, with appropriate adaptations and alterations.

Local: Shire of Chittering Town Planning Scheme No 6

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 subject land falls within the 'Water Prone Area – Ellen Brook Palusplain' Special Control Area:

6.3 WATER PRONE AREA – ELLEN BROOK PALUSPLAIN

6.3.1 *Land subject to Inundation or flooding are delineated on the Scheme Map. Planning Approval is required for any development within the Special Control Area.*

6.3.2 *Purpose*

- a. *To manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health.*
- b. *To preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems.*
- c. *To ensure that wetland environmental values and ecological integrity are preserved and mentioned.*

6.3.3 *Planning Requirements*

The Local Government will impose conditions on any Planning Approval relating to-

- (a) *the construction and occupation of any dwelling or outbuilding;*
- (b) *the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council.;*
- (c) *minimum floor levels for any building above the highest known water levels;*
- (d) *any land use that may contribute to the degradation of the surface or sub-surface water quality.*
- (e) *no development other than for conservation purposes will be permitted within 30 metres of any natural water body;*
- (f) *damming, draining or other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.*

6.3.4 *Relevant Considerations*

In considering applications for Planning Approval, the Local Government shall have regard to-

- (a) *the likely impact on the health and welfare of future occupants;*
- (b) *the proposed activities for the land and their potential increase in the risk of causing an increase in nutrients entering the water regimes;*
- (c) *any provision or recommendation from any Catchment Management Plan.*
- (d) *the likely impact on any wetland;*
- (e) *buffer distances from any wetland.*

6.3.5 *Referral of Applications for Planning Approval*

The Local Government may refer any Application for Planning Approval or any amendment to vary a Special Control Area boundary to any relevant authority or community organisation.

The Applicant proposes the development and use of the land to fall within following land uses set out by the Scheme:

Land Use	Definition	Permissibility
Industry –Rural	means- (a) an industry handling, treating, processing or packing rural products; or (b) a workshop servicing plant or equipment used for rural purposes.	D
Transport Depot	means premises used or intended for use for the parking or garaging of: (a) two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or (b) two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles; and the use includes the maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles	A

The Scheme makes provisions for the amendment/revocation and retrospective approval of development:

8.3 *Amending or Revoking a Planning Approval*

The Local Government may, on written application from the owner of land in respect of which a Planning Approval has been granted, revoke or amend the Planning Approval, prior to the commencement of the use or development subject of the Planning Approval.

8.4 *Unauthorised Existing Developments*

8.4.1 *The Local Government may grant Planning Approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.*

8.4.2 *Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of Planning Approval and the continuation of development unlawfully commenced is to be taken to be lawful upon the grant of Planning Approval.*

Policy Implications

State: EPA Guidance Statement No.3 Separation Distances between Industrial and Sensitive Land Uses

EPA Guidance Statement No. 3 outlines the generic buffers between Industrial Land Uses and Sensitive Land Uses. The document stipulates a 200m buffer for 'Transport vehicles depot'. It is considered the proposed hardstand area constructed for the transport depot use meets this buffer requirement.

Local: Local Planning Policy No 2 – Muchea Village

Lot 2929 Brand Highway is one of the properties nominated in the System 6 Conservation Reserve for future protection. As Section 3.5 of the Policy states, the property has been 'nominated' for conservation in the future for its importance as mound springs and associated flora including sundew, bog clubmoss and an unusual liverwort. The application was referred to the relevant environmental state agencies and no requirement for System 6 classification or objection to the proposal was made.

Financial Implications

The Applicant has paid the required application fees.

Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001-2015

Lot 2929 Brand Highway is located within the 'Ellen Brook Palusplain', which is further identified and addressed in the Strategy:

6.4.2 Aims

- *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 include the recommendation of the Ellen Brook Integrated Catchment Plan as to land uses and nutrient control by encouraging improved land management practices;*
- *To prohibit any non-agricultural development which may contribute to pollution of the surface water or sub-surface water regimes;*
- *To apply the recommendations for the Ellen Brook Catchment Management Plan to achieve the objectives and liaise with relevant agencies for any applications for development or change of land use.*

It is considered the broad issues outlined in Section 7.0 of the Strategy are relevant to the proposal.

Due to the subject property being zoned 'Agricultural Resource'; Section 8.8 of the Strategy outlines the aims of the zone and applies to this application.

Section 10.0 of the Strategy makes reference to the Special Control Areas identified on the Scheme Maps, with the subject property being situated within the Water Prone Area – Ellen Brook Palusplain Special Control Area.

Site Inspection

Site inspection undertaken: Yes

The Shire has undertaken multiple site inspections from 2013 to date as a result of the applications made, dealings of SAT and compliance of the approval.

A number of Councillors have also attended the site at the request of the landowner/applicant.

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. All the public submissions made in respect to the original planning application was reviewed and considered by Council at the 20 March 2013 Ordinary Council Meeting. As this application merely resolves the technical error in the amended Planning Approval and proposes other minor amendments to the approved development, the comments and objections made have been addressed previously.

Environmental implications

The site is located in the Water Prone Special Control Area (Ellen Brook Palusplain) and is traversed by minor water ways which flow into the Ellen Brook. The main concerns raised with development of the site were the protection of the surface and ground water from contamination. It is considered the application acknowledges the environmental constraints and values and the recommended conditions of approval (such as the requirement of the Catchment Property Management Plan and native planting) address these matters.

Comment

Section 211 Notice

The new application is a result of the Section 211 Notice (under the *Planning and Development Act 2005*) placed on the Shire. It was considered that the Shire did not effectively implement the provisions of the Town Planning Scheme appropriately by amending conditions of an existing Planning Approval where development had already been carried out. The Minister for Planning directed the Shire to resolve this error through a new planning application to which the Officer's Recommendation resolves.

Town Planning Scheme No 6

The requirement of a fresh application has been made due to the most recent approval to amend a condition of the original approval being unlawful under Clause 8.3 of the Scheme. This new application is made under Clause 8.4 of the Scheme, allowing retrospective approval to be considered, and would result in formalising all existing and proposed development on the property.

As noted in the report, the property is located in the Water Prone Special Control Area. The Applicant has submitted a revised Catchment Property Management Plan with the application documentation to convey the landowner/operator's intent to ensure the development does not impact on the waterways and groundwater of the site.

The proposed land uses are consistent with the original application submitted to Council in 2012. The Applicant has however clarified the exact extent of operations on the site, as specified in the Background section of the report, which provides a clearer understanding of the expected development on site and more appropriate means of controlling the development appropriately.

Existing Planning Approval

As a requirement of the new planning application to replace the existing, the Shire has reviewed the compliance of conditions of the existing planning approval:

- (a) *The approval is limited to the storage, parking and maintenance of vehicles and equipment used for rural purposes associated with Whitestone Quarries Pty Ltd;*

The new application seeks to amend this to be in line with what was originally intended and what has been conducted on site, mainly rock washing and storage.

- (b) *Applicant shall comply with Permit S41_825 issued by DBNGP.*

The landowner obtained a Section 41 Permit and provided a copy to the Shire. It is recommended the landowner maintain the relevant Permit approval for access over the Dampier to Bunbury Natural Gas Pipeline.

- (c) *Applicant shall comply with Main Roads requirements for access to Brand Highway.*

This condition remains applicable.

- (d) *Traffic generation shall be in accordance with Traffic Impact Statement dated 1 March 2013.*

The Traffic Impact Statement was amended to seek approval for access via Energy Place. It is recommended a condition be imposed revising compliance with the updated Traffic Impact Statement.

- (e) *No access from Chittering Street and Energy Place.*

Access has been via Energy Place as a result of the amended Planning Approval. It is recommended a condition be imposed limiting all movements associated with the use to be via Energy Place.

- (f) *All building structures require a separate application for planning approval.*

The shed was approved in a separate planning application. It is considered the proposed new storage sheds be treated in the same manner.

- (g) *Applicant shall submit a Catchment Management Plan to the satisfaction of the Chief Executive Officer.*

A Catchment Management Plan was submitted to Council in 2013 however required to be revised to better address stormwater management of the proposed development. The Applicant has submitted a Water Recycling Plan to address the rock washing operation and provided a new Catchment Property Management Plan (attachment 6) including all of the Shire's requested information that lacked in the 2013 version. The Shire is satisfied with this Plan subject to the bore monitoring being undertaken over the life of the operations.

- (h) *Applicant shall establish and maintain vegetation screening within six (6) months of the date of this approval.*

The boundary vegetation screening was established by the landowner prior to the application being made and maintained to the Shire's satisfaction in the 6 month period. Unfortunately, as indicated by the Applicant, the success rate of these plants was low due to waterlogging. The Shire considers the revised vegetation screening on the southern section of the hardstand to be more appropriate than the property boundary vegetation and has been a revised condition of the Officer's Recommendation.

- (i) *Applicant shall submit a Revegetation Management Plan to the satisfaction of the Chief Executive Officer which includes the revegetation of waterways and maintenance of vegetation screening.*

The Catchment Property Management Plan outlines waterways and retention basins will be maintained for their function and existing vegetation screening on property boundary maintained. The Applicant also proposes further vegetation screening along the southern edge of the hardstand to better screen the operations and associated storage and parking of equipment.

- (j) *Transport Depot, access roads and hardstand areas shall be bitumen sealed and drained to catch hydrocarbons to the satisfaction of the Chief Executive Officer.*

The main internal access road has been bitumen sealed to minimise dust. The Applicant proposes hardstand areas be constructed of granite stone over crushed limestone which would minimise the runoff issues and has been demonstrated to not cause a dust nuisance. The Applicant has obtained a water licence to assist in dust management when and if required to address the Shire's concern and to support the amendment to the condition.

The impact of the type of construction standard on hydrocarbon management has been thoroughly assessed by a number of parties. The Shire considers the proposed hardstand/laydown construction of granite stone over crushed limestone and 2-coat seal of the main internal access road to be an appropriate outcome for hydrocarbon management in relation to the operations on site. The hardstand areas are to be used primarily for parking of vehicles/equipment and temporary storage of rock material, which would cause minimal to nil hydrocarbon contamination. All associated maintenance and repair work is to be undertaken within the concrete shed and is to be carried out using mobile oil traps. Further to this, the bitumen product contains hydrocarbons, which would increase hydrocarbon contamination into the ground water. It is therefore the Officer's Recommendation that condition (j) of the original Planning Approval be amended accordingly.

- (k) *Transport Depot and hardstand areas shall be setback 30m from lot boundaries and 100m from Brand Highway.*

The site plan and aerial photography confirm the setbacks have been met.

- (l) *Evidence is provided to Council to the satisfaction of the Chief Executive Officer that the Transport Depot and any parking of vehicles and equipment is located a minimum distance of 200m from the southern Townsite lot boundaries.*

The site plan and aerial photography confirms the 200m separation of the transport depot use to the Townsite zoned properties has been met.

- (m) *The development shall comply with the Environmental Protection (Noise) Regulations 1997.*

The Applicant has submitted an Acoustic Report to demonstrate compliance with the Regulations. The Shire's Principal Environmental Health Officer has reviewed this report and is satisfied it addresses the noise emissions of the wash plant equipment.

- (n) *Any servicing of plant and equipment shall be carried out within a confined concrete floor such as a shed, and such area shall have sufficient bunding and spill trays to minimise the impact from any spills as a result of onsite servicing.*

It is considered the management measures outlined in the Catchment Property Management Plan adequately address any chemical spillage for the servicing of equipment within the shed. In addition to this, it was noted at the site visit undertaken by the Shire of Chittering Executive Manager Development Services and Senior Planning Officer that all maintenance works are contained within the shed located at the southern end of the site.

- (o) *Any further developments and/or amendments shall be the subject of subsequent planning applications/approvals.*

This condition has been met and applies as an ongoing requirement.

- (p) *If the development (the subject of this approval) is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.*

The site has been substantially developed as part of the original Planning Approval.

- (q) *Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.*

Not applicable at this point.

Local Planning Strategy

The Shire's Strategy outlines the importance of protecting the site for its ecological values, in particular the presence and linkage with wetlands and waterways in the catchment area. The new Catchment Property Management Plan dated 2015 provides a thorough assessment and acknowledgement of these features and demonstrates how the proposed development minimises impact to these features.

Conclusion

Due to the direction by the Minister for Planning to resolve the technicality of the existing amended planning approval, it is the Officer's Recommendation that the Commissioner grant Planning Approval for the revised planning application for proposed amendments to the existing development approval subject to a number of conditions. The Shire has previously dealt with the proposed development for a transport depot and rural industry; undertaking public and agency consultation, and assessing the development against the relevant legislation and policies. Since the original approval in 2013 the landowner has had the opportunity to ensure compliance of the Planning Approval within the 2 year approval period. The Shire has requested the Applicant in making the new planning application to demonstrate the compliance with the existing approval. The Shire believes this has been done and is satisfied with the documents provided which address all the existing issues. Should the new application be approved it will supercede the 2013 Planning Approval.

The Officer's Recommendation of approval subject to conditions is similar to the existing Planning Approval dated March 2013, with the exception of some amendments due to works already being done or due to the minor changes from the amended approval in September 2014 and the new application provided. The proposed residential development in the application will be dealt with as a separate application under delegated authority and does not impact on the Section 211 Notice matter.

Discussion during the meeting

Commissioner Partridge sought clarification that his understanding from the Officer's report that this item has been before Council on two prior occasions and approval was granted. However, as the development had substantially commenced, it was not possible for Council to amend an existing Development Approval. This I understand resulted in the Minister for Planning issuing a Section 211, requiring that Council consider and issue a new Development Approval.

The Chief Executive Officer advised his understanding of the matter was correct.

9.1.2 OFFICER RECOMMENDATION – RESOLUTION 030815

That the Commissioner:

1. Grant Planning Approval for Industry-Rural and Transport Depot at Lot 2929 (RN 299) Brand Highway, Muchea subject to the following conditions:
 - a. Development shall be in accordance with the approved plans.
 - b. The Applicant shall comply with the *Environmental Protection (Noise) Regulations 1997*.
 - c. The Applicant shall maintain and comply with the Section 41 Permit (DBNGP Easement) issued by DBNGP at all times.
 - d. Access shall be via Energy Place.
 - e. The Applicant shall comply with the Traffic Impact Statement dated 21 July 2014 at all times.
 - f. The vegetation screening on the southern edge of the hardstand shall be established within 60 days of the date of this approval and maintained at all times to the satisfaction of the Chief Executive Officer.
 - g. The Applicant shall comply with the Catchment Property Management Plan dated 20 July 2015, subject to the water monitoring being undertaken over the life of the operation, at all times.
 - h. Servicing of equipment and vehicles shall only be undertaken within the shed and shall be in accordance with the management measures set out in the Catchment Property Management Plan.
 - i. Landowner shall maintain a water licence for the property for the purposes of dust suppression.
 - j. The Applicant shall ensure no visible dust shall exit the property.
 - k. Hardstand/laydown areas shall be constructed in accordance with the submitted details.
 - l. The internal access road, as indicated on the site plan dated 16 July 2015, shall be sealed and drained and maintained to a minimum 2-coat seal standard at all times.
 - m. The Applicant shall maintain the flow of waterways and function of waterlogged areas (including retention basins) on the property.
 - n. A 200m buffer for transport depot operations from the southern boundary of Chittering Street shall be maintained.
 - o. Stockpiling of rock material shall only be undertaken in the area shown on the approved plans.
2. Forward the Council Minutes and all associated documentation to the Minister for Planning to close the Section 211 Notice matter.

Advice Note

1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
2. The Applicant shall ensure no visible dust exits the property particularly during construction of hardstand areas.
3. No truck is permitted to enter the property for carting purposes unless fitted with an appropriate cover to prevent dust or loss of material and none shall exit without the cover in use as required by the Road Traffic (Vehicles) Act 2012 and relevant standards.

THE COMMISSIONER DECLARED THE MOTION CARRIED

At the Ordinary meeting of Council held 15 July 2015, Council resolved to defer item '9.1.4 Proposed Industry 'Rural, Bagging of Manure and Compost' – Lot 12 (RN 101) Timaru Road, Muchea' to the August 2015 Ordinary Council Meeting

9.1.3 Proposed Industry "Rural, Bagging of Manure and Compost" - Lot 12 (RN 101) Timaru Road, Muchea*

Report date	19 August 2015
Applicant	G. Jones
File ref	A5032; P130/15
Prepared by	Stephanie Gladman, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Planning Report Submitted by Applicant2. Map indicating Conservation Category and Multiple Use Wetlands3. Aerial of Lot 12 Timaru Road, Muchea4. Neighbourhood Consultation – Plan indicating extent of referral5. Schedule of Submissions6. Information from Applicant's product supplier7. Images from Site Visit

Background

The Shire received an application to establish an 'Industry - Rural' on Lot 12 (RN 101) Timaru Road (attachment 1), Muchea in the form of a sole trader undertaking the bagging of manure and compost.

The application for the 'Industry – Rural' is proposed to provide approval for the erection of a shed measuring 30m x 20m which will be used to store the manure to be bagged with an additional 20m x 10m concrete pad which is where the manure and compost will be delivered and then moved (via bobcat) to inside the shed.

The applicant proposes to bag the manure and compost within the proposed shed and distribute the bagged products, comprising of cow and sheep manure sourced from feedlots and fully composted chicken manure to their clientele in Perth and surrounds. The product (manure and compost) is proposed to be delivered to the site on average twice a week via semi-trailers (i.e. a prime-mover with a semi-trailer (total length 19m) or prime-mover with two (2) trailers (long vehicle 27.5m).

The Applicant delivering the bagged product to customers is envisaged to be via a 4 wheel drive ute vehicle.

Lot 12 Timaru Road comprises 12.5 hectares and is zoned 'Agricultural Resource' in the *Shire of Chittering's Town Planning Scheme No. 6* and is contained within the 'Water Prone' Special Development Control Area. A conservation category wetland is located in the southern portion of the lot in addition to a multiple use wetland (attachment 2). Access to the property is via a shared battleaxe leg from Timaru Road.

Industry – Rural is considered a 'D' use in the Agricultural Resource Zone.

The aerial (attachment 3) indicates the location of an existing approved shed (and septic system) and the conservation category wetland to the south of the property in addition to the nearest residential property which is around 300m to the south west of Lot 12.

The Commissioner's consideration is requested in relation to this application.

Consultation

Advertising of the application was undertaken between 20 May 2015 and 18 June 2015. Advertising was in the form of a letter sent to nearby residents up to 900 metres away (attachment 4 –Neighbourhood Consultation), with the planning report which accompanied the application included in this (attachment 1).

The application was also referred to Chittering Landcare, the Department of Environmental Regulation and the Department of Water for their comment.

A total of nine objections were received in relation to the application from residents with their concerns relating (primarily) to:

- Odour;
- Flies;
- Environmental Risk, i.e. groundwater contamination;
- Road Impact; and
- Safety.

Details of the submissions received, the Applicants and the Shire’s Planning Officer’s response to the submissions is included in attachment 5 ‘Schedule of Submissions’.

Statutory Environment

Local: Shire of Chittering Town Planning Scheme No. 6

4.2.3 Agricultural Resource Zone AMD 21 GG 3/4/09

- *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.*

Industry - Rural means-

- (a) an industry handling, treating, processing or packing rural products; or*
- (b) a workshop servicing plant or equipment used for rural purposes*

6.3 WATER PRONE AREA – ELLEN BROOK PALUSPLAIN

6.3.1 *Land subject to Inundation or flooding are delineated on the Scheme Map. Planning Approval is required for any development within the Special Control Area.*

6.3.2 Purpose

- a) To manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health.*
- b) To preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems. Shire of Chittering TPS 6 Page No. 33*
- c) To ensure that wetland environmental values and ecological integrity are preserved and mentioned.*

6.3.3 Planning Requirements

The Local Government will impose conditions on any Planning Approval relating to-

- a) the construction and occupation of any dwelling or outbuilding;
- b) the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council.;
- c) minimum floor levels for any building above the highest known water levels;
- d) any land use that may contribute to the degradation of the surface or subsurface water quality.
- e) no development other than for conservation purposes will be permitted within 30 metres of any natural water body;
- f) damming, draining or other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.

6.3.4 Relevant Considerations

In considering applications for Planning Approval, the Local Government shall have regard to-

- a) the likely impact on the health and welfare of future occupants;
- b) the proposed activities for the land and their potential increase in the risk of causing an increase in nutrients entering the water regimes;
- c) any provision or recommendation from any Catchment Management Plan;
- d) the likely impact on any wetland;
- e) buffer distances from any wetland.

Policy Implications

State: *Planning and Development Act (2005)*

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

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

The Planning Officer under took a site inspection 8 July 2015. Observations of the property indicated that the lot was very sandy in nature and had been used previously for grazing.

An existing, approved shed is located in the north-west corner and is on an elevated pad.

The proposed shed is to be located in the far-east corner (attachment 5) and is quite a distance from the Conservation Category Wetland.

The entrance to the battleaxe leg would need to be upgraded which will include widening to enable safe delivery of the product as too significance improvements to the battleaxe drive (attachment 5).

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

Liaising with Chittering Landcare, they indicated that the proposed shed is positioned in a suitable setback to the conservation category wetland (attachment 5 'Schedule of Submissions') but would require the applicant to adhere to comprehensive conditions to minimise any environmental impact.

Comment

The application subject of this report proposes to establish an 'Industry - Rural' on Lot 12 (RN 101) Timaru Road (attachment 1), Muchea in the form of a sole trader undertaking the bagging of manure and compost, the construction of a shed (30m x 20m with an additional 20 x 10m concrete apron) is required for this proposed use and also makes part of this application. Industry – Rural is considered a 'D' use in the Agricultural Resource zone land use in the *Shire of Chittering's Town Planning Scheme No. 6*.

Consultation

Nine (9) submissions were received from local residents in the form of objections, with the Applicant addressing the concerns in the Schedule of Submissions (attachment 5). Their key concerns were in relation to the following:

- Odour;
- Flies;
- Environmental Risk, i.e. groundwater contamination;
- Road Impact; and
- Safety.

In addressing the above, the officer's comments provides the following

Odour

The Applicant has addressed the issue of odour in the Schedule of Submission (attachment 5) as too the Applicant's supplier (attachment 6) stating that *'the finished compost smells like soil as all of the ammonia has been converted to nitrates and nitrites by the microbes'* (email 21/5/2015).

Furthermore, the manure and compost will be stored in a sealed shed, unlike the manure at nearby chicken farms which are stockpiled frequently and are fully exposed to the elements.

Under the Shire of Chittering's *Health Local Law 1998*, the Applicant is required to adhere to stringent conditions pertaining to nuisance such as odours and the like to prevent or diminish the offensiveness of a trade or to safeguard the public health.

It is considered should Council grant approval, it should impose a condition of approval requiring compliance with the management plan included in the application and the Shire's Health Local Law.

Sourcing of Manure and Compost

The Applicant in providing further information to the Shire's Officer has outlined the following in relation to their methodology in sourcing of manure and compost (refer attachment 5).

The compost is sourced from a business in the Shire of York. The proprietor states that:

"The compost ingredients is 50% sheep manure, 30% straw, and 20% broiler litter.

The product starts at a 25:1 CN ratio and finishes at about 7:1 . It remains at 55% moisture throughout. It stays between 55 - 70 degrees Celsius for around 40 days then enters a minimum maturation for 30 days before being sold. The compost gas remains above 5% oxygen and below 20% carbon monoxide to keep it aerobic. If my gas meter or thermometer show that the compost mix is outside any of the aforementioned parameters then the compost gets "turned" with a windrow machine.

The finished compost smells like soil as all of the ammonia has been converted to nitrates and nitrites by the microbes".

The manure products (cattle and sheep) is sourced from feedlots. The Applicant has advised that:

"All the manure that I buy is sourced from feedlots to provide my customers with a product that will not introduce weeds into their gardens. The digestive systems of sheep and cattle will not break down seeds, so any seeds consumed will remain in the manure and germinate.

The sheep/cattle that produce the manure that I supply are fed solely on pellets which are produced by crushing and steaming the grass/grain. This process eliminates the ability of the seeds to germinate preventing the spread of unwanted plant species" (email dated 18/6/2015).

Flies

In liaising with Chittering Landcare, they advised that to minimise fly risk and the effect on adjacent land owners, that a William Trap may be installed to mitigate any issues (attachment 5 'Schedule of Submissions'). Further to this, the Shire's Principal Environmental Health Officer contacted Dr David Cook, Etymologist (fly expert) who is contracted to the Department of Agriculture for the stable fly program and also Don Telford at the Department of Agriculture. In an email dated 25 May 2015 Dr Cook states *"we are of the opinion that the processing of the chicken manure in low proportion mixed with other manures and composted in the manner described below is sufficient treatment and should abate any potential fly breeding"*.

Environmental Risk

Whilst it is acknowledged that Lot 12 Timaru Road has both a conservation category and multiple use wetland, the proposed shed is envisaged to be setback around 80-90 metres from the conservation category wetland which generally is required a 100m setback. The proposed shed and concrete pad used to receive deliveries are envisaged to be constructed on an elevated concrete pad to the engineer's specifications for land within water prone areas.

Runoff from the 20 x 10 concrete pad will be directed into a collection and treatment system approved by the Department of Health.

Comment sought from the Department of Water indicated that the application be referred to the Department of Parks and Wildlife to ensure sufficient separation distance between the proposal and the wetland. Verbal discussion with the Department of Water and the Principal Environmental Health Officer indicated that they were agreeable to the proposal provided that no wastewater was disposed directly to ground.

Comment was also sought from the Department of Environmental Regulation however a response was not received prior in time to be included in the previous report submitted to Council, after significant engagement with the Department to have a response provided.

The Principal Environmental Health Officer contacted Teresa Depp at the Department of Environmental Regulation (DER) to discuss the proposal. Ms Depp advised that the DER will only make a formal assessment of the proposal if it fits into a 'prescribed premises' category under the *Environmental Protection Regulations 1997*. The proposal does not fit into any of the DER prescribed premises categories as it does not involve manure blending or composting on site, only bagging. Therefore the proposal does not require a Works Approval or Licence application to the DER.

The proposal is best dealt with under the Offensive Trade provisions of the *Health Act 1911* and the *Shire of Chittering Health Local Laws 1998* as a 'Manure Works'. This enables the necessary controls to prevent fly breeding, dust, odour and water pollution issues.

Road Impact

Whilst it is acknowledged that there will be some impact on the road from the deliveries, the Applicant has noted on average, deliveries of the product (un-bagged) to Lot 12 Timaru Road is envisaged to be less than 2 semi-loads per week. Additionally the property is located 1km from the intersection of Brand Highway which means that a considerable portion of Timaru Road should not be used or affected by the vehicles used for deliveries. It is considered that the vehicles and movements proposed as part of this application would not impact the road above any other normal rural activity that occurs in this area.

In respect to the battleaxe access, the Applicant has advised of their willingness (attachment 5 'Schedule of Submissions') to engage in upgrading it to a higher standard than what currently exists.

Should approval be granted, it is recommended that a condition be imposed requiring the Applicant to upgrade the crossover accessway and any delivery areas to the satisfaction of the Chief Executive Officer.

Operations

In the report submitted with their application for Planning Approval (attachment 1) the Applicant outlined the basis of the operations of the business, indicating that he is the sole operator, with the possibility of an additional employee to help during busy periods.

Deliveries of the bagged product would be made from the property by the owner.

The Applicant has outlined the hours of operations as Monday to Saturday 7am – 6pm, with a large degree spent on deliveries with bagging possibly occurring 2 or 3 times per week.

The Applicant has also provided the following information in relation to the proposed Annual Manure Consumption and Stored Amounts:

"Based on current levels this is my approximate annual usage:

- Cow Manure 300m³
- Compost 350m³
- Sheep Manure 1500m³

I have a very good supply of all 3 products so would not have the need to stockpile so the amounts below are absolute maximum amounts for unbagged product:

- Cow 30m³
- Compost 20m³
- Sheep Manure 60m³

I would envisage a maximum of 600 bags in stock at any time although in reality this figure would be closer to 200 most of the year. This equates to a maximum of 50m³" (email dated 21 May 2015).

Due to concerns raised in the public submissions it is recommended that should approval be granted a condition be imposed restricting all activities during rainy periods to reduce the likely nature of moisture getting into the manure.

Conclusion

The application to construct a shed (20 x 30m including a 20 x 10m concrete apron) and allow for an additional use for 'Industry – Rural' on Lot 12 Timaru Road Muchea should be approved based on the following:

- The use of bagging manure and compost meets the objectives outlined in the definition of 'Industry – Rural' in that it is 'an industry handling, treating, processing or packing rural products';
- The product (manure and compost) will be stored in a sealed shed which is 300m from the nearest residential dwelling;
- The proposed shed is of a sufficient setback to the conservation category wetland;
- The proposed shed and concrete pad for deliveries will be elevated on a sand and concrete pad to ensure that the product delivered and stored does not come in contact with the ground; and
- Liaison with referral authorities (such as Chittering Landcare) and other health professionals advised that the establishment of such a business should not significantly enhance already established issues (i.e. odour, flies) however strict conditions and compliance of such would need to be implemented to ensure no adverse effects to surrounding properties and the wetlands and ground water.

It is considered that the proposed land use is suitable for this area and will not impact surrounding landowners above what is normally experienced in a rural area.

Discussion during the meeting

The Commissioner sought confirmation from staff that there are appropriate control mechanisms in place to ensure that should any unexpected situations arise in relation to the activities on the property they can be dealt with effectively.

The Principal Environmental Health Officer confirmed that there are effective control mechanisms in place to ensure compliance.

9.1.3 OFFICER RECOMMENDATION

That the Commissioner:

Grant temporary planning approval for 5 years for the proposed 'Industry – Rural' at Lot 12 (RN 101) Timaru Road, Muchea subject to the following conditions:

1. Planning permission is granted for the construction of a 20m x 30m Agricultural Shed in addition to a 20 x 10m concrete apron.
2. The shed is to be constructed with gutters and downpipes with all stormwater managed onsite.
3. Stormwater is to be collected in a minimum 20,000L tank for dust suppression.
4. The shed is to be constructed within the setback requirements for Agricultural Resource zoned land including a minimum 80m setback from the Conservation Category Wetland.
5. The proposed shed and concrete pad are to be built on an elevated sand pad and concrete pad to the satisfaction of the Shire's Principal Building Surveyor.
6. The Applicant is to construct an industrial crossover within 3 months of approval being granted prior to the construction of the shed and deliveries of products to the satisfaction of the Chief Executive Officer.
7. The Applicant is to submit a staged plan for the resurfacing of the battle-axe leg to the satisfaction of the Chief Executive Officer with its implementation within 3 months of approval being granted.
8. The Applicant is to have an average of 2 deliveries (delivered by vehicle no longer than 27.5metres) of the product per week with any additional deliveries requiring additional planning permission.
9. The hours of operation are to be Monday to Saturday; 7.00am – 6.00pm.
10. All loads are to be delivered covered and transferred inside the shed as soon as practicable.
11. The Applicant is to install 2 x William Traps (for stable fly) prior to the delivery of manure and compost onto Lot 12 Timaru Road.
12. Deliveries and loading is not to be undertaken on days of high winds or high rainfall.

Advice Notes

1. The Applicant is to undertake bagging only of the product delivered onsite, with no blending or composting of materials onsite. All bagged products are to be correctly labelled as per Department of Health requirements.
2. The delivery pad is to incorporate a wastewater collection system capable of preventing wastewater entering the surrounding environment.
3. The wastewater collection and treatment system is to be approved by the Department of Health.
4. The premises are to be registered annually as an "Offensive Trade" under the provisions of the *Health Act 1911* and the *Shire of Chittering Health Local Law 1998* subject to payment of the prescribed fee and satisfactory compliance with Conditions of Approval.
5. The Shire's Principal Environmental Health Officer to issue relevant conditions of operation to control nuisances relating to dust, odour and the storage of materials following Planning Approval being issued.
6. Noise levels are to comply with the requirement of the *Environmental Protection (Noise) Regulations 1997*.

AMENDMENT

The Commissioner requested that an additional advice note be included as follows:

"Regular checks of the premises are to be undertaken by shire staff to ensure compliance with the conditions of approval."

THE COMMISSIONER DECLARED THE AMENDMENT CARRIED

9.1.3 SUBSTANTIVE MOTION - RESOLUTION 040815

That the Commissioner:

Grant temporary planning approval for 5 years for the proposed 'Industry – Rural' at Lot 12 (RN 101) Timaru Road, Muchea subject to the following conditions:

1. Planning permission is granted for the construction of a 20m x 30m Agricultural Shed in addition to a 20 x 10m concrete apron.
2. The shed is to be constructed with gutters and downpipes with all stormwater managed onsite.
3. Stormwater is to be collected in a minimum 20,000L tank for dust suppression.
4. The shed is to be constructed within the setback requirements for Agricultural Resource zoned land including a minimum 80m setback from the Conservation Category Wetland.
5. The proposed shed and concrete pad are to be built on an elevated sand pad and concrete pad to the satisfaction of the Shire's Principal Building Surveyor.
6. The Applicant is to construct an industrial crossover within 3 months of approval being granted prior to the construction of the shed and deliveries of products to the satisfaction of the Chief Executive Officer.
7. The Applicant is to submit a staged plan for the resurfacing of the battle-axe leg to the satisfaction of the Chief Executive Officer with its implementation within 3 months of approval being granted.
8. The Applicant is to have an average of 2 deliveries (delivered by vehicle no longer than 27.5metres) of the product per week with any additional deliveries requiring additional planning permission.
9. The hours of operation are to be Monday to Saturday; 7.00am – 6.00pm.
10. All loads are to be delivered covered and transferred inside the shed as soon as practicable.
11. The Applicant is to install 2 x William Traps (for stable fly) prior to the delivery of manure and compost onto Lot 12 Timaru Road.
12. Deliveries and loading is not to be undertaken on days of high winds or high rainfall.

Advice Notes

1. The Applicant is to undertake bagging only of the product delivered onsite, with no blending or composting of materials onsite. All bagged products are to be correctly labelled as per Department of Health requirements.
2. The delivery pad is to incorporate a wastewater collection system capable of preventing wastewater entering the surrounding environment.
3. The wastewater collection and treatment system is to be approved by the Department of Health.
4. The premises are to be registered annually as an "Offensive Trade" under the provisions of the *Health Act 1911* and the *Shire of Chittering Health Local Law 1998* subject to payment of the prescribed fee and satisfactory compliance with Conditions of Approval.
5. The Shire's Principal Environmental Health Officer to issue relevant conditions of operation to control nuisances relating to dust, odour and the storage of materials following Planning Approval being issued.
6. Noise levels are to comply with the requirement of the *Environmental Protection (Noise) Regulations 1997*.
7. Regular checks of the premises are to be undertaken by Shire staff to ensure compliance with the conditions of approval.

THE COMMISSIONER DECLARED THE SUBSTANTIVE MOTION CARRIED

9.1.4 Section 70A Notification Authorisation: Lot 67 Archibald Street, Muchea*

Report date	19 August 2015
Applicant	Shire of Chittering
File ref	18/03/102, WAPC Ref 151455
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Section 70A Notification document

Background

On 4 May 2015, the Western Australian Planning Commission granted a subdivision approval for two (2) lots subject to several conditions. The subdivision for two (2) lots is consistent with the layout of the development plan.

Conditions No. 2 and 3 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 of the proposed lots. The purpose of the Section 70A Notifications is to advise the future landowners that 'a mains potable water supply is not available to the lot/s' and 'a reticulated sewerage service is not available to the lot/s'.

This report is to seek authorisation from the Commissioner for the Common Seal to be affixed and for the Commissioner and Chief Executive Officer to sign the Section 70A Notification documents for their execution.

Consultation

Not applicable

Statutory Environment

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

Policy Implications

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. 2 and 3 of the subdivision approval, the Applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (attachment 1). The execution of this document requires the Commissioner and Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.1.4 OFFICER RECOMMENDATION – RESOLUTION 050815

That the Commissioner:

In relation to the subdivision (WAPC 151455) of Lot 67 Archibald Street, Muchea:

- 1. Sign the Section 70A 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/s’ and ‘a reticulated sewerage service is not available to the lot/s’ on Lots 221 and 222 on Deposited Plan 405306 and any other relevant documents pertaining to subdivision WAPC 151455.**
- 2. Authorise the Chief Executive Officer to sign and affix the Common Seal to the 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/s’ and ‘a reticulated sewerage service is not available to the lot/s’ on Lots 221 and 222 on Deposited Plan 405306 and any other relevant documents pertaining to subdivision WAPC 151455.**

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.1.5 AROC Strategic Waste Management Plan 2015 to 2020

Report date	19 August 2015
Applicant	Avon Regional Organisation of Councils (AROC)
File ref	31/02/0001
Prepared by	Glenn Sargeson, Principal Environmental Health Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	1. Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020
Attachments	Nil

Background

The Avon Regional Organisation of Councils (AROC) is a regional grouping of six local governments consisting of the Shires of Chittering, Dowerin, Goomalling, Northam, Toodyay and Victoria Plains.

A report was presented to the Ordinary Meeting of Council on 21 May 2014 following a request from AROC for participating Shires to form a waste group in the context of a Strategic Waste Management Plan (SWMP) for future Regional Infrastructure Program funding. Council resolved that the Council withdraw from the Central Midland Group of Councils Waste Group and combine with the Avon Regional Organisation of Councils (AROC) Waste Group on the condition that all other member Councils of AROC take the same action.

In February 2015 the AROC appointed IW Projects to develop a SWMP for the region. The consultant for the project, Ian Watkins, reviewed each Shire's existing waste management plans to determine priorities. The Shire of Chittering SWMP was completed in February 2014 by Talis Consultants. The consultant also took into consideration the Waste Authority's Waste Strategy – "Creating the Right Environment" and their annual Business Plan 2014/15 which includes projections through to 2018/2019 to provide guidance to the group and the direction of the final report.

The final report for the project "Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020" was issued on 9 July 2015. The report indicated that across the group there was a diverse range of priorities however common themes related to improving or implementing kerbside recycling collection services; collection of hazardous household waste; E- waste (i.e. electronic waste) and the diversion of greenwaste from landfill. Based on the review of the group's previous SMWP's and the progress achieved within the group, the following were considered to be the group's priority areas:

- Waste management activity coordination and leadership
- Data collection
- Existing recycling activities
- Additional recycling activities
- Landfill management
- Community education
- Increased participation in recycling activities

Based upon the above priority areas, the following were considered to be the group's priority wastes:

- Comingled recyclables waste
- Household Hazardous Waste
- E-Waste
- Landfilled Waste
- Organic waste (primarily green waste)

The Commissioner's consideration is requested to endorse the final report "Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020" (tabled)

Consultation

The consultant for the project was Ian Watkins of IW Projects
Representatives from each of the participating Councils
AROC Chief Executive Officers group

Statutory Environment

State: *Waste Avoidance and Resource Recovery Act 2007* (WARR Act)
Waste Avoidance and Resource Recovery Regulations 2008

Policy Implications

State: *Waste Authority "WA Waste Strategy – Creating the Right Environment"*

Financial Implications

The individual group participants will require political and financial support from their councils in order to achieve noticeable improvements in waste management activities within the Shires and the region. This support is essential for the future success of the group's proposed activities. However, it is pointed out that none of the proposed activities are compulsory and it is up to each individual Shire to select activities that will benefit their Shire, taking into consideration the cost and affordability associated with implementation. It is envisaged that the Shire of Chittering will collaborate with like-minded Shires within the group on specific projects which will entail an assessment of costs, funding opportunities and budgetary requirements. All recommendations will be forwarded to the AROC Chief Executive Officers group meetings for consideration.

As the AROC is identified by the Waste Authority as being within a major regional centre (Avon) there is the opportunity to access significant funding from the Waste Authority to implement some of the proposed activities, so long as the activities are in line with the Waste Authority's strategic direction. The group is to actively pursue available funding sources to supplement the financial contributions from individual councils. Generally Waste Authority grants require co-funding from the regional group or at least 'in-kind' contributions.

Individual Councils may have to contribute towards the cost of employing a Regional Waste Management/Education Coordinator to oversee the project implementation (this is discussed further under the section Comments).

Strategic Implications

The objective of the *AROC Strategic Waste Management Plan 2015 to 2020*, broadly, is to improve waste management practices in the region so as to comply with legislative requirements (the WARR Act) and State Government Strategy and Policy and in so doing to provide a better waste and recycling service to the community.

The *AROC Strategic Waste Management Plan 2015 to 2020* proposed activities are in accordance with several of the recommendations within the Shire of Chittering SWMP February 2014 which was prepared by Talis Consultants.

The AROC Strategic Waste Management Plan 2015 to 2020 also supports the Shire of Chittering Strategic Community Plan 2012 to 2022 as follows:

Natural Environment: Preserving and Enhancing Our Natural Environment					
Our Vision: Chittering values its clean rural environment and our communities will ensure local communities and visitors enjoy the natural beauty of our lakes, wetlands and natural areas.					
Outcome	Strategies	Key Priorities	Links	Timeframe	Partners
	Reduce waste through recycling and re-use	Strengthen recycling – waste (educate)	SOC Waste Management Strategy	Ongoing	DEC AROC

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

It is expected that improvements in landfill management practices will extend the life of the Shire's landfills thereby saving significant future funds in establishing new landfills or alternative waste disposal systems.

Social implications

The AROC project will assist the community towards a better understanding of waste and recycling management practices.

Environmental implications

Improved management at landfills and greater awareness by the community of best practices related to the four R's i.e. Reduce, Reuse, Recover and Recycle will result in less wastage of valuable materials and less contamination of landfills with harmful materials. This will have long-term environmental benefits.

Comment

The AROC SWMP 2015 to 2020 has a phased approach relating to each financial year of the plan (see Table 1 – Proposed Activities 2015 to 2020).

Table 1 - Proposed Activities 2015 to 2020

- **2015 – 2016 Financial Year**
 - (i) Establish a Waste Management Working Group within AROC or appointment of a dedicated Regional Waste Management Coordinator
 - (ii) Knowledge sharing within the region
 - (iii) Improve systems for the collection and recording of waste management data
 - (iv) Investigate and implement improvements to existing recycling systems
 - (v) Improve/implement Hazardous Household Waste drop off facilities
 - (vi) Review of disposal facility gate fee structure

- **2016 – 2017 Financial Year**
 - (vii) Extraction of recyclables from landfill and transfer station tipping area
 - (viii) Improve compliance with landfill Registration and Licence conditions
 - (ix) Improve landfill planning and overall management
 - (x) Regional sharing of waste management equipment
 - (xi) Investigate benefits for joint tendering
 - (xii) Local Governments lead by example
- **2017 – 2018 Financial Year**
 - (xiii) Waste Management Working Group to undertake waste education activities or appointment of a dedicated Regional Waste Education Coordinator
 - (xiv) Develop a common website structure for waste management information
 - (xv) Develop a regional waste management calendar
 - (xvi) Improve participation rates in existing recycling systems
 - (xvii) Increase the range of materials that can go into the comingled recycling bin
 - (xviii) Increase opportunities for recycling drop off
- **2018 – 2019 Financial Year**
 - (xix) Green waste diversion from landfill
 - (xx) Develop/improve tip shop facilities
 - (xxi) Improve staff training in waste management activities
 - (xxii) Ongoing community education
- **2019 – 2020 Financial Year**
 - (xxiii) Continuous improvement and rollout of above activities

As mentioned, none of the proposed activities are compulsory, however participating Shires can pick and choose from the list and develop partnerships to progress any activities that are deemed to be beneficial to their Shire. It is up to each participating Shire to investigate options including researching available funding opportunities. It should also be recognized that it would not be possible to implement all of the proposed activities. It depends upon the availability of staff time and the level of political and financial support as to what can be achieved through the project.

It is considered that the process to date whereby the consultant has met with individual Shire representatives and collectively as a group as well as reviewing current and historical waste management plans and practices has resulted in a report which has identified the key issues that need to be addressed.

Attachment 1 includes in the year 2015 to 2016 as Priority 1 the appointment of a Regional Waste Management Coordinator. This was considered to be a necessary element in order to maintain the focus and momentum of the working group over the five-year time frame. To illustrate the work involved, the process of applying for grant funding from the Waste Authority and the ongoing reporting requirements can be onerous and time consuming. None of the members of the working group considered they had the capacity to take on this role. The matter was discussed at the AROC meeting of CEO's on 6 July 2015 and it was decided that the preference was to initially propose a Waste Management Working Group (as originally suggested by Northam) but to also include that a Regional Waste Management Coordinator may be appointed in future if the group deemed it necessary.

There is also the suggestion of the appointment of a Regional Waste Education Coordinator (refer to Priority 13, 2017 to 2018 in Table 1). This may or may not be the same person as the Regional Waste Management Coordinator depending on the working group's decision on the necessity for these positions.

What needs to be raised at this point in time is that if it became evident that such positions were necessary, and there was no individual member of the group willing or able to take on the role(s), there could be a future cost. This could entail financial contributions from participating Councils to fund a paid appointment.

9.1.5 OFFICER RECOMMEDATION

That:

1. The Commissioner endorses the Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020;
2. The Principal Environmental Health Officer is to keep the Chief Executive Officer apprised of the activities and recommendations of the AROC working group; and
3. The Principal Environmental Health Officer is to report annually to Council on the activities/achievements of the group, in particular those activities in which the Shire of Chittering participates.

AMENDMENT

The Commissioner requested that condition 1 be amended to read:

1. **The Commissioner endorses the Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020, subject to all participating AROC member Councils endorsing the Plan.**

THE COMMISSIONER DECLARED THE AMENDMENT CARRIED

9.1.5 SUBSTANTIVE MOTION – RESOLUTION 060815

That:

1. **The Commissioner endorses the Avon Regional Organisation of Councils Strategic Waste Management Plan 2015 to 2020, subject to all participating AROC member Councils endorsing the Plan.**
2. **The Principal Environmental Health Officer is to keep the Chief Executive Officer apprised of the activities and recommendations of the AROC working group; and**
3. **The Principal Environmental Health Officer is to report annually to Council on the activities/achievements of the group, in particular those activities in which the Shire of Chittering participates.**

THE COMMISSIONER DECLARED THE SUBSTANTIVE MOTION CARRIED

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 July 2015*

Report Date	19 August 2015
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	1. Financial Statements for period ending 31 July 2015
Attachments	1. List of accounts paid for July 2015 Bank reconciliation for period ending 31 July 2015 Statement of Financial Activity for period ending 31 July 2015

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.

The statement of financial activity for the period ending 31 July 2015, financial statements, bank reconciliation and list of accounts paid for the period ending 31 July 2015 are hereby presented for the Commissioner's information.

Consultation

Chief Executive Officer
Executive Manager Development Services
Executive Manager Technical Services
Manager Human Resources
Community Emergency Services Manager
Building Co-ordinator

Statutory Environment

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

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

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 Commissioner is requested to accept the monthly statement of financial activity, financial statements, bank reconciliation and list of payments as presented.

9.3.1 OFFICER RECOMMENDATION – RESOLUTION 070815

That the Commissioner:

- 1. Endorse the list of payments:**
 - a. PR3550**
 - b. PR3567**
 - c. PR 576**
 - d. EFT 11224 - EFT 1376**
 - e. Municipal Fund Cheques 13928 – 13943**
 - f. Direct Debits and Transfers as listed**
 - g. Trust Fund Cheques 465 - 468****Totalling \$1,368,402.37 for the period ending 31 July 2015.**
- 2. Receive the bank reconciliation for the period ending 31 July 2015.**
- 3. Receive the financial statements for the period ending 31 July 2015.**

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 2015 Local Government Elections

Report date	19 August 2015
Applicant	Shire of Chittering
File ref	13/06/0001
Prepared by	Danica Kay, Executive Assistant
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Background

Ordinary local government elections are held on the third Saturday in October every two years, the 2015 Elections are to be conducted on Saturday 17 October.

On 15 April 2015 Council resolved as follows:

"That Council:

- 1. declares, in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the 2015 ordinary elections together with any other elections or polls which may also be required.*
- 2. decides, in accordance with Section 4.61(2) of the Local Government Act 1995 that the method of conducting the election will be as a postal election."*

Following this, the Shire has advised the WA Electoral Commission.

Consultation

Nil

Statutory Environment

State: *Local Government Act 1995*

Policy Implications

Nil

Financial Implications

The estimated cost provided by the Electoral Commission for them to conduct the postal election is \$20,000 (excluding GST).

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 WA Electoral Commission has also confirmed that Richard Siudak has been appointed as the Returning Officer for the Shire of Chittering in 2015.

The closing date and time for elector enrolments is 5.00pm Friday 28 August 2015.

The Shire will be holding a prospective Candidate information session on 2 September 2015 at 5pm, where representatives from the WA Electoral Commission and Department of Local Government will be making presentations and providing information.

Nominations for candidates open Thursday 3 September 2015 and close on 10 September 2015. A deposit of \$80 is required to be paid at the time of nomination.

The next Ordinary meeting of Council following the elections on 17 October 2015 is Wednesday 21 October 2015. This is when the swearing in of Elected Members will occur and Shire President and Deputy Shire President voted on.

Eligibility

Under section 4.48 of the *Local Government Act*, any person who meets the qualifications of section 2.19 may nominate for council in a local government election.

Under the qualifications of section 2.19 of the Act, any person who is 18 years of age or older, and is currently on the local government's electoral roll, can nominate for council, unless that person is only on the roll as the nominee of a body corporate, or does not meet the requirement of being on a State or Commonwealth electoral roll and is therefore only on the local government's electoral roll because of the Act's exemption from that requirement in clause 12 of Schedule 9.3.

Sections 2.20 to 2.24 of the Act prohibit a person from being on council if he or she:

- is a member of parliament or another council;
- is a financial insolvent;
- is currently serving a prison sentence;
- has been convicted of a serious local government offence in the previous five years;
- has been convicted of an offence for which the indictable penalty was imprisonment of more than five years; or
- has been found personally liable for misapplying local government funds or property in the previous five years.

Discussion during the meeting

Commissioner Partridge explained to the meeting that he had requested this report be presented for public information so that everyone would be aware of the important dates.

9.4.1 OFFICER RECOMMENDATION – RESOLUTION 080815

That the Commissioner:

Receives the report on the 2015 Local Government Elections.

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.4.2 Vesting Order: Lot 8017 on DP 400412, Santa Gertrudis Drive, Lower Chittering to the Shire of Chittering*

Report Date	19 August 2015
Applicant	Shire of Chittering
File ref	A11560
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Plan

Background

On 30 July 2015 the Shire of Chittering received notification from the Department of Lands (ref I1452107) advising that Lot 8017 on DP 400412 Santa Gertrudis Drive, Lower Chittering was ceded to the Crown for the purpose of "Public Recreation".

The Shire responded to the Department on 7 August 2015 (ref O1562236) accepting management of Lot 8017 for the purposes of 'Public Recreation'.

Lot 8017 (10ha) is earmarked by the Shire for development of a sports facility for the Lower Chittering area.

The ceding of Lot 8017 to Council was a condition of subdivision for Stage 11 of Maryville Estate and a requirement under a Deed of Agreement.

The Commissioner's consideration is requested to endorse the actions of the Shire's Development Services Department.

Consultation

Executive Manager Technical Services

Community Emergency Services Manager/Chief Bush Fire Control Officer

Statutory Environment

Land Administration Act 1997

Planning and Development Act 2005, section 152

Policy Implications

Nil

Financial Implications

There will be ongoing maintenance fees for the upkeep of the locality, i.e. ensuring that firebreaks are properly maintained/installed, etc.

Strategic Implications

Strategy	Develop recreational areas for future generations
Key priority	Explore options to build a multipurpose recreational centre(s)
Measurable result	Undertake feasibility study to establish community needs for new sporting facilities
Timeframes	0-10yrs

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

As part of the development of Maryville Estate the Shire has been in discussions with the developers on vesting the designated Public Open Space area. Upon receipt of the letter from the Department of Lands the Shire's Development Services Department subsequently advised that the Shire will accept management of Lot 8017 for purposes of public recreation.

9.4.2 OFFICER RECOMMENDATION – RESOLUTION 090815

That the Commissioner:

Endorse the actions of the Shire's Development Services Department in writing to the Department of Lands accepting the management of Lot 8017 on DP 400412 for the purposes of "Public Recreation".

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.4.3 Chittering Health Centre: Lease of Northern Wing*

Report date	19 August 2015
Applicant	Shire of Chittering
File ref	03/01/10
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Registration of Interest (ROI) – Chittering Health Centre document2. Jupiter Health & Medical Services - submission3. Alan Barnes - submission4. Bullsbrook Family Medical Centre - submission5. Assessment summaries6. Shire of Gingin – Referee responses

Background

Council at a Special Meeting held on the 14th July 2015 resolved as follows;

That Council resolve:

1. *to endorse the Chittering Health Centre Registration of Interest document for the purpose of advertising for submissions by Registered General Practitioners.*
2. *that the Chittering Health Centre Registration of Interest be advertised for a period 21 days from the date of notice.*
3. *that a further report be presented to Council at the conclusion of the advertising period.*
4. *that in the best interests of the community the Shire President and the Chief Executive Officer meet with Dr Hayward to request that she consider:*
 - a. *remaining at the Binda Place Practice as a minimum, on a part-time basis until a replacement GP is confirmed;*
 - b. *assisting those members of the community who are on Care Plans and those who are less able to find another GP, with securing medical services; and*
 - c. *assisting those members of the community who will no longer be employed at the Binda Place Practice, to find employment elsewhere.*

An advertisement was placed in the West Australian Newspaper on 18 July 2015 calling for Registration of Interest with the closing date being 10 August 2015.

The vacant GP positions were also registered with Rural Health West who specialise in recruiting general practitioners, nurses, dentists and allied health professionals to rural and remote locations in Western Australia. Their service is provided free of charge via federal funding.

The following (3) three “Registrations of Interests” were received by the closing date:

1. Jupiter Health & Medical Services (JHMS) Pty Ltd
2. Bullsbrook Family Medical Practice (Midemed Pty Ltd)
3. Alan Barnes

Consultation

Wheatbelt GP Network
Rural Health West
Australian Health Practitioner Regulation Agency – Register of Practitioners
Shire of Gingin
Shire of Northam
Three Springs
Dr Ogundipe and Coleen Nagel (Bullsbrook Family Medical Practice)

Assessment

The selection assessment was based on the following criteria:

Description	Percentage
A. Relevant Experience <ol style="list-style-type: none"> Provide details of running GP Health services Demonstrate competency and proven track record of achieving outcomes. 	25%
B. Key Personnel Skills & Experience <ol style="list-style-type: none"> Their role in performance of the lease Curriculum Vitae Membership to any professional or business association Qualifications, with particular emphasis on experience of personnel in health services Any additional information. 	25%
C. Respondent's resources <ol style="list-style-type: none"> Medical, equipment and materials Any contingency measures or backup of resources including personnel Staff resource plan 	25%
D. Demonstrated Understanding & Service Plan <ol style="list-style-type: none"> A project schedule/Timeline The process for delivery of Services Demonstrated understanding of the lease requirements 	25%

Criteria assessment scoring table

Score	Rating	Guide
5	Excellent	Demonstration excellence, sustainability exceeds minimum requirements, a number of superior features
4	Good	Exceeds requirements in some respects
3	Fair	Meets requirements with no material concerns or deficiencies
2	Marginal	Some areas of concern in relation to ability to meet minimum requirements or some deficiencies
1	Poor	Fails to meet minimum requirements in several respects, contained insufficient or unclear information
0	Fail	Fails to meeting minimum requirements in all respects or did not respond

Based on the ROIs received an assessment was made by the Chief Executive Officer and Executive Manager Corporate Services against the criteria supplied in the ROI document.

The assessment summaries are provided in attachment 5.

As a result of this assessment the offer submitted by Jupiter Health & Medical Services Pty Ltd received the highest score (70%), being the most advantageous proposal.

Business Name	QUALITATIVE CRITERIA								TOTAL	Rent offered
	Relevant Experience		Key Personnel & Experience		Tenderers Resources		Demonstrated Understanding			
	Score 0-5	Weighted Score	Score 0-5	Weighted Score	Score 0-5	Weighted Score	Score 0-5	Weighted Score		
Jupiter Health & Medical Services	4	20	3	15	3	15	4	20	70	\$10,800 pa
Alan Barnes	0	0	0	0	1	5	2	10	15	Rent free first year, \$52k pa thereafter
Bullsbrook Family Medical Practice	3	15	3	15	2	10	3	15	55	\$540 pa

Whilst the submission made by the Bullsbrook Family Medical Practice was of a high quality, the difference in the assessment scores between them and JHMS is explained by the following:

- (Relevant Experience) JHMS was the only applicant with experience in operating multiple health centres, currently operating 12 across the state. Therefore gained one additional point, scoring 4 points.
- JHMS currently employees over 40 Doctors and has approximately 50 support staff. This large number of doctors will assist in providing continuity of service should one of the dedicated chittering doctors be on leave or sick.
- (Tender resources) JHMS was the only applicant to offer two fulltime doctors within 2 months of commencing operations at the Health Centre. JHMS scored 3 points for meeting the requirement, as where BFMP, failed to meet this requirement by offering 2 doctors after 12 months.
- (Demonstrated understanding) JHMS was the only applicant to offer two evening surgeries (Tuesday and Thursday) which was beyond the requirements of the ROI. An additional point was awarded here as this offer was above what was required in the ROI.
- (Key personal & Experience) were rated equally for both submissions, 3 points each.
- JHMS offered the largest amount of rent pa (\$10,800) for the northern wing of the health centre.

Other than these points, the submissions were very similar, both offering 5.5 days a week service and similar bulk-billing arrangements.

Jupiter Health & Medical Services (JHMS) Pty Ltd ACN 151 083 055

JHMS has been in business for four (4) years since 24 May 2011 providing services to the following eight (8) regional/rural towns under the following practices;

- Kambalda Family Practice
- Kondinin Family Practice
- Three Springs Medical Centre
- Northam Family Practice
- Lancelin Medical Centre
- Mundijong Family Practice
- Port Hedland Family Practice
- Mandurah (the Bridge Family Practice)

In total JHMS manage 12 Medical Practices across the state (including the metropolitan area) employing 40 doctors and approximately 50 support staff.

The Directors of JHMS are Dr Edward S B Solomon and Dr Michael H Gendy.

Referees supplied and were contacted via email, at the time of writing the report only the Shire of Gingin had responded (refer to attachment 6).

Statutory Environment

State: Local Government Act 1995

Section 3.58 of the Local Government Act – Disposing of Property

(1) *In this section —*

dispose includes to sell, **lease**, or otherwise dispose of, whether absolutely or not;
property includes the whole or any part of the interest of a local government in property, but does not include money.

State: Local Government (Functions & General) Regulations 1996, section 30 states:

30. *Dispositions of property to which section 3.58 of Act does not apply*

(1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*

(2) *A disposition of land is an exempt disposition if—*

(a) *the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**) and—*

(i) *its market value is less than \$5000; and*

(ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*

(b) *the land is disposed of to a body, whether incorporated or not—*

(i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*

(ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

(c) *the land is disposed of to —*

(i) *the Crown in right of the State or the Commonwealth;*

(ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*

(iii) *another local government or a regional local government;*

(d) *it is the leasing of land to an employee of the local government for use as the employee's residence;*

(e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;*

(f) **it is the leasing of land to a person registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession to be used for carrying on his or her medical practice; or**

(g) *it is the leasing of residential property to a person.*

Section 5 Part II – General interpretation provisions of *Interpretation Act 1984* provides the following;
“person or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporate;”

Therefore, section 3.58 of the *Local Government Act 1995* does not need to be complied with in relation to the proposed lease.

Policy Implications

Nil

Financial Implications

If Jupiter Health & Medical Services offer is accepted they have offered to pay rent of \$900 plus GST per month or \$10,800 pa.

All operating costs of the facility will be the responsibility of the lessee (power, water, cleaning...etc).

Total loan repayments for the building equal \$51,671 for 2015/16, reducing over time as repayments are made.

A fixed loan at 4.4% on \$637,359 has been taken over a period of 20 years to assist fund the construction of the building.

Estimated annual maintenance costs are expected to be \$28,000 (includes surrounds).

Estimated annual insurance costs (Building) \$5,500.

Total estimated cost to Council \$ 85,171 pa (Loan repayments & Maintenance).

Therefore the expected total costs of the Northern Wing is \$42,585 (50% of the total).

Based on the offer made by JHMS, Council will be subsidising the operation of the Northern Wing by approximately \$31,785.00 pa.

A valuation report has been provided by Landgate which places a market rental value of between \$200 to \$250 per square metre, plus GST, plus outgoings. Total estimated income \$54,000 (\$200) to \$67,500 (\$250) pa for half the building.

Strategic Implications

Shire of Chittering Community Strategic Plan - Social: Building a Sense of Community

Strategy: *Advocate for local health and youth services.*

- *Construction of a multipurpose health centre facilitating current and additional services.*
- *Increased facilities and number of medical services available within the Shire for residents of all ages.*

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

The need for greater medical services was identified in Council's Strategic Corporate Plan:

"Council's priority for the next ten years should be on providing better medical facilities for a growing and ageing population."

Environmental implications

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

Comment

Dr Gendy and Soloman requested a site inspection of the new facility and met with the CEO on 29 July 2015 to inspect the Health Centre, at which time a request was made to consider lowering the bulk-billing age, they (JHMS) agreed to reduce it from their original proposal from 70 to 65.

The CEO sought further clarification regarding their submission on the 31 July 2015 and received the following additional information:

- Commencement of service 4 weeks after the lease confirmation has been received – ideally 1st September 2015.
- Operating hours will be from 8:30am to 5:00pm Monday to Friday.
- Two evening openings Tuesday and Thursday till 7:30pm or later depending on demand.
- Saturdays 9:00am to 1:00pm.
- The Drs who will operate the practice (Dr Esklander and Dr Andrawis) are a husband and wife team.
- Dr Esklanders Registration number is MED0001869798 and Dr Andrawis is about to qualify within the next two months.

It is recommended that JHMS proposal be accepted as it has addressed the majority of the special conditions of the lease/KPIs in that they will provide;

- Rent \$10,800 plus GST
- 5.5 day a week service, with two permanent doctors
- Provide two evening surgeries to 7:30pm (Tuesday and Thursday)
- Bulk billing will be made available to 65 and over, 16 and under, Healthcare and Pension Cardholders
- Will look to employ current GP staff subject to their own interview/selection process.
- Their patient billing is in line with recommended Australian Medical Association (AMA) practices.

JHMS have requested that there be no additional charges for subleasing the rooms, therefore it is recommended that section 5 of the additional terms and covenants be removed from the lease.

Discussion during the meeting

Before considering the Officer's Recommendation, Commissioner Partridge outlined the process that had been undertaken, and assured the public gallery that all due consideration had been given to the matter, before making his final determination on the matter.

9.4.3 OFFICER RECOMMENDATION – RESOLUTION 100815

1. That the Commissioner resolves to accept the offer from Jupiter Health and Medical Service Pty Ltd as detailed in their submission, and authorise the Chief Executive Officer to conclude all required negotiations to finalise the lease agreement.
2. That the following amendments be made to the lease schedule for the Chittering Health Centre:
 - a. Item 2 – Term, insert start date 1st September 2015, expiring on the 31st August 2020;
 - b. Item 3 – Further Term, insert start date 1st September 2020, expiring on the 31st August 2025;
 - c. Item 5 – Rent, insert \$10,800pa;
 - d. Item 10 – Additional Terms and Covenants subsection 2 (2) be amended to read “All patients 65 and over, 16 and under, and Healthcare and Pensioner cardholder are to be Bulk billed”; and
 - e. Item 10 – Additional Terms and Covenants subsection 5 be deleted.
3. That the Commissioner and Chief Executive Officer be authorised to sign and affix the Common Seal to the Lease document for the Chittering Health Centre.

THE COMMISSIONER DECLARED THE MOTION CARRIED

10. REPORTS OF COMMITTEES

Nil

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

13. NEW BUSINES 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 Commissioner, Graham Partridge OAM, declared the meeting closed at 7.40pm.



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