

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

Wednesday, 21 August 2013

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.00pm
Closure: 8.22pm



Shire of
Chittering

These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 18 September 2013.

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.

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* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.00pm.

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

2.1 Attendance

The following members were in attendance:

| | |
|---------------------|------------------------------|
| Cr Alex Douglas | President (Presiding Member) |
| Cr Robert Hawes | Deputy |
| Cr Barni Norton | |
| Cr Sandra Clarke | |
| Cr Doreen Mackie | |
| Cr Michelle Rossouw | |

The following staff were in attendance:

| | |
|--------------------|----------------------------------------------|
| Mr Gary Tuffin | Chief Executive Officer |
| Ms Jean Sutherland | Executive Manager Corporate Services |
| Mr Azhar Awang | Executive Manager Development Services |
| Mr Jim Garrett | Executive Manager Technical Services |
| Mrs Karen Parker | Manager Human Resources |
| Ms Danica Kay | Executive Support Officer (Minute Secretary) |

There was one member of the general public in attendance.

2.2 Apologies

Cr Don Gibson

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Cr Clarke declared an impartiality interest in item 9.3.5 as she is a member of the Bindoon and Districts Bowling Club.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

Nil

4.2 Public question time

Nil

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

5.1 Petition – Use of Gas Guns

Cr Norton presented a petition to Council containing 47 signatures relating to the use of gas guns at Lot 505 Great Northern Highway, Bindoon.

6. APPLICATIONS FOR LEAVE OF ABSENCE

6.1 Application for Leave - Cr Don Gibson

OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 010813

Moved Cr Mackie / Seconded Cr Norton

That Cr Don Gibson be granted approved leave of absence for the period inclusive of Monday, 19 August 2013 until Tuesday, 10 September 2013.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Ordinary meeting of Council – Wednesday, 17 July 2013

OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 020813

Moved Cr Clarke / Seconded Cr Rossouw

That the minutes of the Ordinary meeting of Council held on Wednesday, 17 July 2013 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

8. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION

8.1 Landfill Fees and Charges Review

At the Ordinary Meeting of Council held 17 July 2013, Council moved an urgent business item as follows:

Moved Cr Gibson / seconded Cr Mackie

That Council review all ratepayer landfill fees and charges prior to the next Ordinary Meeting of Council.

The landfill fees and charges were discussed by Council at an informal workshop held on 31 July 2013.

Council is currently undertaking a Strategic Waste Management Review, and as part of this, the Consultant is required to undertake a review of the current landfill fees and charges. Therefore the landfill fees and charges will remain as they currently stand until the completion of the Strategic Waste Management Review, after which time the matter will be further considered.

9. OFFICER'S REPORT

9.1 DEVELOPMENT SERVICES

9.1.1 Affixing of Common Seal – Preliminary Site Investigation Mooliabeenee landfill, Cardno contract*

| | |
|----------------------------|--------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | A10057 |
| Prepared by | Glenn Sargeson, Principal Environmental Health Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Cardno Lane Piper submission |
| Attachments | Formal Instrument of Agreement |

Background

A report was presented to Council on 19 September 2012 which highlighted the presence of asbestos fragments on the former landfill site located at Lot 3783 Mooliabeenee Road, Bindoon. The extent of the asbestos contamination and possible other contamination is not known.

Subsequently the site was reported to the Department of Environment and Conservation (now the Department of Regulation) and classified as 'possibly contaminated – investigation required'. In accordance with Section 59 of the *Contaminated Sites Act 2003* a memorial has been registered on the Certificate of Title to this effect.

In accordance with the requirements of the *Contaminated Sites Act 2003* and the DEC Guidelines on investigating contaminated sites; three quotations were received from environmental consultants to undertake a Preliminary Site Investigation in 2013/2014. The quotation was to cover the work involved with:

1. Assess whether the site poses a risk to human health or the environment.
2. Investigate soil to determine the nature and extent of buried waste including the preparation of a detailed survey diagram of the extent of the buried waste.
3. Investigate groundwater to determine whether shallow groundwater beneath the site has been impacted by landfill leachate and any possible effects on sensitive receptors in the area.
4. Develop a site-specific health and safety plan to address health risks associated with asbestos prior to any investigation or remediation works.
5. Provide details of your company's qualifications and previous project experience in the field of contaminated sites to demonstrate competence to meet current DEC guidelines and relevant industrial practices.
6. Outline what will be included in the investigation, the estimated time required, a breakdown of costs and total price, and how it will meet the minimum requirements of the DEC Contaminated Sites Management Series of Guidelines.

An acceptable quotation was received from Cardno Lane Piper for \$28,450.

Consultation

Not applicable

Statutory Environment

Local Government Act 1995, section 9.49A

Delegation DA 9 (Engagement of consultants) states:

Objective of Delegation: To appoint consultants to the Shire of Chittering

Extent of Delegation: The power to appoint consultants, such as architects, valuers, planning consultants etc. for projects and tasks where specific external skills or knowledge are required.

Conditions imposed:

- Any applicable Council Policy must be implemented.
- The consideration for the consultancy is less than \$50,000.
- Specific budget provision exists.

Policy Implications

Purchasing

Financial Implications

Cardno Lane Piper fee proposal \$28,450 (excluding GST). A 15% contingency has been included in the 2013/2014 budget for unforeseen costs.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

Nil

Social implications

Nil

Environmental implications

The Preliminary Site Investigation will determine the nature and extent of contamination at the former landfill site and, depending on the outcome, what action will be required to remediate the site to acceptable levels.

Comment

The reporting of suspected contaminated sites is mandatory under the Contaminated Sites Act 2003. As the outcome of the report to the Department of Environment Contaminated Sites Branch resulted in the requirement for further investigation of the site the engagement of Cardno Lane Piper will meet this requirement. However, depending on the outcome of the preliminary site investigation, the DEC may require further investigation such as a Detailed Site Investigation.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 030813

Moved Cr Mackie / Seconded Cr Clarke

That Council authorise the Chief Executive Officer and Shire President to sign and affix the Common Seal to the Form of Agreement for the Preliminary Site Investigation of the former Mooliabeenee landfill site by Cardno Lane Piper.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.2 Additional dog application – 232 Maine-Anjou Drive, Lower Chittering*

| | |
|----------------------------|-----------------------------------------------------|
| Applicant | Carol McNaught |
| File ref | A10756 |
| Prepared by | Robert Butler, Acting Senior Ranger |
| Supervised by | Jamie O’Neill, Community Emergency Services Manager |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | Schedule of Submissions |

Background

The Applicant currently owns two dogs registered within the Shire of Chittering, which are a sterilised Staffordshire X and a sterilised Blue Heeler X. Whilst conducting dog registration checks in the area the Rangers found the Applicant had taken in a niece’s sterilised Staffordshire X which needed to be registered. The Applicant has made a Section 26 application for the unregistered Staffordshire X as per ranger request.

The Applicant has taken in the third dog after the niece has moved to New Zealand. The property is on 2.1634 hectares zoned “Rural Residential” with an internal enclosure being 0.8 of a hectare. The fencing is 1.2metre high ringlock and strainer wire on pine posts on the boundary and 1.2metre high wire fences on star pickets with electric containment wire around the internal perimeter.

There is no adverse history recorded for this property regarding any of these dogs.

Consultation

Application – 2 to 3 Dogs

The Shire Ranger sent letters to seven adjacent and adjoining land owners giving them the opportunity to comment on the additional dog application.

Four submissions were received, where one objected to the application and three supported the application (refer to the schedule of submissions).

The objecting neighbour is not currently living in the area of the Applicant’s property and objects on the grounds that the dogs will disturb wildlife that other people will get extra dogs without approval and barking will disturb the community. Rangers have been able to contact the objecting owner and advised that all residents must seek approval to register extra dogs, that the dogs are contained around house area and not free to roam entire property and that other residents in the area have advised the dogs don’t bark excessively. When attending property the dogs did bark and stopped on command from owner. The dog owner when asked about barking said that they will buy a bark collar if needed.

Statutory Environment

Dog Act 1976, Part V – KEEPING OF DOGS – Limitation as to numbers, Section 26

- 1) *The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.*
- 2) *Subject to subsection (1), a Local Government, pursuant to local laws, may limit the number of dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situated in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.*

- 3) Where by local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to the approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in the respect of those premises but any such exemption –
- May be made subject to conditions, including a condition that it applies only to the dogs specified therein;
 - Shall not operate to authorize the keeping of more than 6 dogs on those premises; and
 - May be revoked or varied at any time.
- 4) Subject to the provisions of subsection (3), a person who keeps any premises, not being premises licensed as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence.

Penalty: \$1,000 and a daily penalty of \$100

- 5) Any person who is aggrieved-
- By the conditions imposed in relation to any exemption from the provision of a local law placing a limitation on the number of dogs that may be kept on any premises; or
 - By the refusal of the local government to grant such an exemption, or by the revocation of an exemption.
- may appeal in writing to the Minister who may, after such inquiry as he thinks fit, give directions to the local government concerned and effect shall be given to any such direction.
- 6) An appeal under subsection (5) shall be lodged with the Minister not after that 28 days after the day on which a notice of the decision that it appealable is served on the person affected by that decision.

Shire of Chittering Dogs Local Law 2011

3.2 Limitation on the number of dogs

- This clause does not apply to premises which have been—
 - licensed under Part 4 as an approved kennel establishment; or
 - granted an exemption under section 26(3) of the Act.
- The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—
 - 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
 - 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

Policy Implications

Shire of Chittering Multiple Dog Policy ensures alignment with the Shire of Chittering Dog Local Law 2011 section 3.2(2) which allows for:

- 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
- 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

Residents wishing to register additional dogs are to submit to the Shire of Chittering an "Application for Exemptions of limitations of Number of Dogs" form and enclose the additional dog application fee, which is non-refundable and is prescribed in the Shire of Chittering's Fees and Charges.

Financial Implications

Nil, there is a registration fee of \$165.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

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, however a significant increase in the number of dogs in the area may have the potential to create noise through barking if dog owners are not managing the situation.

Environmental implications

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

Comment

The Applicants have forwarded an application for the additional dog and a fee of \$165 (including GST) to the Council, including the breed of the dog/s and fencing or confinement details.

In determining the application the following processes were undertaken:

- 1) All adjoining and adjacent landowners were notified in writing giving them the opportunity to make comment to support or object to the application within a period of 21 days from the date of the letter.
- 2) The Shire Ranger attended the property and undertook a complete dog welfare check, a fencing check and a report by the investigating officer of his findings.
- 3) The Shire Ranger contacted and spoke to the landowner who had made an objection.

The Applicant has shown to be a responsible dog owner and has complied with all requests made. There is adequate fencing and means to control the dogs, the dogs have kennels and a latched enclosure they are kept in at night. Ranger Services request that consideration be given to approve this application.

The Chief Executive Officer has delegation (DA60) to deal with applications where no objection has been received. However, in this case one (1) objection has been received and therefore Council is now requested to consider the application.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 040813

Moved Cr Clarke / Seconded Cr Rossouw

That Council approve the application by Carol McNaught for the additional dog at 232 Maine-Anjou Drive, Lower Chittering subject to the following conditions:

1. The Shire's Ranger Services may at any reasonable time inspect the property;
2. This approval is for the life of the dogs listed below and no additional dog shall be registered to this property:

| Breed | Name |
|-----------------|-------|
| Staffordshire X | Ice |
| Blue Heeler X | Lady |
| Staffordshire X | Bruno |

3. Should one of the current registered dogs under this application become deceased, the Applicant(s) cannot replace it with another dog without first reapplying and receiving approval from the Shire of Chittering for a third dog;
4. The Applicant(s) must notify the Shire of Chittering if they move from the area or if there are any changes to the number of dogs listed above;
5. The three (3) dogs must be registered at all times; and
6. If at any time these requirements have been breached, Ranger Services may terminate the application, and the dog (Staffordshire X, Bruno) is to be removed from the premises within seven (7) days.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.3 Proposed Building Envelope Modification – Lot 417 Ellendale Drive, Lower Chittering*

| | |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant | Robert Fiegert |
| File ref | A11424; P163/13 |
| Prepared by | Mark Johnston, Planning Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | <ol style="list-style-type: none">1. Locality Plan2. Proposed Building Envelope modification3. Site Photographs4. Aerial Photograph5. Chittering Retreat Development Plan6. Consultation Plan7. Applicants Justification for Application |

Background

An application has been received for the modification of the building envelope for Lot 417 Ellendale Drive, Lower Chittering. The Applicant proposes to:

- Enlarge the existing building envelope by approximately 3,300m² (from the current approximately 8,000m² envelope);
- Extend the building envelope up the North West slope (refer to the high ground in Attachment 3); and
- Retain the current building envelope on the property.

The Applicant originally proposed the envelope extension to be setback 15m from Citron Way and 30m from the rear boundary. However, this was not consistent with the current building envelope and the drawings submitted by the applicant. Therefore, through further correspondence with the Applicant, the proposed building envelope extension setbacks were modified to 20m to be consistent with the setbacks of the current building envelope (refer to Attachment 2).

The Applicant proposes the modification for the following reasons (refer to Attachment 1):

- To utilise the highest elevation of the property for aesthetic value and better drainage;
- To avoid possible drainage issues arising from building on the lower elevations of the property;
- To position future development in a manner which provides a better aesthetic spread, separation and privacy;
- The unpractical application of the current building envelope to the site characteristics;
- The adjoining property gaining approval to modify their building envelope.
- The incompleteness of the re-vegetation requirements resulting in proposed building envelope area remaining cleared land;
- The proposed building envelope area being unsuitable for the planting of trees due to the soil type;
- Re-vegetation resulting in greater fire risk; and
- Re-vegetation resulting in greater kangaroo and vermin number leading to the following:
 - Decreased road safety;
 - Damage to fences; and
 - Degradation of newly planted species.

Consultation

The application was referred to the affected surrounding landowners for comment, as shown on the Consultation Plan (Attachment 6). Two submissions were received supporting the proposed building envelope modification. No other comments were raised during the referral period.

Statutory Environment

Shire of Chittering Town Planning Scheme No 6

Clause 5.8 Development Provisions – Rural Residential Zone, Rural Retreat Zone, Rural Small holdings Zone and Rural Conservation Zone.

“Clause 5.8.2 Building Envelopes/Setbacks

Development will only be permitted in the areas identified as building envelopes provided that Council may vary the boundaries of such envelopes if it is satisfied that such variation is desirable and will not detrimentally affect the objective for the Zone or the amenity of the area generally.

With respect to the Rural Conservation zone, building envelopes must be shown on the development plan where it is within an area subject to an Environmental Management Plan. The building envelopes are to be located to minimise:

- a) Fragmentation and disturbance of remnant vegetation taking into account vehicle access;*
- b) Bush fire risk.*

Clearing of remnant vegetation for the construction of buildings within the defined envelope shall not exceed 2000m² without the prior approval of Council.”

Schedule 1 Dictionary of Defined Words and Expressions

“Building Envelope means an area of land within a lot marked on a plan approved by the responsible authority within which all buildings and effluent disposal facilities on the lot must be contained.”

Development Plan

A Development Plan applies to the property as part of the Chittering Retreat rural residential development. All development shall be in accordance with Clause 5.8.1 of the Scheme (attachment 5). The following Land Management Provisions of the Development Plan apply to the proposed building envelope modification:

“3. Vegetation Preservation

No clearing is permitted, without planning consent, within areas of Vegetation Protection and Re-vegetation as depicted on the Development Plan – unless those trees are diseased or present danger to life or property.

4. Building Envelopes

Building, water tanks, waste disposal and a building protection zone for fire management are to be contained within a cleared area not to exceed a maximum of 2000m² without the prior approval of Council; prior to confirming a building clearing area a vegetation survey is to be undertaken to ensure no rare or endangered flora is present; buildings are to have setbacks in accordance Local Planning Policy No.18 Setbacks with minimum setbacks from cadastral boundaries as follows:

| | |
|-------------------------------|------------------|
| <i>Morley Road</i> | <i>50 metres</i> |
| <i>Other Subdivision Road</i> | <i>20 metres</i> |
| <i>Rear</i> | <i>20 metres</i> |
| <i>Sides</i> | <i>15 metres</i> |

20. Re-vegetation

Rehabilitation planting of previously cleared areas with native species is to be undertaken by the developer/owner as a condition of subdivision/development approval and maintained by the occupier, as follows:

- Adjoining watercourses – 20m width
- Adjoining road frontages – 20m width
- Elsewhere as indicated on the plan (hilltops, ridgelines)

Every lot is to have a minimum of 30 per cent cover of natural vegetation or rehabilitation planting, protected from grazing animals.

Policy Implications

Local Planning Policy No 18 – Setbacks

In regards to *Local Planning Policy No 18*, the following is applicable:

“The following minimum setbacks generally apply to buildings (including retaining walls), dams and water tanks:

- a) ***Rural Residential, Small Rural Holdings and Rural Retreat Zones, in the absence of building envelopes***

Highway – 100m

Major Road – 50m

Other Road – 20m

Rear – 20m

Side – 15m

The minimum separation between dwellings on adjoining lots is 50m.”

It is noted that the proposed building envelope complies with all setback requirements prescribed in *Local Planning Policy No 18 – Setbacks*.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

The application proposes to extend the current building envelope into a re-vegetation area which would undermine the purpose of planting native vegetation species.

Comment

Consultation

The application was referred to surrounding landowners for comment for a period of 14 days. Two landowners supported the proposed building envelope modification. No other comments were raised during the referral period.

Development Plan

(i) *Re-vegetation Area*

The application proposes to modify the building envelope to extend into a re-vegetation area (refer to Attachment 2). Currently re-vegetation has not been undertaken and the area remains cleared land. The site is subject to a development plan (Attachment 5) and as per the requirement of the development plan the area must be re-vegetated. The Shire has received a bond for the work to be carried out. Further correspondence with the developer has been undertaken to investigate why the area has not been re-vegetated and whether the Shire will need to undertake the works using the bond money. Allowing development to occur in the re-vegetation area would undermine the provision of the Development Plan requiring that “every lot is to have a minimum of 30 per cent cover of natural vegetation or rehabilitation planting, protected from grazing animals” (see Development Plan section above and Attachment 5).

Furthermore, a section 70A notification is placed on each of the titles advising all landowners of the provision of the development plan applicable to the property which outlines the requirements of the revegetation and building envelopes.

(ii) *Building Exclusion Area*

The Chittering Retreat Development Plan outlines building exclusion areas for the purpose of preserving remnant vegetation and re-vegetation and compliance with the Shire’s prescribed setbacks (as per *Local planning policy 18 Setbacks*). It is the Officer’s Recommendation not to approve this application as it would result in the building envelope at the subject property extending into a building exclusion area, undermining its purpose of preserving the re-vegetation area at the property.

Drainage and Site Elevation

There is no prominent or identified drainage lines protected by a drainage easement which would provide a drainage issue for development. Drainage is natural and run-off is with the topography of the land. It is noted that drainage run-off would occur in line with the contours of the land (refer to Attachment 5).

The Applicant wishes to modify the building envelope to encompass the highest elevation on the subject property for aesthetic value (refer to Attachment 3). Aesthetic value of residential views from development is not a consideration of the planning process as to justify the relocation or modification of a building envelope.

Fauna and Safety

The Applicant has stated that re-vegetation on the property will result in increased numbers of kangaroos and vermin and fire hazard. The Applicant has provided no evidence to suggest the planting of native species will result in increased numbers of kangaroos and vermin. Given the property boundary is fenced the movement of kangaroos onto the property is restricted. Furthermore, as kangaroos are a native species it is unsustainable to restrict their habitation. In addition, no evidence is provided to the applicants claims regarding decreased road safety from any increase in kangaroo numbers.

With regard to the fire hazard posed from re-vegetation at the subject property, a strategic firebreak exists on the Northern property boundary where the re-vegetation area exists (refer to Attachment 5). In addition, all property owners in the Shire are subject to maintaining fire breaks within their property to the satisfaction of the Chief Executive Officer to minimise fire risk.

Concluding comments

It is the Officer's Recommendation not to approve this application as the proposed building envelope modification will set an undesirable precedent to extend the building envelopes into vegetated, re-vegetated and building exclusion areas. This will result in clearing to facilitate the construction of dwellings. Thereby, non-compliance with the provisions of the Chittering Rise Development Plan will occur, previously approved by Council and the Western Australian Planning commission.

Planning approval for a building envelope modification was granted for the adjacent property. However, this resulted in no clearing of remnant vegetation or the extension of the building envelope into a re-vegetation area.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 050813

Moved Cr Rossouw / Seconded Cr Mackie

That Council refuses planning approval for the modified building envelope at Lot 417 Ellendale Drive, Lower Chittering for the following reasons:

- 1. The proposal extends the building envelope into a "Building Exclusion Area" as indicated on the Development Plan;**
- 2. The proposal will result in development within a re-vegetation area on the property; and**
- 3. The proposal will set an undesirable precedent for the extension of building envelopes within Chittering Retreat Estate into re-vegetated areas, where the intent of the plan is for the protection of remnant and re-vegetated areas with development occurring in cleared areas.**

Advice Notes:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.4 Proposed parking of one (1) truck and trailer – Lot 867 Rosewood Drive, Chittering*

| | |
|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant | MT & C Church |
| File ref | A10832; P178/13 |
| Prepared by | Mark Johnston, Planning Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | 1. Locality Plan 2. Site Plan 3. Aerial Plan 4. Consultation Plan 5. Proposed Commercial Vehicle 6. Current Crossover Condition |

Background

Council's consideration is requested for the proposed parking of one (1) truck and one (1) trailer at Lot 867 Rosewood Drive, Chittering.

The application proposes the parking of one (1) prime mover truck and one (1) trailer. The total length of the combination is 19m. The truck and trailer would leave the property between 5am-6am and return between 4.30pm-6pm Monday to Friday.

The application is just for the purpose of parking the single truck and trailer and would not involve loading the truck on the subject property or hauling any loads to and from the property. The Applicant has stated that no maintenance will be conducted on the vehicle at the property. Furthermore, the Applicant proposes the vehicle to be parked inside the building envelope located on the property, resulting in no disturbance to existing vegetation.

Consultation

The application was referred to twelve (12) surrounding and adjoining land owners for comment. A total of two (2) submissions were received supporting the application.

One submission provided further endorsement of the commercial vehicle using the local roads stating:

"We have regularly travelled behind these vehicles and find that they enter and exit the Chittering Rise Estate at a very safe and sedate speed".

No further comments were received.

Internal Consultation

Executive Manager Technical Services

The application was referred to the Shire's Executive Manager Technical Services (EMTS) regarding the capacity of the local roads (refer to Attachment 1) and subject crossover to handle the commercial vehicle movements.

The Shire's EMTS advised that the roads are of sufficient capacity to handle the extra movements of the commercial vehicle, given that the vehicle would be empty. Further advice was given that the crossover at Lot 867 Rosewood Drive, Lower Chittering may potentially incur degradation over a long period from the trucks movements. Therefore, recommendation was made that the crossover be upgraded to an asphalt surface.

Principal Environmental Health Officer

The application was referred to the Shire's Principal Environmental Health Officer who recommended that the operating hours of the truck be limited to 7am to 7pm Monday to Saturday and no operation on Sundays or Public holidays. Advice was also given that the 'Parking of Commercial Vehicle' is required to comply with the *Environmental Protection (Noise) Regulations 1997*. Compliance with these regulations gives a basis to the recommended operating hours above as these are the times when the most noise is allowed to be made.

Statutory Environment

Shire of Chittering Town Planning Scheme No 6

The subject property is zoned 'Rural Residential'. The objectives of this zone are:

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

The property is located within the 'Military Considerations' Special Control Area. The requirements and considerations of this Special Control Area relate to building standards for residential development.

The application proposes the parking of a truck and trailer. The Scheme defines a truck and trailer as a 'Commercial Vehicle':

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

A 'Commercial Vehicle' is a 'Use not Listed' and is dealt with under Clause 4.4.2 of the Scheme:

4.4.2 *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Local Government may-*

- (a) *determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
- (b) *determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for Planning Approval; or*
- (c) *determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The following of Clause 10.2 of the Scheme are applicable to this application:

10.2 Matters to be Considered by Local Government

The Local Government in considering an application for Planning Approval, is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application-

- a) The aims and provisions of the Scheme;*
- o) The preservation of the amenity of the locality;*
- p) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- q) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- r) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- aa) Any relevant submissions received on the application;*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

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

Consultation

Two (2) submissions were received during the advertising period supporting the application.

Road Permit

As the total combination of the truck and trailer is 19m in length the commercial vehicle is an "as of right vehicle" and does not require a RAV permit to access the local roads.

Operating Hours

The Applicant proposes to leave the property at approximately 5am-6am every morning Monday to Friday and return any time from 4.30pm-6pm. No maintenance is proposed to be conducted on the commercial vehicle.

The Shire's Principal Environmental Health Officer recommended that the operating hours of the commercial vehicle be limited to the following:

- Monday to Saturday 7am – 7pm; and
- No operation on Sundays and Public Holidays.

The above operating times are based on the *Environmental Protection (Noise) Regulations 1997*. These regulations prevail over the conditions of approval determined by Local Government, therefore it is recommended that compliance with the Regulations be a condition of approval. Furthermore, given that other applications within the Shire regarding the presence of trucks on properties with nearby dwelling have been given similar operation restrictions, the above operating times are recommended to ensure such applications are treated with consistency.

Shire of Chittering Town Planning Scheme No 6

Objectives of the Zone:

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

The property is well vegetated with works already having been done to allow effective internal and external access for the truck and trailer to egress to and from the property (refer to Attachment 2). Therefore, the natural environment and rural character has been maintained while accommodating the movement of the truck and trailer. There appears to be no degradation to the crossover at this point in time.

The truck is barely visible from the road, thereby having minimal visual impact on the rural character and amenity of the locality.

The proposed starting operation time does somewhat undermine the amenity of the 'Rural Residential' zone given that it has a strong residential aspect.

(i) *Use Not Listed*

Council has the ability to determine a use not listed based upon the provisions of the Scheme listed previously.

(ii) *Military Considerations Special Control Area*

As no building is to occur from this application the requirements for this special control area are not applicable.

Matters to be considered by Local Government:

a) *The aims and provisions of the Scheme;*

The aims and provisions of the Scheme have been addressed above.

o) *The preservation of the amenity of the locality;*

As the truck and trailer are barely visible from the road they will have little effect on the amenity of the locality. The proposed starting operation time does affect the amenity as outlined above.

- p) *The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*

The truck and trailer are 19m long and would be parked in accordance with Attachment 2. As mentioned previously the truck is barely visible from the road. The truck and trailer is not visible to adjoining landowners.

As the truck and trailer are not a permanent structure and would predominantly be parked at night time, the scale and appearance of the truck and trailer cannot be seen to have a likely effect on adjoining properties.

- q) *Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*

The internal access within the site has been upgraded to allow efficient manoeuvring and parking without degrading the environment. There appears to be no damage to the crossover (refer to Attachment 6). However, advice from the Shire's Executive Manager Technical Services still recommends that the crossover be upgraded to an asphalt surface to ensure no degradation occurs to the crossover in the future.

The application does not entail the loading and unloading of any materials and is only for the parking of the commercial vehicle.

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

The application proposes two extra traffic movements a day with the truck and trailer leaving the property in the early morning and returning in the late afternoon.

- aa) *Any relevant submissions received on the application;*

No submissions were received opposing the application.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 060813

Moved Cr Rossouw / Seconded Cr Clarke

That Council:

- 1. Support the proposed 'Parking of Commercial Vehicle' on Lot 867 Rosewood Drive, Lower Chittering subject to the construction of an asphalt crossover in accordance with the Shire of Chittering specifications, to the satisfaction of the Chief Executive Officer;**
- 2. Upon completion of (1a) above, delegates authority to the Chief Executive Officer to grant Planning Approval for the proposed 'Parking of Commercial Vehicle' on Lot 867 Rosewood Drive, Lower Chittering subject to the following conditions:**
 - a. Approval shall include the parking of one (1) prime mover truck and one (1) trailer the subject of this application, as shown in Attachment 5 'Proposed Commercial Vehicle';**
 - b. The total length of the vehicle should not exceed 19.5m;**
 - c. The hours of operation shall be restricted to:**
 - i. Monday to Saturday 7am – 7pm**
 - ii. No operation on Sundays and Public Holidays;**

- d. Truck movements outside of the prescribed hours as detailed in Condition (2c) above, shall be in accordance with the assigned noise level of the *Environmental Protection (Noise) Regulations 1997*. No other operations/activity (Maintenance) shall be undertaken outside of the prescribed hours;
- e. Compliance with the *Environmental Protection (Noise) Regulations 1997*;
- f. Minor maintenance shall be limited to the applicants vehicle on site including:
 - i. The change of oil;
 - ii. The change of tyres; and
 - iii. Shall only be carried out during the times outlines in conditions (2c) above and between 9am - 7pm on Sunday ;
- g. The parking location of the Commercial Vehicle on the property shall be in accordance with Attachment (2) 'Site Plan'.

Advice Notes:

The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

THE MOTION WAS PUT AND DECLARED CARRIED 3/3 WITH THE CASTING VOTE

Note: Any future applications of this nature where it appears the land use is already occurring should be treated as a retrospective application and appropriate fees should be charged.

9.1.5 Proposed subdivision WAPC 148236 – Lot 9601 Guernsey Rise, Lower Chittering*

| | |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Applicant | Statewest Planning |
| File ref | 18/03/83 |
| Prepared by | Brendan Jeans, Senior Planning Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | 1. Locality Plan 2. Subdivision Plan 3. Council Endorsed Development Plan 4. Current Approved Development Plan |

Background

Council is requested to consider the proposed subdivision application for Lot 9601 Guernsey Rise, Lower Chittering.

Council resolved to endorse the Development Plan for Lot 3 and 4 Maddern Road, Lower Chittering at its 19 June 2013 Ordinary Council meeting. This Development Plan (Attachment 3) is currently with the Western Australian Planning Commission for final approval.

Lot 9601 Guernsey Rise is a 'super lot', created through the subdivision of the Stage 1A of development of Lot 3 and 4 Maddern Road. This subdivision application, which has been lodged to renew the initial subdivision approval applicable for Lot 3 and 4 Maddern Road, proposes 88 Rural Residential lots and 2 parcels of Public Open Space. The subdivision layout is consistent with the Development Plan endorsed by Council (Attachment 3).

Consultation

Public consultation is not required as part of the subdivision process.

Statutory Environment

Planning and Development Act 2005

Shire of Chittering Town Planning Scheme No.6

The subject property is zoned 'Rural Residential'. The objectives of this zone are:

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

Clause 5.8.1 of the Scheme applies to the proposal:

5.8.1. Requirement for a Development Plan

Subdivision shall be generally in accordance with an Outline Development Plan prepared in accordance with Council policy or any subsequent variation approved by the Council and the Western Australian Planning Commission.

An application for subdivision of land in these zones is to be accompanied by an Outline Development Plan prepared in accordance with Council policy which indicates and addresses the following but is not limited to:

- (a) *Lot sizes, dimensions and identification of building envelopes or building exclusion areas;*

- (b) *Areas to be set aside for public open space, pedestrian accessways, horse trails, community facilities, etc, as may be considered appropriate;*
- (c) *Strategic firebreaks;*
- (d) *Any Catchment Management Plan recommendations;*
- (e) *Any part of the natural environment which is required to be protected from degradation or required for landscape protection;*
- (f) *An assessment of the presence and impacts of Dieback in consultation with Council and the appropriate State government environmental agency and the ability of the subdivision design and works to mitigate against the spread and effect of Dieback;*
- (g) *Any facilities which the purchasers of the lots will be required to provide (eg. Their own potable water supply, liquid or solid waste disposal, etc);*
- (h) *Areas where conventional septic tanks may not be suitable;*
- (i) *The description of adjoining land(s) and their uses;*
- (j) *Remnant vegetation and any land affected by rare and endangered flora and fauna;*
- (k) *Location of watercourses, drainage lines and areas of inundation and the distance of any infrastructure from these.*
- (l) *Identify the area/s that need to comply with an approved Environmental Management Plan.*

Policy Implications

Local Planning Policy No 32 – Development Plans

This Policy guides the provision of a Development Plan required for subdivision. The revised Development Plan endorsed by Council is currently being assessed by the Western Australian Planning Commission for final approval. The proposed subdivision is consistent with the revised Development Plan yet to be granted final approval.

Local Planning Policy No 16 – Roads and Drainage

The proposed road reserve widths are 30m, consistent with Stage 1A of Maryville Heights and in accordance with this Policy.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

The proposed subdivision of Lot 9601 will create an additional eighty-eight (88) rateable Rural Residential lots to the benefit of the Shire.

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. The subdivision will result in the ceding of Public Open Space to be vested to the Shire to manage containing portions of quality remnant vegetation, the Marbling Brook and a seasonally wet area in the south west of the site.

Comment

Shire of Chittering Town Planning Scheme No 6

The proposed subdivision is consistent with the Development Plan endorsed by Council (Attachment 3). The subdivision is considered to be consistent with the objectives of the zone; providing lots that maintain the rural character and meet the demand for a rural lifestyle.

Development Plan

The Applicant revised the Development Plan to realign the proposed roads to better compliment the site. This revised Development Plan was endorsed by Council at its 19 June 2013 Ordinary Council Meeting and was forwarded to the Western Australian Planning Commission for final approval. The revised Development Plan has not yet been granted final approval by the Western Australian Planning Commission which means the existing Development Plan (Attachment 4) endorsed by Council in February 2011 applies to the site.

Clause 5.8.1 of the Shire's Town Planning Scheme and Local Planning Policy No 32 Development Plans requires a subdivision to be in accordance with an approved Development Plan. The proposed subdivision is consistent with the Development Plan currently with the Western Australian Planning Commission awaiting final approval. It is recommended as a condition of subdivision approval that the subdivision be consistent with the modified Development Plan and that the modified Development Plan be finalised prior to subdivision.

Public Open Space

The Development Plan outlines the areas of Public Open Space. The subdivision will result in the ceding of the identified Public Open Space to the Crown which will be vested to the Shire of Chittering to manage. The two (2) Public Open Space portions of land provide an environmental benefit in retaining vegetation and protecting the waterway.

Roads and Access

The subdivision will result in improved access and connectivity between Maryville Downs, Maryville Heights and Chittering Springs estates. The construction of the roads will also provide greater emergency access, particularly in the case of a fire.

Concluding Comments

The proposed subdivision is to be consistent with the Development Plan endorsed by Council at its 19 June 2013 Ordinary Council Meeting. To be compliant with the requirements of the Town Planning Scheme it is recommended a condition be imposed to ensure the modified Development Plan be approved by the Western Australian Planning Commission prior to subdivision occurring.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 070813

Moved Cr Mackie / Seconded Cr Rossouw

That Council:

1. support the proposed subdivision (WAPC 148236) for Lot 9601 Guernsey Rise, Lower Chittering subject to the following conditions:
 - a. Subdivision shall not occur until the revised Development Plan, endorsed by Council at its 19 June 2013 Ordinary meeting, is granted final approval by the Western Australian Planning Commission (WAPC).
 - b. The subdivision shall be consistent with the revised Development Plan as endorsed by Council and the WAPC;
 - c. Those lots not fronting an existing road being provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) being constructed and drained at the Applicant/Owner's cost, to the satisfaction of the Chief Executive Officer. As an alternative the WAPC is prepared to accept the Applicant/Owner paying to the local government the cost of such road works as estimated by the local government subject to the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC.
 - d. Drainage easement as may be required by the local government for drainage infrastructure and fire fighting purposes being shown on the Deposited Plan as such and granted free of cost and vested in that Authority under Section 167 of the *Planning and Development Act 2005*.
 - e. The land being filled, stabilised, drained and/or graded as required to ensure that:
 - i. Lots can accommodate their intended development; and
 - ii. Finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and
 - iii. Stormwater is contained on-site or appropriately treated and connect to the local drainage system.
 - f. Notification in the form of a section 70A notification, pursuant to the *Transfer of Land Act 1893* (as amended) is to be placed on the Certificate(s) of Title of the proposed lot(s) advising that:
 - i. *"No reticulated water supply can be provided to the land by a licensed water service supplier and as a consequence owners will be required to make their own arrangements to provide an adequate water supply of potable water."*
 - ii. *"This lot is subject to a Development Plan and Fire Management Plan approved by the Shire of Chittering."*
 - iii. *"Reticulated sewerage connection is not available to the lots, and a suitable on-site effluent disposal system complying with the specifications of the Health Department designed for long term use will be required to service any new development on each lot."*
 - g. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision to the satisfaction of the Chief Executive Officer
 - h. The cul-de-sac heads being designed and constructed to the satisfaction of the local government.
 - i. Roads that have been designed to connect with existing or proposed roads abutting the subject land are to coordinate such that the road reserve location and width match and connect seamlessly.
 - j. A Fire Management Plan being prepared and implemented to the specifications of the local government and the Fire and Emergency Services Authority.

- k. The proposed Public Open Space reserves shown on the approved plan of subdivision being shown on the Deposited Plan as a “Reserve for Recreation” and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown.
 - l. A vegetated buffer to Marbling Brook to be surveyed by a licensed Surveyor and a fence restricting grazing to be constructed on the alignment where appropriate, to the satisfaction of the Chief Executive Officer.
 - m. An Urban Water Management Plan to be prepared prior to the commencement of any site works and implemented at the subdividers cost in accordance with the *Better Urban Water Management Guidelines (WAPC 2008)*. Further guidance on the contents of urban water management plans is provided in ‘*Urban Water Management Plan: Guidelines for preparing and complying with subdivisions conditions*’ (Department of Water 2008)’.
2. Authorises the Shire President and Chief Executive Officer to sign and affix the common seal on the Notification under Section 70A of the *Transfer of Land Act 1893 (as amended)* relating to the proposed subdivision for Lot 9601 Guernsey Rise, Lower Chittering.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

Councillors Norton queried how the end and commencement of each road (Guernsey Rise and Maddern Road south and north) would be delineated for road users.

After some discussion, Council requested a further report from the Executive Manager Development Services and Executive Manager Technical Services in regards to the intersection of Guernsey Rise and Maddern Road South and North.

9.1.6 Affixing of Common Seal – Section 70A Notification WAPC 145348 (Lot 9501 Windemere Way, Bindoon)*

| | |
|----------------------------|------------------------------------------------------------------|
| Applicant | Urban and Rural Perspectives |
| File ref | 18/03/57 |
| Prepared by | Brendan Jeans, Senior Planning Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | 1. Section 70A Notification documents 2. Deposited Plan 76330 |

Background

On 13 March 2012 the Western Australian Planning Commission granted subdivision approval for Lot 9500 Tea Tree Road, Bindoon subject to a number of conditions. The subdivision currently being undertaken is for Stage 3A, consisting of seven (7) lots.

Condition 11 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 lot(s). The purpose of the Section 70A Notification is to advise the landowner that the land is subject to a Fire Management Plan.

There is no delegation in place for the Shire's Administration to authorise the affixing of the Common Seal and hence the report to Council to formally request the common seal to be affixed.

Consultation

Not applicable

Statutory Environment

Local Government Act 1995, section 9.49A
Transfer of Land Act 1893 (as amended)

Policy Implications

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

The consultant for the landowner has submitted a subdivision clearance for Stage 3A of Parkwood Springs Estate. Stage 3A consists of proposed lots 528 to 531, 546 to 548 and lot 9503 as shown on the attached Deposited Plan 76330. In order to satisfy condition 11 of the subdivision approval, the Applicant is to provide a Section 70A Notification of the *Transfer of Land Act 1893* (as amended) which requires a Common Seal to be affixed to the notification.

As this is a formality, it is recommended that Council supports the authorisation of the Chief Executive Officer and the Shire President to affix the Common Seal as a requirement of the subdivision clearance.

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 080813

Moved Cr Hawes / Seconded Cr Rossouw

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal on the Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to the lot being subject to a Fire Management Plan on Deposited Plan 76330.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.1.7 Blueberry Bliss Noise Management Plan for the use of a gas gun*

| | |
|----------------------------|--------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | A10277 |
| Prepared by | Glenn Sargeson, Principal Environmental Health Officer |
| Supervised by | Azhar Awang, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Best Practice Guidelines for Bird Scaring in Orchards |
| Attachments | Blueberry Bliss Noise Management Plan |

Background

Several complaints have been recently received regarding the use of a gas gun at the blueberry orchard located at lot 505 Great Northern Highway, Bindoon. The property is owned by Troy and Tracie Easter. The gas gun consists of a gas bottle and a timing device which causes a loud explosion on a pre-set time and frequency basis while the fruit is ripening in order to protect it from being eaten by birds. Mr Easter commenced using the gas in early August this year and wishes to use the machine between July and November in future years. This is the first year that he has produced a crop which can be harvested.

Mr Easter was given planning approval 8 July 2010. Noise from gas guns was not specifically mentioned in the applicants planning submission however it was mentioned:

"Dust and noise of machinery will most likely not be an issue as the use of the machinery will not be excessive or at inappropriate times."

No complaints have been received regarding the operations of the blueberry business other than the recent complaints about the use of the gas gun.

The blueberry orchard is located in a rural area but is close to the Bindoon Vista development in the Bindoon townsite so has the potential to create a nuisance to residents particularly if the use of the gas gun is not managed properly. There are also noise sensitive premises adjacent to the orchard including a horse stud. The owner has complained that the gas gun scares his horses and other animals.

The use of gas guns and similar devices has been a continuing problem in many other local governments particularly those with orchards in rural areas close to residential areas. As a result the "Best Practice Guidelines for Bird Scaring in Orchards" (the guidelines) were produced by a Technical Advisory Committee consisting of representatives from the Department of Environment and Conservation (DEC), Department of Agriculture and Food, WA Fruit Growers Association, WA Local Government Association, Department of Planning and Infrastructure and the City of Armadale. A copy of the guidelines has been tabled for information.

The guidelines require that operators use the gun only when necessary and employ a range of other noise control strategies in order to reduce the impact upon neighbours. In a similar case presented to Council in May 2013 (orange and mandarin orchard). Council resolved that the owner of the property manage the noise by the following methods:

- a) The gas gun is to be turned off when no one is present on the property.
- b) The gas gun is to be turned off at any time when there is no bird activity.
- c) The gas gun is to be adjusted so that it does not fire within 10 minutes of each shot during the nominated periods.
- d) The gas gun should only be operated from sunrise to 11 am and from 2 pm to sundown.
- e) The gas gun should not be used on Sundays and Public Holidays providing alternative measures can be implemented.

- f) A range of other bird scaring devices and strategies (as outlined in the guidelines) should be implemented. The range of measures includes the installation of netting, the use of electronic noisemakers which have recorded bird distress and predator calls, flashing lights or strange sounds.
- g) The gas gun is to be located in the optimum position and at the lowest effective noise volume to enable bird scaring while reducing the nuisance to neighbours as much as possible.

It is noted that there were no further complaints about the gas gun between May and August this year probably due to the above control measures.

Consultation

As this is a recent complaint community consultation with neighbours has not been undertaken. The 'Blueberry Bliss Noise Management Plan' includes a communication strategy by the business owner which involves informing neighbours of bird scaring activities by visitation or phone as well as a sign placed on the front gate. There is also a complaint strategy whereby the business owners will attend to complaints. Unresolved complaints will be referred to the Shire.

Statutory Environment

Noise is covered under the *Environmental Protection Act 1986* (the Act) and the *Environmental Protection (Noise) Regulations 1997* (the regulations).

Noise is classified as a source of pollution under the Act. The regulations provide a prescribed standard for "unreasonable noise" and a definition. The subjective definition looks at the nature and duration of noise emissions, the frequency of emissions, the time of day the noise is emitted and whether the noise unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person receiving the noise. The noise level of a gas gun is expected to exceed the prescribed standard with regard to peak noise allowable.

However, the DEC has advocated for not using legislative controls in favour of a consultative approach whereby the noise is managed by strategies within the guidelines to mitigate the nuisance. It would probably not be possible to fully meet the demands of both orchardists and neighbours so a compromise between the affected parties is necessary.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Future applications for orchards should have a condition whereby if a gas gun is to be used that a Noise Management Plan is submitted indicating how the "Best Practice Guidelines for Bird Scaring in Orchards" will be complied with.

Site Inspection

Yes

Triple Bottom Line Assessment

Economic implications

Orchardists will incur costs implementing noise control measures. This has to be balanced with the economic costs of operating and making a profit as a business.

Social implications

The use of gas guns at any level will upset the natural peaceful ambience in a rural setting and cause loss of comfort and amenity. This has to be balanced against the right of orchardists to protect their crops in an area zoned as Agricultural Resource.

Environmental implications

The gas gun will affect several types of bird species and will be operated within 500 metres of Lake Needonga. It is not known whether this will have a negative impact on the lake habitat.

Comment

The circumstances surrounding the operation of Blueberry Bliss differs in several respects to the case put to Council in May 2013 (orange and mandarin orchard) as follows (author's comments in brackets):

- There is a wider variety of birds that are attracted to the berries. Mr Easter reports that some species have come back to the area after a twenty-year absence. (This increases the scale of the bird problem and the need to initiate control methods).
- The orchard sits in a valley which can increase the noise levels in some directions depending upon where the gas gun is located and other factors such as temperature inversions and prevailing winds. (This emphasises the need to conduct research into the best location for the gas gun. Mr Easter has been investigating the use of hay bales to block noise in certain directions which he has found effective).
- There is no dwelling therefore, no permanent occupancy on the property. (It would not be practicable to have the owners switch off the gas gun while not present – see additional comments below).
- There are potentially more people who could be affected because of the Bindoon Vista development. (The extent of complaints may increase as the Bindoon Vista population increases).
- The orchard will be doubling in size over the next few years. (Mr Easter has advised that the use of additional gas guns will not be necessary).

The owners of Blueberry Bliss reside in the City and run the farm over 2 days per week and on weekends during the picking season so are able to monitor bird strikes while they are present and control the use of the gas gun accordingly. When they are not there, it is not practicable to turn off the gas gun as the crop would be ruined very quickly by the birds.

Mr Easter's Noise Management Plan attached indicates that he has endeavoured to control the noise as far as practicable in accordance with the requirements of the guidelines. The gas gun will be pre-set to operate for no more than 2 continuous periods per day for a maximum of 4 hours in the morning between 30 minutes after sunrise to 11.30 am and 4 hours in the afternoon from 1.30 pm to 30 minutes before sunset. The gun will fire twice, five seconds apart every 11 minutes as this is the most effective way to deter the birds. This method will be monitored during the picking season to establish whether the interval between shots can be extended.

As required by the guidelines, Mr Easter employs a range of methods to deter the birds i.e. visual bird repellents, noisy vehicles, artificial predators and firearms. In the future he plans to assess the use of speakers with recorded bird-stressing sounds and to install netting or grow tunnels. He expects to have the crop protected by either netting or grow tunnels within the next 2 – 3 years which will obviate the need for audible deterrents.

The Noise Management Plan also outlines a communication plan and complaints management system whereby unresolved complaints are referred to the Shire. It is envisaged that some neighbours will not accept the use of the gas gun at all and there will be ongoing complaints to the Shire. Nevertheless, the agreement reached on a state-wide basis is that the use of gas guns is permissible providing its use complies with the guidelines. On this basis the Shire does not have the power to totally ban the use of gas guns and other noisy deterrents. If this was not the case it is unlikely that producers would be able to get their crops to market and there would be massive loss of investment and livelihood within the industry.

A petition signed by community residents against the use of the gas gun is tabled for Council's consideration.

Mr Easter will present a short deputation on his proposed Noise Management Plan.

9.1.7 OFFICER RECOMMENDATION

Moved Cr Norton / Seconded Cr Rossouw

That:

1. The Blueberry Bliss Noise Management Plan for the use of gas gun submitted by Mr Troy Easter for Lot 505 Great Northern Highway Bindoon be accepted;
2. Mr Easter to apply for planning approval to install netting or construct grow tunnels and that, subject to all the necessary approvals, the netting or grow tunnels be completed within 3 years;
3. Future conditions of Planning Approval relating to orchards are to require compliance with the Best Practice Guidelines for Bird Scaring in Orchards if they are to use gas guns as a bird deterrent;
4. The operation shall be in accordance with the approved Noise Management Plan in condition 1 above; and
5. The application will be reviewed in January 2014 for Council's further consideration.

AMENDMENT

Moved Cr Hawes / Seconded Cr Mackie 93

That recommendation two (2) be amended by deleting the number (3) and replacing it with the number (1).

THE AMENDMENT WAS PUT AND DECLARED LOST 2/4

AMENDMENT

Moved Cr Mackie / Seconded Cr Hawes

That recommendation five (5) be amended by deleting the words 'January 2014' and replacing them with 'November 2013'.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 4/2
AND FORMED PART OF THE SUBSTANTIVE MOTION

9.1.7 SUBSTANTIVE MOTION / COUNCIL RESOLUTION - 090813

Moved Cr Norton / Seconded Cr Rossouw

That:

- 1. The Blueberry Bliss Noise Management Plan for the use of gas gun submitted by Mr Troy Easter for Lot 505 Great Northern Highway Bindoon be accepted;**
- 2. Mr Easter to apply for planning approval to install netting or construct grow tunnels and that, subject to all the necessary approvals, the netting or grow tunnels be completed within 3 years;**
- 3. Future conditions of Planning Approval relating to orchards are to require compliance with the Best Practice Guidelines for Bird Scaring in Orchards if they are to use gas guns as a bird deterrent;**
- 4. The operation shall be in accordance with the approved Noise Management Plan in condition 1 above; and**
- 5. The application will be reviewed in November 2013 for Council's further consideration.**

THE MOTION WAS PUT AND DECLARED CARRIED 5/1

9.2 TECHNICAL SERVICES

9.2.1 Restricted Access Vehicle Route – Chittering Rise*

| | |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | 30/03/0002 |
| Prepared by | Tresa White, Support Officer Technical Services |
| Supervised by | Jim Garrett, Executive Manager Technical Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | Email dated 5 July 2013 from Tracey Papich Email dated 5 July 2013 from Carey Church Council Resolution 9.1.1 dated 17 July 2013 |

Background

The Shire of Chittering has received requests from two (2) residents from the Chittering Rise Estate requesting that Council include the following Chittering Rise roads onto the Restricted Access Vehicle Network;

- Sugar gum Drive
- Ghost Gum Ridge
- Rosewood Drive

One request is so the owner will be able to obtain a permit to drive a truck that is a 21.95 metre combination in and out of the Chittering Rise estate in order to park their vehicles on their own property. The other request is to obtain a permit so they will be able to drive a truck that is a 19 metre combination in and out of the Chittering Rise estate in order to park their vehicles on their own property.

Both requests have stated that the vehicles will be empty when entering and leaving the estate.

A "Restricted Access Vehicle (RAV)", as distinct from an "As of Right Vehicle", is a vehicle that exceeds one or more of a number of mass or dimension limits prescribed by:

- *Road Traffic (Vehicle Standards) Regulations 2002*; or
- *Road Traffic (Vehicle Standards) Rules 2002*.

When a vehicle is being operated as a RAV, it must only operate under a notice or permit issued by the Commissioner of Main Roads, or under an exemption issued by the Director General - Department of Planning and Infrastructure.

By comparison, "as of right" vehicle length is restricted to 19.5m for semi-trailers, while category 1 RAV's include some truck and trailer combinations up to 20m long that may operate on Shire of Chittering local roads subject to a RAV Network Period Permit and conditions obtained from MRWA and the Shire of Chittering.

In addition, the owner of Lot 889 Rosewood Drive, Chittering had applied for proposed parking of the trucks on the property as per the Ordinary Meeting of Council held 17 July 2013 Item 9.1.1 resolution number 030713

The Council resolution (as attached) was to grant the planning approval for the proposed 'Parking of Commercial Vehicle" subject to various conditions. These conditions include the parking of only One (1) tri-axle semi tipper truck and One (1) tri-axle pig trailer and that the total length was not to exceed 19.5 metres.

Consultation

Main Roads Western Australia

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

If Council were to approve Sugar Gum Rise, Ghost Gum Ridge and Rosewood Drive as RAV network roads there may be a cost to the Shire of Chittering to upgrade sections of the roads to accommodate heavy vehicle combinations.

Strategic Implications

Nil

Site Inspection:

Site Inspection Undertaken: Yes

Triple Bottom Line Assessment

Economic implications

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

Social implications

The Shire of Chittering has already received a number of complaints from person(s) residing in the Chittering Rise Estate complaining about the noise of the trucks and road safety concerns as the trucks enter and exit the estate on a daily basis.

Environmental implications

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

Comment:

Council is requested to consider the application to add the following roads to the RAV network:

- Sugar gum Drive
- Ghost Gum Ridge
- Rosewood Drive

It is recommended, that Council do not support the request on the grounds that the approval may lead to a number of applications from heavy vehicle operators wanting to use other Shire Estate roads for travelling to and from their properties on land listed as Rural Residential under *Town Planning Scheme No 6*.

The purpose of RAV network routes was to make it easier for transport operators to gain approval to use heavy vehicle combination vehicles on State and Local road to cart produce to and from market, not so operators could drive and park their vehicles at their place of abode.

The resident at Lot 889 Rosewood Drive, Chittering has specified that the vehicle that they wish to operate on the requested roads is 21.95 metres long. They only have Council approval to park only One (1) tri-axle semi tipper truck and One (1) tri-axle pig trailer and that the total length was not to exceed 19.5 metres.

When the Chittering Rise estate roads were designed it was not considered that restricted access vehicles would be using these roads and the geometry of curves and bends may not be able to accommodate the combination vehicles. The radius of curves on intersections may also be insufficient for turning vehicles. Council may be required to upgrade sections of the roads to accommodate RAV vehicles.

The Shire's Technical Services Department has already received a number of verbal complaints from nearby residents relating to the safety of other motorists when travelling on the estates roads with heavy vehicles combinations entering and exiting the estate.

Before a RAV can be approved Council need to apply to Main Roads Western Australia (MRWA) to formally request that these roads be added to the RAV Network. Then the road is assessed by MRWA to see if the road is suitable for RAV Vehicles.

If the roads are approved by MRWA as RAV network routes, the operators are then required to get Local Government approval to use the local roads. The local government is able to place conditions on these roads.

9.2.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 100813

Moved Cr Mackie / Seconded Cr Rossouw

That Council does not support the request to add Sugar Gum Drive, Ghost Gum Ridge and Rosewood Drive to the Restricted Access Vehicle Network for the following reasons:

- 1. One of the applicants does not have permission to park a vehicle on their property exceeding 19.5metres.**
- 2. That Council may be required to upgrade sections of Sugar Gun Rise, Ghost Gum Ridge and Rosewood Drive to accommodate RAV vehicles.**
- 3. Both applicants have stated that they will be empty when travelling on these roads and that is not the purpose of the RAV network.**
- 4. Concerns from nearby residents about road safety sharing the roads with heavy vehicle combinations.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 July 2013*

| | |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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 | Financial Statements for period ending 31 July 2013 |
| Attachments | Statement of Financial Activity for period ending 31 July 2013 Bank reconciliation for period ending 31 July 2013 List of accounts paid for July 2013 |

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 2013, financial statements, bank reconciliation and list of accounts paid for the period ending 31 July 2013 are hereby presented for council'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

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

Council 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 / COUNCIL RESOLUTION - 110813

Moved Cr Hawes / Seconded Cr Mackie

That Council:

1. **endorse the list of payments:**
 - **PR3082**
 - **PR3105**
 - **PR3114**
 - **EFT 8360 - EFT 8459**
 - **Municipal Fund Vouchers 13366 - 13384**
 - **Direct Debits as listed**
 - **BPV30 to BPV30**
 - **Trust Vouchers 343-353**

Totalling \$879,308.45 for the period ending 31 July 2013.
2. **receive the bank reconciliation for the period ending 31 July 2013; and**
3. **receive the financial statements for the period ending 31 July 2013.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3.2 Forward Capital Works Plan*

| | |
|----------------------------|-------------------------------------------------------|
| 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 | Nil |
| Attachments | Amended Forward Capital Works Plan |

Background

At the Ordinary Meeting of Council held 23 February 2011, Council adopted the Shire of Chittering Forward Capital Works Plan (FCWP).

Amendments were endorsed at the Ordinary Meeting of Council held 19 September 2012 which listed the CLGF projects for the 2012/13 financial year.

In order to comply with CLGF guidelines it is a requirement that local governments review their Forward Capital Works plan annually.

This report is to review the plan and include the projects listed for 2013/14.

Consultation

Chief Executive Officer

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

The proposed amendments to the FCWP now align with the Shire's 2013/14 Annual Budget.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known 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

During the 2013/14 budget deliberations, Council allocated the 2013/14 CLGF funding towards the upgrade of Binda Place, Bindoon.

This project will be known as “Project 16 – Binda Place Upgrade”.

The objective of this project is to create a shared vision for Binda Place based on sound design features for improved safety, connectivity, functionality and visual appeal. These are to be implemented in the context of retaining and enhancing Bindoon’s rural, charm, creating an image of the town reflected through its main shopping precinct. The project will be undertaken in stages to allow for minimal disruption to the local businesses.

Two additional amendments were also made:

- (i) Page 14 Regional Projects – Chittering Health Centre. The amount of total expenditure for the project of \$1,842,412 has been amended to \$2,400,000 to reflect the expenditure in the 2013-14 budget.
- (ii) Page 17 – the inclusion of a new regional project being the AROC Housing Project.

It is recommended that Council accept the Officer Recommendation to ensure that the FCWP is up to date and will be in line with the Financial Assistance Agreement that will be lodged with the Department to access the 2013-14 individual funding allocation.

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 120813

Moved Cr Norton / Seconded Cr Rossouw

That Council endorses the amended Shire of Chittering Forward Capital Works Plan.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3.3 Asset Write offs*

| | |
|----------------------------|-------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | 04/01/0002 |
| Prepared by | Jean Sutherland, Executive Manager Corporate Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | List of Assets |

Background

With the introduction of Fair Value Accounting a detailed analysis of the Shire of Chittering Asset Register was undertaken by Council Officers. During this review it was found that numerous items that are currently listed on the Asset Register are not able to be located due to the age of the item or the item is no longer functional, however, the asset still remains on the Asset Register.

In addition, Council has a policy stating that only items with a value of \$5,000 are to be capitalised.

During the annual audit undertaken on 6/7 August 2013, discussions were held with the auditor regarding assets with a value less than \$5,000 and he believed it was prudent at this time to remove those items that have a value less than \$5,000 to tidy up the Asset Register and make the process of obtaining fair values for assets more efficient for future years as fair value for assets needs to be determined every three years.

Consultation

UHY Haines Norton
Chief Executive Officer

Statutory Environment

Local Government (Financial Management) Regulations 1996 – Section 17A Fair Value

Policy Implications

Finance Policy - Capitalisation

Financial Implications

Changes in the Asset values will be reflected in the 2012-2013 Annual Financial Report.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known economic implications associated with this proposal

Social implications

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

Comment

During the analysis of the Asset register numerous items that were listed were not able to be located by Officer's and if they were located they were no longer functional.

Many of the items such as computer hardware are generally no longer of any use once the computers are changed over and these items would have been disposed of. The same can be said for items such as old radios and chainsaws etc.

Putting these small items on the Asset Register is just not practical as the Finance Department is not usually advised when a piece of equipment is no longer functional and should then be removed from the register.

The majority of these items have been fully depreciated and have a written down value of zero.

With the introduction of the Capitalisation policy set at \$5,000 in 2010 this has now alleviated these issues of smaller items being placed on the Asset Register, however, we do keep a register of smaller items so that we can still account for them to ensure assets are not being misplaced.

Procedures will be introduced in the coming months and circulated to all departments to advise that when a piece of equipment is disposed of or no longer functional they are to advise the Finance department to ensure that our records are kept up to date.

9.3.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 130813

Moved Cr Mackie /Seconded Cr Rossouw

That Council:

- Writes off the following assets:**

| Class | Historical Cost | Depreciation | WDV |
|--------------------------------|------------------------|---------------------|--------------------|
| Plant and Equipment | \$168,573.59 | \$163,482.56 | \$5,091.03 |
| Furniture and Equipment | \$167,384.95 | \$152,320.18 | \$15,064.77 |
| Total | \$335,958.54 | \$315,802.74 | \$20,155.80 |

- Adjusts the Asset Register accordingly.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3.4 Heartlands Western Australia Membership*

| | |
|----------------------------|-------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | 08/02/0003 |
| Prepared by | Karen Dore, Economic Development Officer |
| Supervised by | Jean Sutherland, Executive Manager Corporate Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Heartlands WA Local Government Membership 2013/14 |

Background

The Shire of Chittering has been offered the opportunity to become a member of Heartlands WA.

Heartlands WA is an all-encompassing marketing organisation whose key aim is to increase population in the Wheatbelt region. They will be promoting all opportunities including employment prospects, infrastructure benefits, lifestyle choices, land package varieties, business and industry development possibilities, social service facilities as well as tourism.

Consultation

Consultation has been undertaken with the Shire of Chittering Executive Management Group, following a presentation by Heartlands WA to a recent Avon Midland Zone meeting.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Local Government membership would incur a cost of \$300.00 including GST. An allocation has been made in the 2013/14 budget for memberships.

Strategic Implications

With reference to the *Shire of Chittering Strategic Community Plan 2012-2022*

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------|
| <i>Economic:</i> | <i>Prosperity for the Future</i> |
| <i>Outcome:</i> | <i>Economic growth</i> |
| <i>Strategy:</i> | <i>Seek investment for local business growth</i> <i>Facilitate local service growth</i> |
| <i>Key Priority:</i> | <i>Promote Chittering as a sound place to invest</i> <i>Promote local hubs – retail / home businesses</i> |
| <i>Economic:</i> | <i>Prosperity for the Future</i> |
| <i>Outcome:</i> | <i>Support local businesses</i> |
| <i>Strategy:</i> | <i>Promote local businesses</i> |
| <i>Key Priority:</i> | <i>Facilitate promotional opportunities</i> |

| | |
|----------------------|--------------------------------------------------------------------------|
| <i>Economic:</i> | <i>Prosperity for the Future</i> |
| <i>Outcome:</i> | <i>Chittering "A Place to Visit"</i> |
| <i>Strategy:</i> | <i>Promote and improve Chittering's profile as a tourism destination</i> |
| <i>Key Priority:</i> | <i>Promote the Visitor Centre</i> |

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The recently completed "Shire of Chittering Strategic Community Plan 2012-2022" states that economically the community aspires to see "Chittering develop as a local government that promotes and fosters current and new economic development, continuing to brand Chittering as a day / weekend tourist destination".

Social implications

Nil

Environmental implications

Nil

Comment

Currently the Shire of Chittering is seeking to link with existing organisations in order to leverage their expertise and ensure that Chittering does not continue to be 'forgotten' and 'overlooked'.

9.3.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 140813

Moved Cr Rossouw / Seconded Cr Mackie

That Council:

- 1. support the proposed application for membership to Heartlands WA; and**
- 2. endorse the payment of \$300.00 including GST to Heartlands WA for 2013/14 membership.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.3.5 Community Sporting and Recreation Facilities Fund*

| | |
|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | 15/01/15 |
| Prepared by | Arlene Carter, Club & Community Development/Grants Officer |
| Supervised by | Jean Sutherland, Executive Manager Corporate Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | 1. Application on behalf of Bindoon Bowling Club 2. Bindoon Bowling Club photos 3. Application on behalf of Lower Chittering Cricket Club 4. Project Assessment Sheet |

Background

Funding for Community Sporting and Recreation Facilities Fund (CSRFF) 2014-2015, through the Department of Sport and Recreation (DSR) is currently open for sporting clubs to apply for grants. Part of that procedure is for the applications to be assessed by the Local Government Authority (LGA) and ranked in order of priority for all applications. The applications are then forwarded to DSR for their consideration. The deadline for these applications to be received by DSR is Friday 30 August 2013.

There are two applications:

- (i) Bindoon Bowling Club – for replacement of their synthetic turf; and
- (ii) Lower Chittering Cricket Club – for purchase of a practice net and establishment of the practice area.

Consultation with Jenifer Collins (DSR) regarding the Shire lodging the applications on behalf of the clubs, due to the Clubs not being GST registered, was met favourably.

Bindoon Bowling Club

The replacement of the synthetic surface to the Bindoon Bowling Club greens has been approved in the 2013/14 budgets subject to grant funding and a cost shared basis of \$33,333 each between the Bindoon Bowling Club, Department of Sport and Recreation (DSR) and the Shire of Chittering.

At a Chinkabee Users meeting held on 25 June 2013, the President of the Bindoon Bowling Club, Harry Hawkins indicated that recent quotes received to replace the synthetic surface were between \$125,000 - \$138,000 (previously a figure of \$100,000 was indicated as being adequate). The Club and Community Development Officer, has told the club that the Council are unable to change their budgets therefore the club would need to find the difference. The total cost of this project is \$130,000 (GST excluded), the Bindoon Bowling Clubs contribution is \$55,000, the Shire of Chittering's share being \$33,000 and the CSRFF funding requested is \$42,000.

Lower Chittering Cricket Club

The Lower Chittering Cricket Club have had their share of problems retaining membership, one of the issues has been not having a suitable practice pitch area. They did have an old net which use to be dragged out around the pitch however this was causing damage to the oval and due to its dilapidated state became a nuisance and safety issue for Shire staff to move when mowing, hence the Cricket Club was asked to remove it.

The Shire's Club and Community Development Officer is working together with the cricket clubs, Bindoon Primary School and the Department of Sport and Recreation to try and re-establish Junior Cricket. Given the population of youth in that area, if a Junior Cricket Club is established having a cricket practice area will be of a major benefit to both clubs.

The total project cost is \$20,051 (GST excluded), the Shire of Chittering's share being \$5,000 plus \$1,400 with assistance of felling a couple of trees with the Cricket Club cleaning them up and the Cricket Club contributing \$7,251 made up of 'In Kind' and cash contribution, the remaining being the CSRFF funding request of \$6,400.

Consultation

Bindoon Bowling Club
Lower Chittering Cricket Club
Executive Manager Corporate Services
Jenny Collins – Department of Sport and Recreation
Jannah Stratford – Department of Sport and Recreation

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Monies for both projects have been allocated in the 2013/14 budget.

Strategic Implications

Nil

Site Inspection

Bindoon Bowling Club

A site inspection of the Bindoon Bowling Club greens was carried out on 5 August 2013 by the Club and Community Development Officer and photos taken as attached. There are signs of stretching, tearing and holes to the synthetic surface. It was indicated that the life expectancy of the greens would only be one more season.

Chittering Cricket Club

At the Users meeting held on 11 June 2013, a site inspection of where a practice area could be situated was investigated. There are limited options due to where the existing sheds have been installed and safety issues of traffic and/or damage to the hall. The best place was on the far side of the oval however this would involve the removal of a couple of trees. The Shire could assist with the felling of these 2-3 trees and the Cricket Club would clean up the trees once felled. Finalisation of the exact site would be achieved if the grant was successful and a meeting then organised with the Shire's Technical Services Staff.

Triple Bottom Line Assessment

Economic implications

There are no significant economic implications associated with this report.

Social implications – Bindoon Bowling Club

While the Bindoon Bowling Club consists of 40 members, they also host neighbouring clubs, Corporate Bowls, Dart and Pool on Friday night and it is considered an environment that is enjoyed for social interaction by the community.

Social implications – Lower Chittering Cricket Club

While like most rural clubs the Lower Chittering Cricket Club have had problems retaining membership, the Shire have an opportunity to assist by supporting a cricket practice pitch. This will also help with the recruiting of youth to re-establish a Junior Cricket Club.

Environmental implications

Nil

Comment

DSR have two rounds of funding per year. This round's applications have to be submitted by Friday 30 August 2013. There are two applications which the Council has to prioritise and rank. Two projects cannot be equally ranked. All LGA rankings and ratings must be endorsed by Council and a copy of the Council minutes confirming financial contributions must be included with the application form. A copy of the Assessment Sheet for your information is attached (Attachment 4).

Both Clubs are in need of their grant funding equally, however things that I have taken into consideration in the recommendation are as follows:

1. While the Bindoon Bowling Club greens can be played on for another season, this grant process is not determined until February 2014 and if successful, funds are not available until 1 July 2014, by that time another bowling season would have been completed. If they apply for the following round there is a high probability that bowls will not be able to be played in Bindoon for a season. That could be very detrimental to the club and the community.
2. The Lower Chittering Cricket Club have been struggling to keep membership within their club, this is partly because some members are not happy with the facilities. The Shire has been working with them to try and sort some of these issues through User Meetings. One of the issues is not having a cricket pitch practice area.

The DSR, Bindoon Primary, both the Bindoon Cricket Club and the Lower Chittering Cricket Club and the Shire's Club and Community Development Officer are working together to ascertain the need to re-establish Junior Cricket again in Chittering. By having a cricket pitch practice area in Lower Chittering, where the population is, this will help this process.

There is an opportunity for the Lower Chittering Cricket Club to apply for a Community Grants in November given they are putting a substantial contribution towards this project.

9.3.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 150813

Moved Cr Mackie / Seconded Cr Rossouw

1. That Council endorses a Priority 1 ranking for the Bindoon Bowling Club – Synthetic Surface Replacement to Bindoon Bowling Club greens and confirms that \$33,000 (excluding GST) funds are available for this project subject to grant approval from the Community Sporting and Recreation Facilities Funding Round 2013-2014, by the Department of Sport and Recreation.
2. That Council endorses a Priority 2 ranking for the Lower Chittering Cricket Club – Establishment of Cricket practice area and purchased of cricket net and confirms that \$5,000 (excluding GST) funds are available and in addition assistance with tree removal, for this project subject to grant approval from the Community Sporting and Recreation Facilities Funding Round 2013-2014, by the Department of Sport and Recreation.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Proposed extension to Bindoon Medical Centre – Lot 14 Binda Place, Bindoon

| | |
|----------------------|--------------------------------------|
| Applicant: | Shire of Chittering |
| File ref: | A9531 |
| Prepared by: | Gary Tuffin, Chief Executive Officer |
| Supervised by: | Gary Tuffin, Chief Executive Officer |
| Voting requirements: | Absolute Majority |
| Documents table: | Nil |
| Attachments: | Nil |

Background

Earlier in the year the Binda Medical Group had received funding under the Primary Care Infrastructure Grant scheme from the Department of Health & Ageing (DHA) to undertake a small extension (2 consult rooms) to Council's current medical centre in Bindoon (Binda Place).

On 10 May 2013 the Bindoon Medical Group advised by email that they would not be proceeding with the project, as they did not feel it would be possible to meet the 30 June 2013 completion date deadline (grant condition) due to various project delays.

On the 25 May 2013 the Shire's Chief Executive Officer was approached by the Department of Health & Ageing by teleconference to enquire whether the Shire would be interested in taking over the project and funding to complete the project. The Chief Executive Officer advised the DHA that subject to Council endorsement the funds would be welcomed.

On the 26 June 2013 an email was received from the Bindoon Medical Group advising they had terminated their funding agreement and returned the funding to Canberra.

On the 25 July 2013 a further teleconference was held between the Shire's Chief Executive Officer and the DHA. At this meeting the funding was officially offered to the Shire.

Consultation

Teresa Brolt (Project Manager) – Department of Health & Ageing
Helen Graham (Integration and Infrastructure Branch MDP) – Department of Health & Ageing
Liz Choules - Binda Medical Group
Shire President
Rick Choules (SoC - Building Co-coordinator)
Kelly Ford (SoC - Principal Building Surveyor)

Statutory Environment

Local Government Act 1995 section 6.8 - Expenditure from municipal fund not included in annual budget

A local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure –

- (a) is incurred in a financial year before the adoption of the annual budget by the local government; or*
- (b) is authorised in advance by resolution*; or*
- (c) is authorised in advance by the mayor or president in an emergency.*

** Absolute majority required.*

Regulation 11 of the Local Government Functions & General Regulations states;

11. *Tenders to be invited for certain contracts*

- (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$100,000 unless subregulation (2) states otherwise.*

Policy Implications

Local Planning Policy No 1 – Bindoon Townsite

Purchasing Policy

DA 10 - Engaging Contractors

DA 11 – Entering into Contracts

Financial Implications

Funding of \$132,293.00 has been offered by the Department Health & Ageing for the proposed extensions, and minor medical/office equipment.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

As it is expected the construction value will exceed \$100,000, the works will be advertised as a public tender in accordance with the Local Government and its Regulations. Therefore, the works will be open to local contractors as well as the rest of WA.

Social implications

The extension to the Medical Centre building will provide additional room to effectively perform its function.

Environmental Implications

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

Comment

The proposed extension is to construct two (2) additional consulting rooms to the south of the existing building. The total area of the extension is approximately 55m². The construction is of double brick and sheet metal roofing to match existing building materials with a parapet wall built on the property boundary.

The appropriate approvals (Planning and Health) have been assessed and issued under delegated authority. A new building permit will be required to be issued, once a builder has been appointed.

Council's consideration is requested in regards to accepting funding of \$132,293 (excluding GST) for the proposed extension to the Bindoon Medical Centre at Lot 14 Binda Place, Bindoon.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 160813

Moved Cr Mackie / Seconded Cr Rossouw

That Council:

- 1. Accept the offer of funding for the amount of \$132, 293 (excluding GST) from the Department of Health & Ageing for the proposed extension to the existing Medical Centre at Lot 14 Binda Place, Bindoon.**
- 2. Authorise the Shire President and Chief Executive Officer to sign and affix the Shire's Common Seal to the funding agreement (Deed of Novation) and building contract.**
- 3. Amend the 2013/14 Budget accordingly to account for the additional income and capital expenditure.**

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

9.4.2 Amend Delegation DA28 Burning – Prohibited times variation*

| | |
|----------------------------|---------------------------------------------------|
| Applicant | Shire of Chittering |
| File ref | 13/05/0001 |
| Prepared by | Danica Kay, Executive Support Officer |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting requirements | Absolute majority |
| Documents tabled | Nil |
| Attachments | Updated DA28 Burning – Prohibited times variation |

Background

In accordance with Section 5.46 of the *Local Government Act 1995*, delegations are to be reviewed at least once every financial year. At the Ordinary Meeting of Council 19 June 2013, Council resolved as follows:

“Moved Cr Gibson / Seconded Cr Mackie

That Council endorse the Delegated Authority Register as attached.”

Consultation

Chief Executive Officer

Statutory Environment

Local Government Act 1995 s5.46 – Register of, and records relevant to, delegations to CEO and employees:

Bush Fires Act 1954 s17 Prohibited burning times may be declared by Minister:

(10) A local government may by resolution delegate to its mayor, or president, and its Chief Bush Fire Control Officer, jointly its powers and duties under subsections (7) and (8).

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

It has come to our attention that in accordance with section 17 (10) of the *Bush Fires Act 1954*, Council can only delegate this power to its Shire President and Chief Bush Fire Control Officer.

This delegation is currently as follows:

DA28 BURNING – PROHIBITED TIMES VARIATIONS

Objective of Delegation: To manage the prohibited burning periods

Extent of Delegation: The authority to vary the prohibited burning times in place from time to time.

Conditions imposed: Nil

| | |
|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Delegation by Council to: | Chief Executive Officer |
| Delegation by Chief Executive Officer to: | Chief Bushfire Control Officer Executive Manager Development Services Community Emergency Services Manager |
| Formal Record: | |
| Heads of Power: | <ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Bush Fire Act 1954</i> |

Council are now requested to amend this delegation to be in line with the *Bush Fires Act 1954*.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 170813

Moved Cr Mackie / Seconded Cr Rossouw

That Council amend its delegation DA28 Burning – Prohibited times variation as attached.

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

10. REPORTS OF COMMITTEES

Nil

11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. MOTIONS, OF WHICH NOTICE WAS GIVEN DURING THE MEETING, TO BE CONSIDERED AT A LATER MEETING

Nil

13. URGENT BUSINESS

Nil

14. CONFIDENTIAL ITEMS

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 8.22pm.



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8.30am - 4.30pm