MINUTES FOR
ORDINARY MEETING OF COUNCIL

WEDNESDAY, 13 DECEMBER 2017

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.00PM
Closure: 8.54PM

Shire of Chittering

Preface

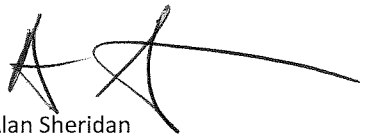
When the Chief Executive Officer approves these Minutes for distribution they are in essence "*Unconfirmed*" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

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

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

Unconfirmed Minutes

These minutes were approved for distribution on 22 December 2017.



Alan Sheridan
Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 21 February 2018.

Signed .....

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

TABLE OF CONTENTS

* 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:

Members:	Cr Peter Osborn	Deputy President (Presiding Member)
	Cr Mary Angus	
	Cr Don Gibson	
	Cr Aaron King	*left the Chambers at 8:47PM and returned at 8:48PM*
	Cr Carmel Ross	
	Cr George Tilbury	

Quorum – 4 members

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

Members of the public	9
Media	0

2.2 Apologies

Cr Gordon Houston	President

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

Nil

4.2 Public question time

Nil

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

5.2.1 Alex Douglas: Appreciation for 37years of voluntary service with the Bindoon Library

Unfortunately Alex Douglas was unable to attend tonight's meeting. Shire officers will make alternative arrangements with Mr Douglas in the New Year.

5.3 Deputations

5.3.1 Item 9.1.1 "Final Adoption of Scheme Amendment No 61 to Local Planning Scheme No 6: Revised Schedule 8 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon"

The applicants made a deputation to Council in support of Item 9.1.1 "Final Adoption of Scheme Amendment No 61 to Local Planning Scheme No 6: Revised Schedule 8 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon".

5.3.2 Item 9.1.4 "Additional Dog Application: RN288 Powderbark Road, Lower Chittering"

Ken Carson made a deputation to Council against Item 9.1.4 "Additional Dog Application: RN 288 Powderbark Road, Lower Chittering".

5.3.3 Item 9.1.4 "Additional Dog Application: RN288 Powderbark Road, Lower Chittering"

The applicant made a deputation to Council in support of Item 9.1.4 "Additional Dog Application: RN288 Powderbark Road, Lower Chittering".

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Ordinary Council Meeting: 15 November 2017

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 011217
Moved Cr Tilbury / Seconded Cr Angus
That the minutes of the Ordinary meeting of Council held on Wednesday, 15 November 2017 be confirmed as a true and correct record of proceedings.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
7:25PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Final Adoption of Scheme Amendment No 61 to Local Planning Scheme No 6: Revised Schedule 8 Provisions to Incorporate a Resort, Residential and Short Stay Accommodation - Lot 101 Teatree Road, Bindoon*

Report date	13 December 2017
Applicant	NXT Global Pty Ltd
File ref	18/02/32; A1205
Prepared by	Brooke Mills, Acting Senior Planning Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Original Amendment Plans 2. Original Resort Plan 3. Submission from DFES 4. Schedule of Submissions 5. Further Submission from DFES 6. Concept Plans incorporating modification 7. Further Submission from DBCA

Executive Summary

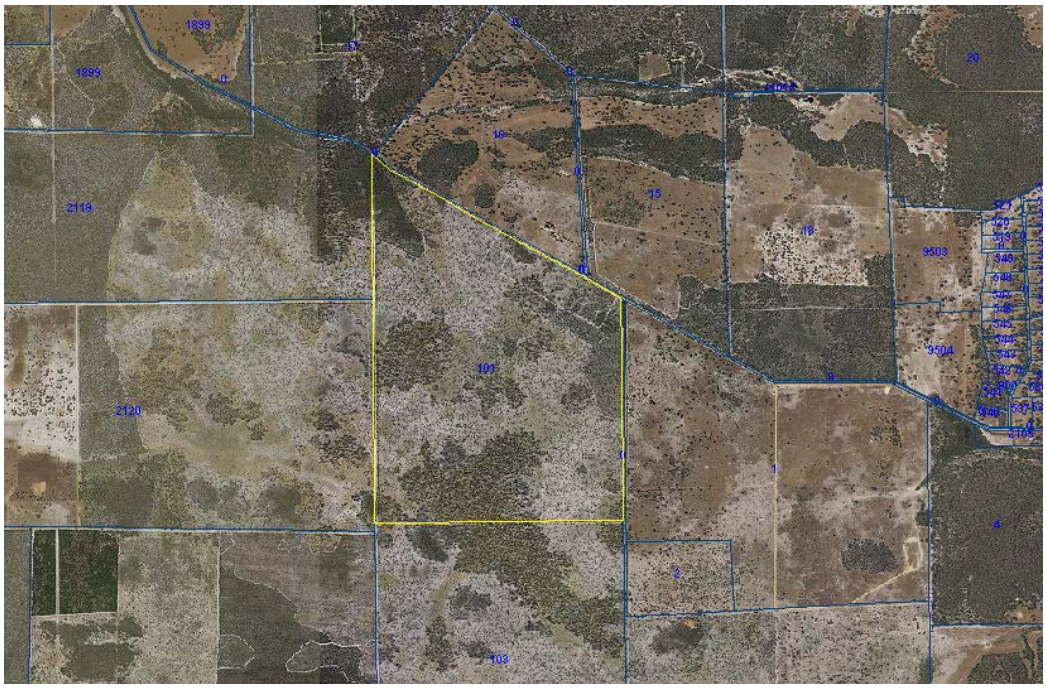
Council is requested to consider the final adoption of Scheme Amendment No 61 (SA61 or Amendment 61) to *Local Planning Scheme No 6* (LPS6). Amendment 61 involves the modification of the existing Schedule 8 provisions for Lot 101 Teatree Road, Bindoon to accommodate tourist development.

This item is before Council in accordance with Clause 50(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Background

Lot 101 Teatree Road, Bindoon is zoned "Rural Conservation" under the Shire's LPS6 and is approximately 475ha in size.

LOCALITY PLAN



A previous Scheme Amendment No 23 was gazetted on 15 January 2010, which entailed rezoning Lot 101 from "Agriculture Resource" to "Rural Conservation" with the intention to subdivide a portion of Lot 101 into residential lots. As part of this process, Lot 101 was entered into Schedule 8 of LPS6 with various provisions governing the subdivision and land use process.

The previously approved Schedule 8 provisions exist as follows:

SCHEDULE 8 - RURAL CONSERVATION

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

No	Description of Land	Conditions
		5. The structure plan shall indicate building envelopes, not exceeding 2,000m,^{2} in area, for all lots proposed within the development area, the structure plan shall indicate a single building envelope, not exceeding 12ha in area for the balance of the conservation lot. All buildings and onsite effluent disposal systems are to be confined to the building envelopes. 6. The permissibility of uses shall be: • Bed and Breakfast (D) • Home Business (D) • Single House (P) All other uses are not permitted. 7. Where lots may be affected by the proposed alignment of the Perth-Darwin National Highway, as a condition of subdivisional approval a notification pursuant to Section 70a of the *Transfer of Land Act 1893* shall be registered on the title of each lot, to the specifications of the appropriate State Government road agency, to advise prospective purchasers of the lots that the use and enjoyment of the land may be effected by the proposed Highway alignment. 8. These conditions are to read in conjunction with the Scheme requirements for the Rural Conservation Zone. Where conflict exists, the conditions of the Schedule shall prevail.

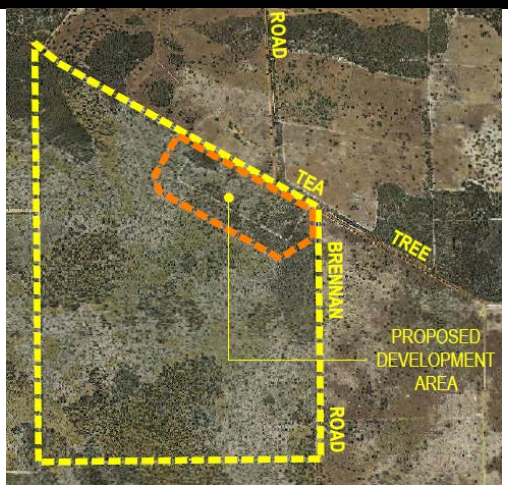
An application to amend LPS6 was received in February 2017, however, due to insufficient information being provided it was not presented at the March Ordinary Meeting of Council. The complete application for initiation was received on 20 March 2017 for the subject Scheme Amendment which proposes the creation of a "Resort" lot in addition to the previously approved 46 residential lots. The current proposal, as depicted in **Attachment 1**, does not seek to increase the development area footprint but rather to reconfigure the area to accommodate the proposed resort and residential/short term accommodation lots within the existing footprint.

The "Resort" lot is proposed to comprise a hotel/motel style building together with eight short term accommodation villas, a restaurant and bar, gym, swimming pool, marine fishing pond and ancillary associated buildings. **Attachment 2** contains the indicative site layout for the proposed Resort component. The lot encompassing the "Resort" also proposes a nine-hole golf course for patron usage. All of the 'common facilities' such as the gym, restaurant, golf course will be open to the general public.

The submitted proposal seeks to amend the provisions of the current LPS6 Schedule 8 entry as follows:

No	Description of Land	Conditions
1.	Lot 101 Tea Tree Road, Bindoon	1. Subdivision and development is to be in accordance with an approved Structure Plan. 2. Subdivision and development of the land shall be restricted to a 50ha portion of the lot, referred to hereafter as the 'development area' (in accordance with the Figure below):

No	Description of Land	Conditions



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

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

Development Area

5. The permissibility of land uses within the development area shall be as follows:
   - Single house (P)
   - Bed and breakfast (D)
   - Home business (D)
   - Residential building (A)
   - Resort (A)
   - Tourist development (A)

   All other uses are not permitted.

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

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

8. The creation of any lots other than the resort lot shall not exceed 46 lots within the development area.

9. All buildings and onsite effluent disposal systems are to be confined to the building envelopes.

10. Subdivision and development within the development area is to be located to avoid impacts to significant vegetation, flora and fauna.

No	Description of Land	Conditions
		11. Subdivision and development within the development area shall not result in the clearing of native vegetation in the conservation area for any purpose. **Conservation Area** 12. The permissibility of land uses within the conservation area shall be as follows: • Single house (P) • Bed and breakfast (D) • Home business (D) All other uses are not permitted. 13. Within the conservation area, the single building envelope shall not exceed 2,000m^2 in area. Buildings and onsite effluent disposal system are to be confined to the building envelope. 14. No further subdivision of the conservation area is permitted. **Structure Plan** 15. The Structure Plan shall provide sufficient information to address the requirements of the Scheme and the following: (a) the location of significant vegetation, flora and fauna and areas to be retained within the development area; (b) the location of any proposed tourist development/resort including associated facilities; (c) the provision of communal and private open spaces and landscaping on the site; (d) the identification of building envelopes for all lots having regard for the environmental values of the site; (e) the location of asset protection zones for the purpose of bushfire management including the location and extent of any required clearing outside of the building envelope; (f) the location of fire breaks; (g) the location of any water storage facilities for the purpose of bushfire management. 16. Prior to the approval of the Structure Plan, vegetation, flora and fauna survey reports are to be prepared in accordance with Environmental Protection Authority Guidance Statements and Commonwealth referral guidelines and conservation advice. Impacts to environmentally significant areas shall be minimised where possible, in accordance with Condition 8 of this Schedule. Where impacts are unavoidable, the structure plan shall demonstrate that like-for-like vegetation, flora and fauna occurs within other parts of the development area or the conservation lot. 17. Prior to the approval of the Structure Plan, a Local Water Management Strategy shall be prepared and approved by the local government, on the advice of the Department of Water. 18. Prior to the approval of the Structure Plan, an Infrastructure and Servicing Management Strategy shall be prepared to address servicing matters including demonstration of a sustainable water supply and wastewater servicing to all lots. The Strategy is to be approved by the

No	Description of Land	Conditions
		Local Government, on the advice of the Department of Water and the Water Corporation (if necessary). 19. Prior to the approval of the Structure Plan, a Bushfire Management Plan shall be prepared and approved by the Local Government, on the advice of the Department of Fire and Emergency Services. The Plan shall be implemented as part of subdivision works. **Development** 20. Prior to the development of the 'Resort' lot, the following management plans are to be prepared to demonstrate how the site is to operate as an integrated tourism proposal: (i) Operation Management Plan; (ii) Waste Management Plan; (iii) Traffic Management Plan. 21. The above conditions are to read in conjunction with the Scheme requirements for the Rural Conservation Zone. Where conflict exists, the conditions of this Schedule shall prevail.

Consultation/Communication Implications

State

- *Planning and Development (Local Planning Schemes) Regulations 2015*

  Advertising has been completed in accordance with Clause 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:

  47. Advertisement of standard amendment

  (1) Subject to sections 81 and 82 of the Act, if a local government resolves under regulation 35(1) to prepare a standard amendment to a local planning scheme or to adopt a standard amendment to a local planning scheme proposed by the owner of land in the scheme area, the local government must, as soon as is reasonably practicable, prepare a notice in a form approved by the Commission giving details of—
  (a) the purpose of the amendment; and
  (b) where the amendment may be inspected; and
  (c) to whom and during what period submissions in respect of the amendment may be made.

  (2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows—
  (a) publish the notice in a newspaper circulating in the scheme area;
  (b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
  (c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
  (d) publish a copy of the notice and the amendment on the website of the local government;
  (e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.

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

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

During the advertising process, ten submissions were received from agencies and three (3) submissions were received from the public. The submission from the Department of Fire and Emergency Services is considered to be significant and is attached at **Attachment 3**. This submission will be discussed in detail in the Officer Comments.

All submissions are detailed in the Schedule of Submissions (**Attachment 4**) and discussed later in the report.

Legislative Implications

State

- *Planning and Development (Local Planning Schemes) Regulations 2015*

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

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

Local

Nil

Policy Implications

State

- *State Planning Policy 2.5 - Rural Planning*

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

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

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

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

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

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

  (v) Areas required for urban uses are avoided.

  (vi) Water supply shall be as follows:

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

(vii) Electricity supply shall be as follows:
- *Where a network is available the precinct is to be serviced with electricity by a licensed service provider, or*
- *Where a network is not available, the precinct is to be services by electricity from renewable energy source/s by a licensed service provider, and this has been demonstrated.*

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

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

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

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

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

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

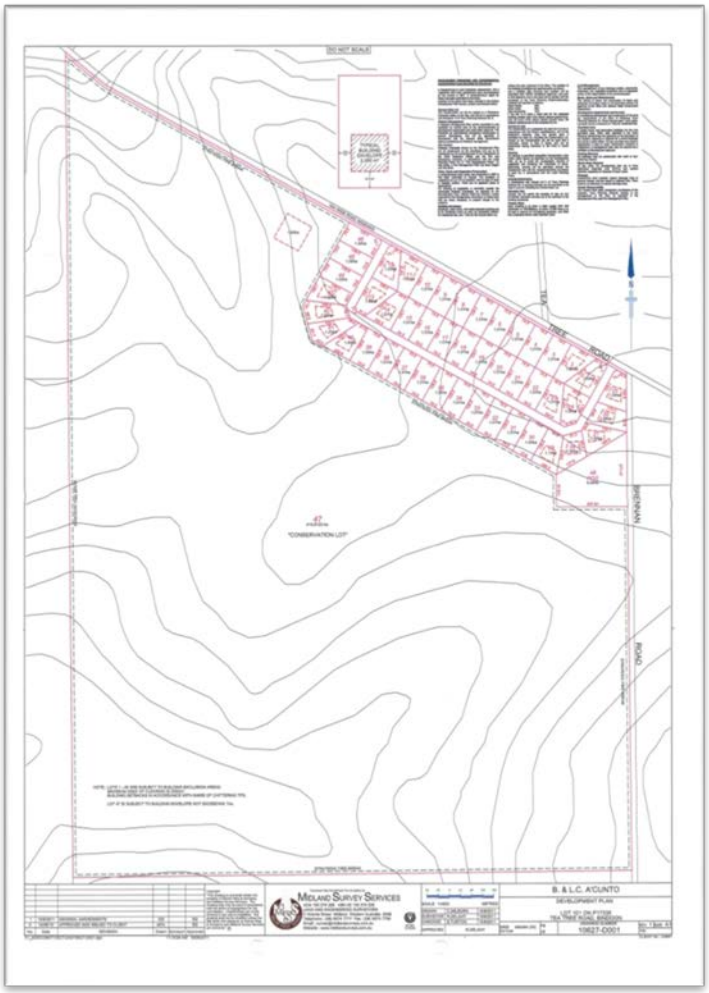
(xiv) Bushfire risk and natural hazards can be minimised and managed in accordance with State policy, without adversely affecting the natural environment. Proposals in areas of extreme bushfire risk will not be supported."

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

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

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

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



This Local Structure Plan is still current, however, the subdivision approval issued by the WAPC expired in May 2016. It is considered highly likely that the WAPC would not support a new application for subdivision based on the current Local Structure Plan design as State Planning Policy 3.7 was updated and the existing Structure Plan design fails to comply with SPP3.7.

- <u>*State Planning Policy 3.7 - Planning in Bushfire Prone Areas*</u>
  Part 5 of *State Planning Policy 3.7* states:
  "The objectives of this policy are to:
  5.1 Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.
  5.2 Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.
  5.3 Ensure that higher order strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures.
  5.4 Achieve an appropriate balance between bushfire risk management measures and, biodiversity conservation values, environmental protection and biodiversity management and landscape amenity, with consideration of the potential impacts of climate change."

Clause 6.2 of *State Planning Policy 3.7* states:

"6.2 Strategic planning proposals, subdivision and development applications

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

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

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

Clause 6.6 of *State Planning Policy 3.7* states:

"6.6 Vulnerable or high-risk land uses

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

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

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

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

Further protection measures should be introduced through possible modification to the concept design and the implementation of a hazard separation zone. This will be discussed later in the report as part of proposed modifications prior to final adoption.

- *WAPC Tourism Planning Guidelines*

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

"4.4.3 Site assessments for future tourist accommodation development

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

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

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

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

"4.4.5 Tourist attractions, activities and amenities

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

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

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

"4.5.3 Tourist development in non-tourist zones

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

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

4.5.3.1 Rural Tourism

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

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

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

There is currently no "Tourist" zone identified under the Shire's **Local Planning Strategy** or LPS6 and, therefore, Lot 101 is required to be assessed individually and on its own merits.

The objectives of the Rural Conservation zone are:

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

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

As an outcome from the consultation process, a requirement was identified for a hazard separation zone was between the lots and the remnant vegetation. It was seen as an opportunity to accomplish both the necessary separation distance, tourist needs and eco-linkages. A new design has been proposed to consider all of these aspects which will be discussed later in the report.

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

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

  Clause 6 of Planning Bulletin 83 states:

  "6. Tourism sites

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

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

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

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

  - *Accessibility - the site has adequate existing or proposed transport links (such as major road or airport access).*
  - *Uniqueness - the site contains, or is in the vicinity of, an attraction or prominent and/or unique landmark of local, regional or State significance.*
  - *Setting - the setting of the site has an aspect and outlook that supports recreational tourism activities and/or the creation of a tourism character and ambience (eg: immediately adjacent to a beach).*
  - *Tourism activities and amenities - the site provides, has easy access to, or is capable of development of supporting activities and amenities such as tours, fishing, historic sites, walk trails, environmental interpretation, cafes, restaurants, shops and the like.*
  - *Supply of land - the site has an element of scarcity in that it may be the only opportunity, or one of the limited number of opportunities, to achieve a significant tourism development in an area. Site specific criteria to determine the tourism value of the site includes:*
  - *Suitability in a land use context - the site is located in a land use context that will not limit the extent of activities available to guests due to amenity impacts on adjoining residents or where the adjoining uses potentially detract from the tourism character of the site (eg: located within a residential area).*
  - *Capability - the site has the capacity to be developed for tourism purposes and accommodate the associated services in a manner that does not detract from the natural attributes of the site or result in environmental degradation. Examples include: clearing for bushfire protection, sewerage capacity, water supply and rubbish disposal.*
  - *Size - the size of the site should be adequate to accommodate a sustainable tourism facility with respect to its design, operation and function, and its site specific and wider impacts and consideration of future grown/expansion. This will require a site to be able to be developed without compromising the sustainable use of natural and cultural resources or existing social structures. Development of the site should also contribute to the delivery of diversified and balanced tourism opportunities.*
  - *Function - the use of the site meets a particular accommodation, market need and/or ensures a range of tourism accommodation with in the locality. Examples are: beachfront caravan parks, school holiday camps and Crown tourism leases.*

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

Put simply, Lot 101 has sufficient qualities to justify supporting a tourism component to the proposed development.

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

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

Local

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

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

Policy Implications

Local

- *Policy 1.5 Execution of Documents*

Financial Implications

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

Strategic Implications

Such a development will increase the viability of Bindoon/Chittering through increased exposure. Furthermore, it will encourage future tourism based enterprises to locate within the Shire area.

Site Inspection

Currently the site is heavily vegetated and undeveloped. Evidence of native flora and fauna were observed.

Triple Bottom Line Assessment

Economic implications

Promoting tourist opportunities within the Shire can have the effect of increasing the economy of the Shire and surrounding areas. Increasing visitors to the area can also provide opportunity for future investment.

Social implications

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

Environmental implications

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

Officer Comment/Details

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

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

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

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

1. eight short term villas;
2. a restaurant and bar with alfresco area;
3. a gym, spa and swimming pools;
4. an activity centre; and
5. a marine fishing pond and fishing village.

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

Submissions Received and Modifications Proposed

Bushfire Risk

In terms of bushfire risk, a submission has been received from the DFES. This submission is attached as **Attachment 3**.

Essentially, the submission from DFES requires a hazard separation zone between the development area and the extreme fire hazard (conservation area). This could be remedied by introducing an area which incorporates landscaped, managed and reduced fuel load areas which typically could include expansive lawns and dual use pathways which are wide enough to be trafficable surfaces for emergency egress and access for emergency vehicles. The applicant has chosen to expand the golf course, which is a created alternative that is also in keeping with the overall development theme.

The introduction of a hazard separation zone is supported by staff and it is recommended that this zone be approximately 100m wide at the closest point. It is envisaged that this area will be maintained as grassed parkland with sparse patches of vegetation and pathways for walking as well as a larger trafficable dual use pathway for the access of emergency vehicles and residents.

The proposal put forward by the applicant, which incorporates the new design concept, was forwarded to DFES for further input. On 24 November 2017, DFES provided a further submission in relation to support for the new design concept (**Attachment 5**).

It is recommended that a modification be made to the Schedule 8 in accordance with the recommendation from DFES.

Conservation Area and Submission from Department of Biodiversity, Conservation and Attractions ("DBCA") (formerly Department of Parks and Wildlife)

The DBCA has been interested in acquiring Lot 101 in it's entirely for a number of years yet has been unsuccessful to date.

The conservation area which is south of the proposed development area has a high retention value and is the missing piece of land in relation to state owned conservation areas. The land to the south and west is in the process of or has been acquired by the State and it would make logical sense to acquire the remainder of Lot 101 for conservation purposes.

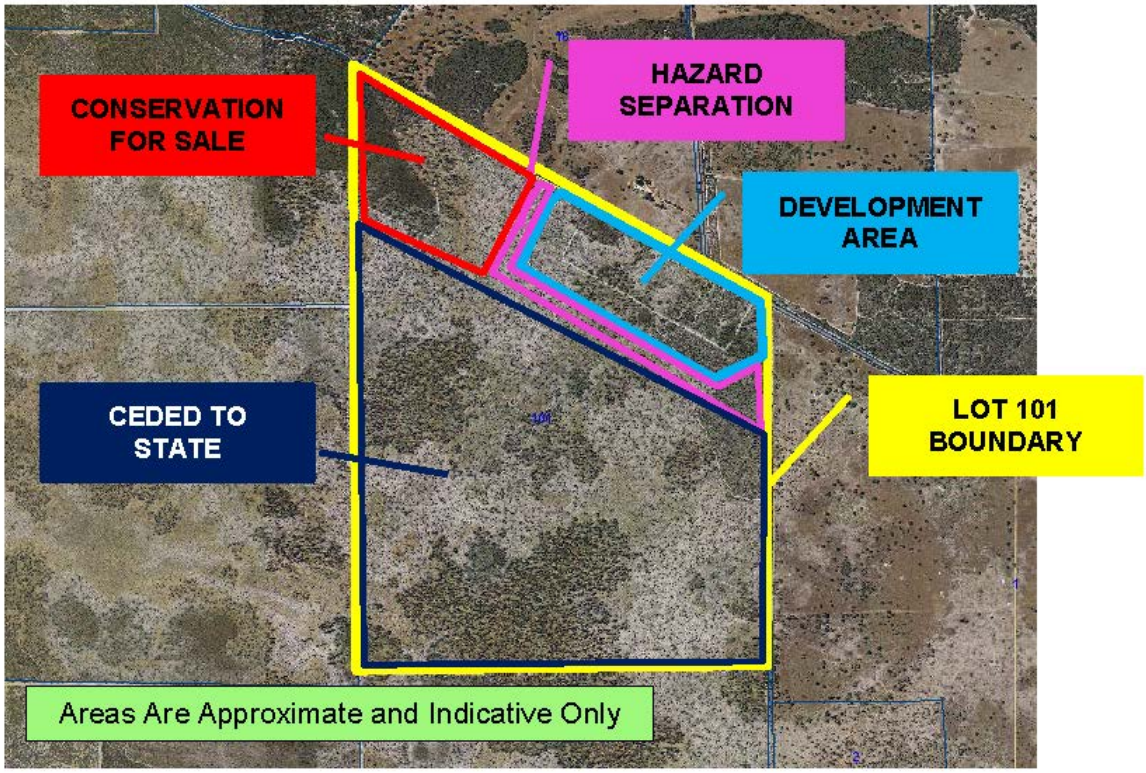
A further submission has been received from DBCA and is attached at **Attachment 7**. This submission basically offers support for the concept plan with the exception of allocating the "conservation lot for sale" to be ceded to the State in addition to the remainder of the original land holding.

Consultation with Landowner and Submitters

In light of the above discussed submissions, consultation took place between Shire staff and the landowners/developers.

The land itself is not able to be developed and would be difficult to maintain given the overall size of the area. Hence, if the State would be willing to allow the expansion of the development area to accommodate a hazard separation zone, the ceding of the remainder of the conservation area should be appropriate in the circumstances.

It may be, at structure plan stage, that a smaller, easier to manage, conservation lot is created at the western side of the development area of, say, approximately 50 or so hectares which could extend from the western border of the development area to the western boundary of Lot 101. This is demonstrated below:



The landowner/developer is amenable to the concept plan as outlined above and has taken the steps of creating a redesign of the original development proposal. Attached at **Attachment 6** is the concept drawings that have been created by the landowner/developer to accommodate the hazard separation zone and the ceding of land to the State for conservation purposes.

A golf course has been incorporated into the hazard separation zone which assimilates with the tourism component and would also be a guarantee of management of the area. There have been tracks incorporated throughout the zone as well as a 6m wide trafficable perimeter roadway. Overall, the proposed concept is fundamentally acceptable and addresses all concerns relating to hazard separation.

Further, the concept drawings are in accordance with the provisions of SPP3.7 at the Element 2: siting and design of development contained within the Appendix at Figure 14.

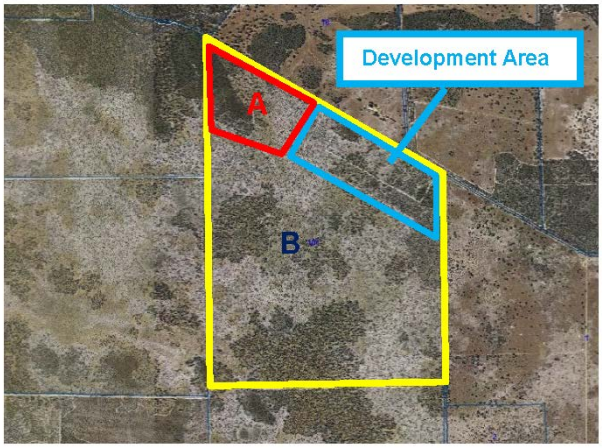
In relation to tourism aspects and, in particular, eco-tourism, the area located in the south eastern corner of the hazard separation zone has been allocated to eco-linkages and it is proposed that, at structure plan stage, this area could be utilised as an ecological experience with walkways and point of interest for residents. It may be a space that is also able to be utilised by the general public for a type of public open space. It is, however, proposed to be retained by the landowner of the golf course and will not become the responsibility of the Shire to maintain.

Overall, the new proposed concept satisfies a variety of elements which have been raised as part of the consultation period and is recommended to be supported as a modification to the proposed SA61.

Proposed Modifications and Justification

In light of the above, it is recommended that the Schedule 8 provisions as outlined above, are considered to be acceptable and should be adopted in final by Council, subject to a number of modifications as follows:

1. Modify clause 2 as follows:
   "Subdivision and development of the land shall be restricted to the development area as depicted in the figure below:"



2. Modify clause 3 as follows:
   "The remaining portion of the land shall be retained as two lots (denoted as A and B) as depicted in the figure identified in clause 2. The conservation area (denoted as A) shall not be increased beyond this depiction and the remaining lot identified as B shall be ceded free of charge to the Department of Biodiversity, Conservation and Attractions as a condition of subdivision approval."

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

4. Modify clause 10 as follows:
   "Subdivision and development within the development area is to minimise the level of bushfire impact and to avoid impacts to significant vegetation, flora and fauna."

5. Insert the words "other than for a hazard separation area around the development area to a maximum distance of 100m from the southern boundary and in accordance with the extended development area as prescribed by the figure depicted in the clause 2." at the end of clause 11.

6. Insert a new clause 12 after "**Conservation Area**" as follows:
   "12. The conservation area be defined as Area A in accordance with the figure at clause 2."

7. Renumber clause 12, 13 and 14 to 13, 14 and 15.

8. Insert a new clause 16 as follows:
   "16. The area identified as B in the figure at clause 12 be ceded free of charge to the Department of Biodiversity, Conservation and Attractions as a condition of subdivision approval."

9. Renumber clauses 15-21 to 17-23.

10. Modify clause 17(g) as follows:
   "(g) the provision of strategic water storage facilities for the sole purpose of bushfire management."

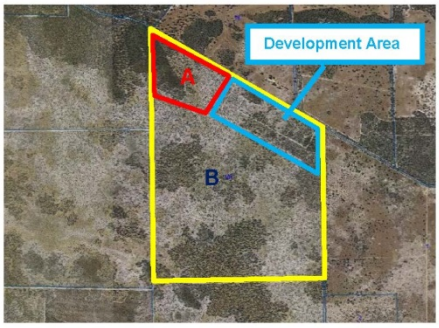
11. Insert a new clause 17(h) and 17(i) as follows:
   "(h) the provision of adequate hazard separation/defendable space to ensure siting and design of development minimizes the level of bushfire impact."
   "(i) the provision of vehicular access and egress that is available and safe at all times."

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

OFFICER RECOMMENDATION
Moved Cr Tilbury / Seconded Cr Ross
That Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005* resolves to adopt in final an amendment to the *Shire of Chittering Local Planning Scheme No. 6* with modifications to:
   a. Delete the land use term 'tourism accommodation' in Schedule 1 and replace it with the following definition for 'tourism development':
      "tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide–
      (a) short-term accommodation for guests; and
      (b) onsite facilities for the use of guests; and
      (c) facilities for the management of the development."
   b. Insert the following general definition for 'short-term accommodation' into Schedule 1:
      "short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling more than three months in any 12 month period."
   c. Delete the conditions for Rural Conservation Area 1 (Lot 101 Teatree Road, Bindoon) in Schedule 8 and replace with the following:

No	Description of Land	Conditions
1.	Lot 101 Tea Tree Road, Bindoon	1. Subdivision and development is to be in accordance with an approved Structure Plan. 2. Subdivision and development of the land shall be restricted to the development area as depicted in the figure below:



3. The remaining portion of the land shall be retained as two lots (denoted as A and B) as depicted in the figure identified in clause 2. The conservation area (denoted as A) shall not be increased beyond this depiction and the remaining lot identified as B shall be ceded free of charge to the Department of Biodiversity, Conservation and Attractions as a condition of subdivision approval.

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

Development Area

5. The permissibility of land uses within the development area shall be as follows:
   - Single house (P)
   - Bed and breakfast (D)
   - Home business (D)
   - Residential building (A)
   - Resort (A)
   - Tourist development (A)

   All other uses are not permitted.

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

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

8. The creation of any lots other than the resort lot shall not exceed 46 lots within the development area

			9. All buildings and onsite effluent disposal systems are to be confined to the building envelopes. 10. Subdivision and development within the development area is to minimise the level of bushfire impact and to avoid impacts to significant vegetation, flora and fauna. 11. Subdivision and development within the development area shall not result in the clearing of native vegetation in the conservation area for any purpose other than for a hazard separation area around the development area to a maximum distance of 100m from the southern boundary and in accordance with the extended development area as prescribed by the figure depicted in the clause 2. <u>Conservation Area</u> 12. The conservation area be defined as Area A in accordance with the figure at clause 2. 13. The permissibility of land uses within the conservation area shall be as follows: • Single house (P) • Bed and breakfast (D) • Home business (D) All other uses are not permitted. 14. Within the conservation area, the single building envelope shall not exceed 2,000m2 in area. Buildings and onsite effluent disposal system are to be confined to the building envelope. 15. No further subdivision of the conservation area is permitted. 16. The area identified as B in the figure at clause 2 be ceded free of charge to the Department of Biodiversity, Conservation and Attractions. <u>Structure Plan</u> 17. The Structure Plan shall provide sufficient information to address the requirements of the Scheme and the following: (a) the location of significant vegetation, flora and fauna and areas to retained within the development area; (b) the location of any proposed tourist development/resort including associated facilities; (c) the provision of communal and private open spaces and landscaping on the site;

			(d) the identification of building envelopes for all lots having regard for the environmental values of the site; (e) the location of asset protection zones for the purpose of bushfire management including the location and extent of any required clearing outside of the building envelope; (f) the location of fire breaks; (g) the provision of strategic water storage facilities for the sole purpose of bushfire management; (h) the provision of adequate hazard separation/defendable space to ensure siting and design of development minimises the level of bushfire impact; and (i) the provision of vehicular access and egress that is available and safe at all times." 18. Prior to the approval of the Structure Plan, vegetation, flora and fauna survey reports are to be prepared in accordance with Environmental Protection Authority Guidance Statements and Commonwealth referral guidelines and conservation advice. Impacts to environmentally significant areas shall be minimised where possible, in accordance with condition 8 of this Schedule. Where impacts are unavoidable, the structure plan shall demonstrate that like-for-like vegetation, flora and fauna occurs within other parts of the development area or the conservation lot. 19. Prior to the approval of the Structure Plan, a Local Water Management Strategy shall be prepared and approved by the local government, on the advice of the Department of Water. 20. Prior to the approval of the Structure Plan, an Infrastructure and Servicing Management Strategy shall be prepared to address servicing matters including demonstration of a sustainable water supply and wastewater servicing to all lots. The Strategy is to be approved by the local government, on the advice of the Department of Water and Environmental Regulation and the Water Corporation (if necessary). 21. Prior to the approval of the Structure Plan, a Bushfire Management Plan shall be prepared and approved by the local government, on the advice of the Department of Fire and Emergency Services. The Plan shall be implemented as part of subdivision works.

			Development 22. Prior to the development of the 'Resort' lot, the following management plans are to be prepared to demonstrate how the site is to operate as an integrated tourism proposal: (i) Operation Management Plan; (ii) Waste Management Plan; (iii) Traffic Management Plan. 23. The above conditions are to read in conjunction with the Scheme requirements for the Rural Conservation zone. Where conflict exists, the conditions of this Schedule shall prevail.

2. authorises the Shire President and Chief Executive Officer to affix the Common Seal to *Local Planning Scheme No 6 Amendment No 61* documents and that the revised Amendment documents be referred to the Department of Planning, Lands and Heritage and the Minister for Planning for final approval.

5/1
7:40 PM

AMENDMENT
Moved Cr Gibson
That Condition 1.c., Condition 4 be amended to allow livestock to be permitted on any lot within the development area.

AMENDMENT LAPSED FOR WANT OF A SECONDER

AMENDMENT
Moved Cr Gibson
That Condition 1.b. be amended to read as follows:

b. Insert the following general definition for 'short-term accommodation' into Schedule 1:
"short-term accommodation means temporary accommodation provided either continuously or from time to time with no guest accommodated for periods totalling a maximum of three months."

AMENDMENT LAPSED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Condition 1.c., Condition 6 be amended to remove the restriction to 2hectares.

AMENDMENT LAPSED FOR WANT OF A SECONDER

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 021217
Moved Cr Tilbury / Seconded Cr Ross
That Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005* resolves to adopt in final an amendment to the *Shire of Chittering Local Planning Scheme No. 6* with modifications to:

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

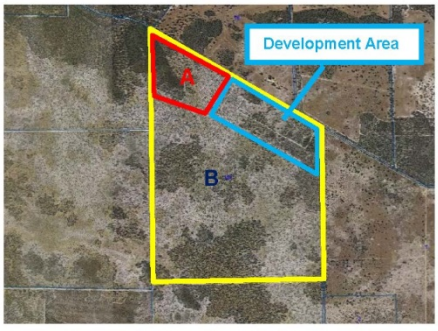
"tourist development means a building, or a group of buildings forming a complex, other than a bed and breakfast, a caravan park or holiday accommodation, used to provide–

(d) short-term accommodation for guests; and
(e) onsite facilities for the use of guests; and
(f) facilities for the management of the development."

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

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

c. Delete the conditions for Rural Conservation Area 1 (Lot 101 Teatree Road, Bindoon) in Schedule 8 and replace with the following:

No	Description of Land	Conditions
1.	Lot 101 Tea Tree Road, Bindoon	1. Subdivision and development is to be in accordance with an approved Structure Plan. 2. Subdivision and development of the land shall be restricted to the development area as depicted in the figure below:  3. The remaining portion of the land shall be retained as two lots (denoted as A and B) as depicted in the figure identified in clause 2. The conservation area (denoted as A) shall not be increased beyond this depiction and the remaining lot identified as B shall be ceded free of charge to the Department of Biodiversity, Conservation and Attractions as a condition of subdivision approval. 4. Livestock is not permitted to be kept on any lot within the development area or within the conservation area.

			Development Area 5. The permissibility of land uses within the development area shall be as follows: • Single house (P) • Bed and breakfast (D) • Home business (D) • Residential building (A) • Resort (A) • Tourist development (A) All other uses are not permitted. 6. Within the development area one 'Resort' lot is permitted with a building envelope that shall not exceed 2 ha in area. A Resort, including associated facilities such as recreation (e.g. gymnasium, swimming pool, golf, bike riding, tennis, bowls, fishing), entertainment (e.g. food and beverage facilities) and management facilities, is to form part of an integrated component of the overall development of the site in terms of scale and character. 7. Except for the 'Resort' lot, all other lots within the development area shall have a minimum lot size of 7,500m^2 and a building envelope that does not exceed 2,000m^2 in area. 8. The creation of any lots other than the resort lot shall not exceed 46 lots within the development area 9. All buildings and onsite effluent disposal systems are to be confined to the building envelopes. 10. Subdivision and development within the development area is to minimise the level of bushfire impact and to avoid impacts to significant vegetation, flora and fauna. 11. Subdivision and development within the development area shall not result in the clearing of native vegetation in the conservation area for any purpose other than for a hazard separation area around the development area to a maximum distance of 100m from the southern boundary and in accordance with the extended development area as prescribed by the figure depicted in the clause 2. **Conservation Area** 12. The conservation area be defined as Area A in accordance with the figure at clause 2.

			13. The permissibility of land uses within the conservation area shall be as follows: • Single house (P) • Bed and breakfast (D) • Home business (D) All other uses are not permitted. 14. Within the conservation area, the single building envelope shall not exceed 2,000m2 in area. Buildings and onsite effluent disposal system are to be confined to the building envelope. 15. No further subdivision of the conservation area is permitted. 16. The area identified as B in the figure at clause 2 be ceded free of charge to the Department of Biodiversity, Conservation and Attractions. **Structure Plan** 17. The Structure Plan shall provide sufficient information to address the requirements of the Scheme and the following: (a) the location of significant vegetation, flora and fauna and areas to retained within the development area; (b) the location of any proposed tourist development/resort including associated facilities; (c) the provision of communal and private open spaces and landscaping on the site; (d) the identification of building envelopes for all lots having regard for the environmental values of the site; (e) the location of asset protection zones for the purpose of bushfire management including the location and extent of any required clearing outside of the building envelope; (f) the location of fire breaks; (g) the provision of strategic water storage facilities for the sole purpose of bushfire management; (h) the provision of adequate hazard separation/defendable space to ensure siting and design of development minimises the level of bushfire impact; and (i) the provision of vehicular access and egress that is available and safe at all times." 18. Prior to the approval of the Structure Plan, vegetation, flora and fauna survey reports are to be prepared in accordance with Environmental Protection Authority

			Guidance Statements and Commonwealth referral guidelines and conservation advice. Impacts to environmentally significant areas shall be minimised where possible, in accordance with condition 8 of this Schedule. Where impacts are unavoidable, the structure plan shall demonstrate that like-for-like vegetation, flora and fauna occurs within other parts of the development area or the conservation lot. 19. Prior to the approval of the Structure Plan, a Local Water Management Strategy shall be prepared and approved by the local government, on the advice of the Department of Water. 20. Prior to the approval of the Structure Plan, an Infrastructure and Servicing Management Strategy shall be prepared to address servicing matters including demonstration of a sustainable water supply and wastewater servicing to all lots. The Strategy is to be approved by the local government, on the advice of the Department of Water and Environmental Regulation and the Water Corporation (if necessary). 21. Prior to the approval of the Structure Plan, a Bushfire Management Plan shall be prepared and approved by the local government, on the advice of the Department of Fire and Emergency Services. The Plan shall be implemented as part of subdivision works. **<u>Development</u>** 22. Prior to the development of the 'Resort' lot, the following management plans are to be prepared to demonstrate how the site is to operate as an integrated tourism proposal: (i) Operation Management Plan; (ii) Waste Management Plan; (iii) Traffic Management Plan. 23. The above conditions are to read in conjunction with the Scheme requirements for the Rural Conservation zone. Where conflict exists, the conditions of this Schedule shall prevail.

2. authorises the Shire President and Chief Executive Officer to affix the Common Seal to *Local Planning Scheme No 6 Amendment No 61* documents and that the revised Amendment documents be referred to the Department of Planning, Lands and Heritage and the Minister for Planning for final approval.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 5/1
7:40PM

9.1.2 Final Adoption of Scheme Amendment No 65 to Town Planning Scheme No 6: Omnibus Modifications to Schedule 1 Land Use Definitions and Schedule 2 Zoning Table*

Report date	13 December 2017
Applicant	Shire of Chittering
File ref	18/02/23
Prepared by	Brooke Mills, Acting Senior Planning Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Amendment 65 Document 2. Schedule of Submissions

Executive Summary

Council is requested to consider the final adoption of Scheme Amendment No 65 (previously Amendment 63) to *Local Planning Scheme No 6* (LPS6). Scheme Amendment 65 (SA65) involves the modification of the existing Schedule 1 Land Use Definitions and Schedule 2 Zoning Table to better align with the model definitions.

It is also the intention of SA65 to provide certainty and consistency surrounding land use throughout the Shire.

Background

The majority of SA65 was originally contemplated for inclusion within Scheme Amendment 60 (SA60). In addition, the day to day application of LPS6 by Shire staff has encountered a number of inconsistencies and contradictions that affect land use permissions.

Council, in its resolution to endorse SA60, deemed that the changes to Schedules 1 and 2 were best undertaken separately in an omnibus amendment.

Other elements requiring consideration, and that have implications throughout the Scheme area, form an additional basis for the undertaking of this amendment. These include minor rural activities such as rural pursuit being not permitted in rural zones and incidental activities not being able to be contemplated.

The amendment tables for SA65 are attached and marked **Attachment 1**.

Consultation/Communication Implications

State

- *Planning and Development (Local Planning Schemes) Regulations 2015*

  Advertising has been completed in accordance with Clause 47 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as follows:

  47. Advertisement of standard amendment

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

  (a) the purpose of the amendment; and

(b) where the amendment may be inspected; and
(c) to whom and during what period submissions in respect of the amendment may be made.

(2) On completion of the preparation of the notice, the local government must advertise the standard amendment to a local planning scheme as follows—
(a) publish the notice in a newspaper circulating in the scheme area;
(b) display a copy of the notice in the offices of the local government for the period for making submissions set out in the notice;
(c) give a copy of the notice to each public authority that the local government considers is likely to be affected by the amendment;
(d) publish a copy of the notice and the amendment on the website of the local government;
(e) advertise the scheme as directed by the Commission and in any other way the local government considers appropriate.

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

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

During the advertising process, 6 submissions were received from agencies and 1 submission was received from the public. All submissions have been included in the Schedule of Submissions attached at **Attachment 2**. The submission from the Department of Mines, Industry Regulation and Safety is considered to be significant and is attached at **Attachment 3**. This submission will be discussed in detail in the Officer Comments.

Legislative Implications

State

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

  Council is requested to consider the final adoption of Scheme Amendment No 65 in accordance with this Part.

Local

- *Local Planning Scheme No 6*
  The amendments to LPS6 proposed as part of SA65 are consistent with the Model Scheme Text prescribed by the Regulations.

Policy Implications

Local

- *Policy 1.5 Execution of Documents*

Financial Implications

While the long term application of LPS6 following SA65 will unlikely have any financial implications for the Shire, the costs of gazettal of the amendment will be imposed on the Shire.

Strategic Implications
Providing certainty and consistency for ratepayers and developers within the Shire will provide a clear future direction for the Shire.

Site Inspection
Not applicable to this amendment.

Triple Bottom Line Assessment
Economic implications
The revisions to the Scheme may result in less commercial development on Agricultural Resource zoned land, however, may provide additional incentive to develop land within the Muchea Employment Node. In addition, the revisions may provide incentives for some existing commercial and residential properties to undertake more active land uses without detriment to the locality.

Social implications
The proposed SA65 intends to provide better certainty surrounding the planning framework. This effectively means restricting non-rural businesses to areas other than rural land and by introducing additional land uses and permissibility's that may serve to increase economic advantages to existing commercial/tourism based activities.

Environmental implications
Making certain industrial type activities such as Transport Depot and Warehouse/storage "X" uses (not permitted) within Agricultural Resource zones will allow rural land to regenerate and will protect potentially environmentally significant areas including creeks and remnant vegetation from industrial emissions.

Officer Comment/Details
SA65 is restricted to amending Schedules 1 and 2 of LPS6. While a full list of the changes can be viewed in **Attachment 1**, the definitions are required to be consistent with the model definitions in Clause 32 of the Model Scheme Text. Where a definition is modified, it requires the Minister's specific approval. The Shire can choose to retain an existing definition over the Model Scheme Definitions.

Overall, SA65 seeks to minimise non-rural related industries from occurring outside of the Muchea Employment Node (or future Industrial zones) and, moreover, allow for a greater range of rural related activities within the Agricultural Resources zone.

In addition, SA65 will introduce the "incidental (I)" land use permissibility. This permissibility will allow additional land uses such as a reception centre within existing primary commercial and tourism businesses such as vineyards, restaurants, places of worship and community activity centres. Currently, such an activity is not permissible within the Rural Residential, Rural Conservation and General Industry zones.

Land uses allocated to "I" incidental may be required to submit for development approval but it is anticipated that the introduction of incidental land use capabilities will provide certainty in giving discretionary ability to a specific land use if it is accompanying development to an existing land use.

Submissions Received

Department of Mines, Industry Regulation and Safety

Essentially, the Department of Mines, Industry Regulation and Safety (DMIRS) is requesting that the land use of "Industry - Mining" be replaced with "Mining Operations" and allow discretionary permissions to all zones under LPS6. This is requested by the DMIRS in accordance with the Rural Planning Guidelines Version 3 issued by the Department of Planning, Lands and Heritage as supplementary guidelines to *State Planning Policy 2.5 - Rural Planning*.

Whilst it could be considered that this request may be entertained, it is not proposed to introduce it as a part of SA65 as it could be considered a modification that may require additional separate advertising. It may be a land use that could be considered as part of the review of LPS6 following, or in conjunction with, the review of the Shire's *Local Planning Strategy*, although Council's general anti-mining stance is noted. It is anticipated that the Strategy could possibly be advertised in early 2018 and it is recommended that a complete review of Schedules 1 and 2 can be undertaken at this stage.

It is not recommended to undertake this modification at this stage.

Department of Planning, Lands and Heritage (DPLH)

The submission from DPLH is describing further modifications to the text of Schedules 1 and 2 which would bring LPS6 into better alignment with the Model Scheme Text of the Regulations.

The following comments are made in relation to each point of the submission from DPLH:

(a) Change the definition for "garden centre" to align with the Regulations by using the words "rearing and sale of plants" in place of "rearing and/or sale of plants".

Staff consider this to be a minor change and recommend that this be carried forward into the SA65 report.

(b) Modify SA65 report to reflect the entire LPS6 existing definition of "Industry".

This is also considered to be a minor change and it is also recommended to carry this change through to the SA65 report.

(c) Modify the land use of "winery/brewery" by defining each element as follows:
"brewery means premises the subject of a producer's license authorizing the production of beer, cider or sprits granted under the Liquor Control Act 1988."
"winery means premises used for the production of viticultural produce and associated sale of the produce."

This change described by the DPLH is considered to be appropriate and should be carried forwards to the SA65 report.

(d) Modifying the proposed addition of the incidental footnote at the bottom of Schedule 2 as follows:
"I means that the use is permitted if it is consequent on, or naturally attaching, appertaining or relating to the predominant use of the land and it complies with any relevant development standards and requirements of this Scheme."

Modifying this footnote is considered to be consistent with the Regulations and should be carried forward to the SA65 report.

Clause 3 - Additional Modifications Recommended

Amendment No 60 to LPS6 has now been Gazetted and this, amongst other aspects, modified Additional Use 17 such that Builders Storage Yard was removed and Warehouse/storage was added. Therefore, it is not considered necessary to include this in SA65 and it is recommended to remove the additional modifications under Clause 3 of the report for SA65.

Additional Modifications

In relation to the advertised SA65, it is considered that the proposed modification to Transport Depot is not required as the commercial vehicle aspect is adequately covered by the new definition of Commercial Vehicle Parking. Therefore, it is recommended that the additional paragraph be removed from the definition of Transport Depot.

It is therefore, recommended that all changes suggested by the DPLH and the additional modification to the land use of Transport Depot are made to the SA65 report and, accordingly, the proposed SA65 is put forward to Council for final adoption with modifications.

OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Ross

That Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005* resolves to adopt in final an amendment to the *Shire of Chittering Local Planning Scheme No. 6* with modification as follows:
   a. Modify Schedule 1 as follows:
      i. Remove the land use of:

Builders Storage Yard	*means premises used for the storage of building material, pipes or similar items related to any trade, and may include the manufacture, assembly and dismantling processes incidental to the predominant use.*

      ii. Insert the following land use:

Commercial Vehicle Parking	*means premises used for the parking of one or two commercial vehicles but does not include –* *(a) any part of a public road used for parking or for a taxi rank; or* *(b) parking of commercial vehicles incidental to the predominant use of the land.*

      iii. Modify the following land use by replacing the meaning as follows:

Garden Centre	*means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.*

      iv. Insert a new land use as follows:

Home Office	*means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —* *(a) is solely within the dwelling; and*

(b) does not entail clients or customers travelling to and from the dwelling; and
(c) does not involve the display of a sign on the premise; and
(d) does not require any change to the external appearance of the dwelling

v. Modify the land use of Industry by adding (e) as follows:

Industry	*means premises used for manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for-*
	(a) the storage of goods;
	(b) the work of administering or accounting;
	(c) the selling of goods by wholesale or retail;
	(d) the provision of amenities for employees; or
	(e) incidental purposes.

vi. Delete the following land uses:

Landfill/Refuse Centre	*means premises used in the disposal, storage and recycling of waste material.*
Plant Nursery	*means any land or buildings used for the propagation, rearing and sale of plants.*
Place of Assembly	*means premises where people assemble for a public, religious or cultural activity and may include a hall, mosque, church, temple or synagogue.*

vii. Insert a new land use as follows:

Place of Worship	*means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.*

viii. Insert a new land use as follows:

Resource Recovery Centre	*means premises other than a waste disposal facility used for the recovery of resources from waste.*

ix. Delete the following land use:

Stable	*means any land or buildings used for the stabling, agistment and training of horses, ponies, asses and mules and associated incidental uses.*

x. Delete the definition for the land use of Shop and replace as follows:

Shop	*means premises other than a bulky goods showroom, a liquor store - large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.*

xi. Modify the land use of Transport Depot as follows:

Transport Depot *means premises used primarily for the parking or garaging of three (3) or more commercial vehicles including-*

(a) any ancillary maintenance or refuelling of those vehicles; and

(b) any ancillary storage of goods brought to the premises by those vehicles; and

(c) the transfer of goods or persons from one vehicle to another.

xii. Insert the following land uses:

Warehouse/Storage *means premises including indoor or outdoor facilities used for-*

(a) the storage of goods, equipment, plant or materials; or

(b) the display or sale by wholesale of goods;

Waste disposal facility *means premises used -*

(a) for the disposal of waste by landfill; or

(b) the incineration of hazardous, clinical or biomedical waste.

Waste storage facility *means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.*

Winery/Brewery *means premises used for the production and/or sale to the public of fermented viticultural or horticultural produce and associated products.*

b. Modify Schedule 2 as follows:

		Town site	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation *AMD 8 GG 30/1/09*	Residential R2 *AMD 40 GG 27/4/10*	Industrial Development Zone *AMD 52 GG 26/06/15*	General Industry Zone *AMD 52 GG 26/06/15*
USE CLASS											
~~14~~	~~Builders Storage Yard~~	~~X~~	~~D~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~		*In accordance with clause 3.4.3*	~~P~~
18	Caretaker's Dwelling	D	~~D~~ A	X	X	X	X	X			X
23	Commercial vehicle parking	X	P	D	A	A	A	A	X		P
35	Funeral Parlour	A	~~X~~ A	X	X	X	X	X			X
36	Garden Centre	D	D	~~X~~ D	X	X	X	X			~~P~~ X

42	Industry - Extractive	X	~~X~~	A	X	X	X	X			D
43	Industry	X	~~A~~ X	X	X	X	X	X			D
47	Industry Rural	X	P	D	X	~~A~~	~~A~~ X	X			A
~~49~~	~~Land Refuse Centre AMD 39 GG 20/07/10~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~			~~X~~
53	Market	~~X~~ P	~~X~~ A	~~X~~ A	X	X	X	X			X
59	Office	P	~~X~~ I	X	X	X	X	X	D		~~X~~ I
63	Place of ~~Assembly~~ Worship	D	X A	~~D~~ X	X	X	X	X			X
64	~~Plant Nursery~~	~~D~~	~~D~~	~~D~~	~~D~~	~~X~~	~~X~~	~~X~~			~~P~~
67	Reception Centre	D	~~A~~ I	A	X	A	A	~~X~~ I			X
74	Rural Pursuit	X	X	~~X~~ D	D	D	D	X			X
78	Showroom	P	P	X	X	X	X	X			~~P~~ I
~~80~~	~~Stable~~	~~D~~	~~X~~	~~P~~	~~D~~	~~D~~	~~D~~	~~X~~			~~X~~
81	Stock Yards	X	~~X~~ A	A	X	X	X	X			~~P~~ A
84	Telecommunications Infrastructure	A	~~A~~ P	A	A	A	A	~~X~~ A			P
85	Transport Depot	X	P	~~A~~ X	X	X	X	X			P
88	Warehouse/Storage	~~A~~ X	P	~~D~~ X	X	X	X	X			P
	Resource recovery facility	X	P	X	X	X	X	X	X		P
	Waste disposal facility	X	X	X	X	X	X	X	X		X
	Waste storage facility	X	X	X	X	X	X	X	X		X
89	Wayside Stall	D	X	D	D	D	D	~~X~~ D			X

2. authorises the Shire President and Chief Executive Officer to affix the Common Seal to *Local Planning Scheme No 6 Amendment No 65* documents and that the revised Amendment documents be referred to the Department of Planning, Lands and Heritage and the Minister for Planning for final approval.

AMENDMENT
Moved Cr Gibson / Seconded Cr King
That Schedule 2 be amended that No 18 "Caretakers Dwelling" be approved light industrial, agricultural resources, rural retreat, rural small holdings and rural conservation.

MOTION / COUNCIL RESOLUTION 031217
Moved Cr King / Seconded Cr Gibson
That Council suspended *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members* to allow free and open debate.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
7:50PM

MOTION / COUNCIL RESOLUTION 041217
Moved Cr Tilbury / Seconded Cr Ross
That Council resume *Local Government (Council Meetings) Local Law 2014, Part 8 – Conduct of Members*.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
7:58PM

AMENDMENT
Moved Cr Gibson / Seconded Cr King
That Schedule 2 be amended so that No 18 "Caretakers Dwelling" be permitted on light industrial, agricultural resources, rural retreat, rural small holdings and rural conservation.

THE AMENDMENT WAS PUT AND DECLARED LOST 1/5
7:58PM

AMENDMENT
Moved Cr Gibson
That Item 9.1.2 be laid on the table so that Council can discuss Schedule 2.

AMENDMENT LASPED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Schedule 2 be amended so that No 23 "commercial vehicle parking" be permitted on light industrial and agricultural resource.

AMENDMENT LAPSED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Schedule 2 be amended so that No 36 "garden centre" be permitted on agricultural resource, rural resident and rural small holdings.

AMENDMENT LAPSED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Schedule 2 be amended so that No 47 "industry rural" be permitted on agricultural resource, rural small holdings and rural residential.

AMENDMENT LAPSED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Schedule 2 be amended so that No 59 "office" be permitted on agricultural resource, rural residential, rural small holdings and rural retreat.

AMENDMENT LAPSED FOR WANT OF SECONDER

AMENDMENT
Moved Cr Gibson
That Schedule 2 be amended so that No 81 "stock yards" be allowed on agricultural resource, rural small holdings and rural residential.

AMENDMENT LAPSED FOR WANT OF SECONDER

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 051217
Moved Cr King / Seconded Cr Ross
That Council:

1. pursuant to Section 75 of the *Planning and Development Act 2005* resolves to adopt in final an amendment to the *Shire of Chittering Local Planning Scheme No. 6* with modification as follows:

a. Modify Schedule 1 as follows:

i. Remove the land use of:

Builders Storage Yard	*means premises used for the storage of building material, pipes or similar items related to any trade, and may include the manufacture, assembly and dismantling processes incidental to the predominant use.*

ii. Insert the following land use:

Commercial Vehicle Parking	*means premises used for the parking of one or two commercial vehicles but does not include –* *(a) any part of a public road used for parking or for a taxi rank; or* *(b) parking of commercial vehicles incidental to the predominant use of the land.*

iii. Modify the following land use by replacing the meaning as follows:

Garden Centre	*means premises used for the propagation, rearing and sale of plants, and the storage and sale of products associated with horticulture and gardens.*

iv. Insert a new land use as follows:

Home Office	*means a dwelling used by an occupier of the dwelling to carry out a home occupation if the carrying out of the occupation —* *(a) is solely within the dwelling; and* *(b) does not entail clients or customers travelling to and from the dwelling; and* *(c) does not involve the display of a sign on the premise; and* *(d) does not require any change to the external appearance of the dwelling*

v. Modify the land use of Industry by adding (e) as follows:

Industry	*means premises used for manufacture, dismantling, processing, assembly, treating, testing, servicing, maintenance or repairing of goods, products, articles, materials or substances and includes premises on the same land used for-* *(a) the storage of goods;* *(b) the work of administering or accounting;* *(c) the selling of goods by wholesale or retail;* *(d) the provision of amenities for employees; or* *(e) incidental purposes.*

vi. Delete the following land uses:

Landfill/Refuse Centre	*means premises used in the disposal, storage and recycling of waste material.*
Plant Nursery	*means any land or buildings used for the propagation, rearing and sale of plants.*
Place of Assembly	*means premises where people assemble for a public, religious or cultural activity and may include a hall, mosque, church, temple or synagogue.*

vii. Insert a new land use as follows:

Place of Worship	*means premises used for religious activities such as a chapel, church, mosque, synagogue or temple.*

viii. Insert a new land use as follows:

Resource Recovery Centre	*means premises other than a waste disposal facility used for the recovery of resources from waste.*

ix. Delete the following land use:

Stable	*means any land or buildings used for the stabling, agistment and training of horses, ponies, asses and mules and associated incidental uses.*

x. Delete the definition for the land use of Shop and replace as follows:

Shop	*means premises other than a bulky goods showroom, a liquor store - large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.*

xi. Modify the land use of Transport Depot as follows:

Transport Depot	*means premises used primarily for the parking or garaging of three (3) or more commercial vehicles including-* *(a) any ancillary maintenance or refuelling of those vehicles; and* *(b) any ancillary storage of goods brought to the premises by those vehicles; and* *(c) the transfer of goods or persons from one vehicle to another.*

xii. Insert the following land uses:

Warehouse/Storage	*means premises including indoor or outdoor facilities used for-* *(a) the storage of goods, equipment, plant or materials; or* *(b) the display or sale by wholesale of goods;*
Waste disposal facility	*means premises used -* *(c) for the disposal of waste by landfill; or* *(d) the incineration of hazardous, clinical or biomedical waste.*
Waste storage facility	*means premises used to collect, consolidate, temporarily store or sort waste before transfer to a waste disposal facility or a resource recovery facility on a commercial scale.*
Winery/Brewery	*means premises used for the production and/or sale to the public of fermented viticultural or horticultural produce and associated products.*

b. Modify Schedule 2 as follows:

		Town site	Light Industrial	Agricultural Resource	Rural Residential	Rural Smallholdings	Rural Retreat	Rural Conservation *AMD 8 GG 30/1/09*	Residential R2 *AMD 40 GG 27/4/10*	Industrial Development Zone *AMD 52 GG 26/06/15*	General Industry Zone *AMD 52 GG 26/06/15*
USE CLASS											
~~14~~	~~Builders Storage Yard~~	~~X~~	~~D~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~		*In accordance with clause 3.4.3*	~~P~~
18	Caretaker's Dwelling	D	~~D~~ A	X	X	X	X	X			X
23	Commercial vehicle parking	X	P	D	A	A	A	A	X		P
35	Funeral Parlour	A	~~X~~ A	X	X	X	X	X			X
36	Garden Centre	D	D	~~X~~ D	X	X	X	X			~~P~~ X
42	Industry - Extractive	X	~~X~~	A	X	X	X	X			D
43	Industry	X	~~A~~ X	X	X	X	X	X			D
47	Industry Rural	X	P	D	X	~~A~~	~~A~~ X	X			A
~~49~~	~~Land Refuse Centre AMD 39 GG 20/07/10~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~	~~X~~			~~X~~
53	Market	~~X~~ P	~~X~~ A	~~X~~ A	X	X	X	X			X
59	Office	P	~~X~~ I	X	X	X	X	X	D		~~X~~ I
63	Place of ~~Assembly~~ Worship	D	X A	~~D~~ X	X	X	X	X			X
64	~~Plant Nursery~~	~~D~~	~~D~~	~~D~~	~~D~~	~~X~~	~~X~~	~~X~~			~~P~~
67	Reception Centre	D	~~A~~ I	A	X	A	A	~~X~~ I			X
74	Rural Pursuit	X	X	~~X~~ D	D	D	D	X			X
78	Showroom	P	P	X	X	X	X	X			~~P~~ I
~~80~~	~~Stable~~	~~D~~	~~X~~	~~P~~	~~D~~	~~D~~	~~D~~	~~X~~			~~X~~
81	Stock Yards	X	~~X~~ A	A	X	X	X	X			~~P~~ A
84	Telecommunications Infrastructure	A	~~A~~ P	A	A	A	A	~~X~~ A			P
85	Transport Depot	X	P	~~A~~ X	X	X	X	X			P
88	Warehouse/Storage	~~A~~ X	P	~~D~~ X	X	X	X	X			P
	Resource recovery facility	X	P	X	X	X	X	X	X		P
	Waste disposal facility	X	X	X	X	X	X	X	X		X
	Waste storage facility	X	X	X	X	X	X	X	X		X
89	Wayside Stall	D	X	D	D	D	D	~~X~~ D			X

2. authorises the Shire President and Chief Executive Officer to affix the Common Seal to *Local Planning Scheme No 6 Amendment No 65* documents and that the revised Amendment documents be referred to the Department of Planning, Lands and Heritage and the Minister for Planning for final approval.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 5/1
8:07PM

9.1.3 Waste and Recycling Tonnages*

Report Date	13 December 2017
Applicant	Shire of Chittering
File ref	31/01/0004
Prepared by	Glenn Sargeson, Principal Environmental Health Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Chittering Waste and Recycling Census 2016/2017

Executive Summary

The Shire of Chittering is required to submit a waste and recycling census report for the period 1 July to 30 June each year to the Department of Water and Environmental Regulation (DWER) as a requirement of the *Waste Avoidance and Resource Recovery Act 2007*. This report summarises the key results of the waste and recycling census report for 2016/2017 and discusses options for improving the recovery rate for recyclable and reusable materials. This report is submitted to Council for information purposes only as it does not require any formal statutory determination/action. Accordingly, Council's acknowledgement is requested only.

Background

The information for this report is obtained from the Shire's Technical Services department through the operational data recorded for the Muchea and Bindoon Landfill and Recycling Centres and from the Shire's contractor for kerbside waste and recycling – Avon Waste. This report summarises and comments on variations between the 2014-2017 reports. Note that the figures quoted in this report only relate to domestic waste and recyclable materials, including municipal (shire) waste and does not include commercial waste.

Consultation/Communication Implications

The Principal Environmental Health Officer consulted with the Executive Manager Technical Services, landfill supervisor, officers from the DWER Waste Management Section and staff from Avon Waste.

Legislative Implications

State

- *Waste Avoidance and Resource Recovery Act 2007 (WAAR Act)*

  The primary objectives of this Act under Section 5 (1) are to:

  "contribute to sustainability, and the protection of human health and the environment, in Western Australia and the move towards a waste-free society by—

  (a) promoting the most efficient use of resources, including resource recovery and waste avoidance; and

  (b) reducing environmental harm, including pollution through waste; and

  (c) the consideration of resource management options against the following hierarchy —

  (i) avoidance of unnecessary resource consumption;

  (ii) resource recovery (including reuse, reprocessing, recycling and energy recovery);

  (iii) disposal."

  The annual waste and recycling census report is a means of measuring Council's effectiveness in relation to achieving the above objectives.

Policy Implications
The WARR Act requires that Local Governments have a Waste Plan that supports the objectives of their Waste Strategy: "Creating the Right Environment (2012)". Accordingly, the Shire of Chittering has the Strategic Waste Management Plan, February 2014 (Talis).

Financial Implications
Optimisation of space within the Shire's existing landfill space is critical. Therefore it is proposed to cease landfilling operations at the Bindoon Landfill and Recycling Centre and construct a transfer station with wastes being transferred to the Muchea site. There are expenses associated with the closure and rehabilitation of the Bindoon site as well as the construction of the transfer station facilities. With the addition of the wastes transferred from the Bindoon landfill site, it is estimated that the current Muchea site (that is the area currently being used) has an expected lifespan of six years. Development into adjacent land purchased from Boral several years ago will extend the life of the landfill but it is not known at this stage what the requirements will be with regard to their requirements for lining, leachate management, drainage and gas extraction measures. DWER, the Western Australian Local Government Association (WALGA) and the Waste Authority formed a Rural Landfill Working Group in 2015 to address such issues and advice is that a revised 'Draft Environmental Standards for Rural Landfills' will be issued for comment soon.

Strategic Implications
The State Waste Strategy has the objectives for regional centres of achieving a 50% reduction of waste to landfills by 2020. The Shire of Chittering is part of the Avon Region of Councils (AROC) and is a participant in the AROC Strategic Waste Management Plan Working Group. Achieving a 50% diversion rate will enable the Muchea landfill to be kept operational for longer while forward strategies are considered. With the introduction of the kerbside waste and recycling service in September 2014 and improvements in the operation of the Shire's landfill sites, the Shire of Chittering has been achieving close to the previous target for non-regional shires of a 30 % diversion rate by 2015.

In the Ordinary Meeting of Council report of 19 July 2017, it was resolved that the Shire withdraws from AROC by the end of the 2017/2018 financial year and instead aligns with the Northern Growth Alliance due to a closer strategic direction within the Northern Growth Corridor. With regard to waste management, the report suggests that the Shire of Chittering would achieve better waste outcomes through working with the Northern Growth Alliance than the AROC working group which appears to lack direction, funding and support from participating shires.

Site Inspection
The landfill and recycling centres are regularly inspected by DWER inspectors and Council officers for compliance with licence conditions.

Triple Bottom Line Assessment
Economic implications
A reduction in waste to landfills will have economic benefits brought about by a reduction in operational expenses, improved use of resources and the saving of valuable landfill space for future generations.

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

Environmental implications

The WARR Act and associated State Government policies, as well as Local Government Waste Plans and associated strategies are all ultimately for the sustainability of the environment.

Officer Comment/Details

Table 1 shows a comparison between the waste and recycling tonnages collected and recycled from the kerbside service or dropped off to landfill between July 2014 and June 2017.

Table 1 – Domestic Kerbside and Domestic Drop-off tonnages

Domestic Kerbside	2014 – 2015	2015 – 2016	2016-2017
Mixed Waste	1061	1402	1446
Dry Recycling	389 (79)*	521 (428)	526 (433)
Domestic Drop-off			
Mixed Waste	1924 (96)	1970 (100)	2254 (100)
Dry recycling	214 (213)	244 (243)	264 (263)
Greenwaste	511 (501)	305 (295)	422 (410)
Hard waste (bulk waste)	30 (25)	250 (210) **	250 (200)

Note:

All figures in tonnes

Recycled components are in brackets

* 9 months collection period (service commenced September 2014)

**Tip shop introduced in 2015

In addition to the above the Shire's Parks and Gardens operations recycled 43 tonnes of greenwaste which was spread on Council parks and also as top cover at the landfill sites.

Table 2 shows in more detail the data extracted from the 2016/2017 Waste and Recycling Census which was submitted to DWER this year.

Table 2 – Domestic Kerbside Waste and Recycling 2016-2017

	Kerbside waste (garbage) collection		Kerbside collection of recyclable materials			
	Mixed waste collected and transported directly to landfill or transported to landfill via a transfer station	Mixed waste collected and processed in an AWT (or Resource Recovery Facility)	Co-mingled dry recycling	Green waste collection	Recycling - containers only	Recycling - paper & cardboard only
Does your local government provide this service to your residents?	Yes	No	Yes	No	No	No
If so, is the service run in-house or outsourced to a contractor?	Avon Waste		Avon Waste			
Percentage of households in the LGA that receive this service (%)	95%		95%			
Resident participation rate (%)	85%		85%			
Type of container	MGB		MGB			
Size of container	240L		240L			
Colour of container	dark green or black with red lid		dark green or black with yellow lid			
Frequency of collection			Fortnightly			
Tonnes collected at kerbside for this service in 2016-17	1,446		526			
Tonnes disposed to landfill from this service in 2016-17	1,446		93			
Tonnes recycled in 2016-17	-	-	433	-	-	-

Table 3 shows the Domestic Drop-off services for waste and recycling reported to DWER for 2016 -2017.

Table 3 – Domestic Drop-off for Waste and Recycling for 2016-2017

*Waste that is self hauled by householders to facilities such as transfer stations, landfills, recycling depots that are **operated by your local government**. Include householder waste transported by cars, utes and trailers **BUT not** trucks.*

	Domestic waste drop-off services	Domestic recycling drop-off services			
	Mixed waste drop-off facilities	Dry recyclables Drop-off (includes paper/ cardboard, packaging containers)	Green waste drop-off	Hard waste or bulk rubbish drop-off (includes "junk shop" materials)	Comments / additional information
Number of drop-off facilities operated by the local government	2	2	2	2	
Tonnes collected for this service in 2016-17	2,254	264	422	250	
Tonnes disposed to landfill from this service for 2016-17	2,154	1	10	50	
Tonnes recycled in 2016-17	100	263	412	200	

It is noted that of the mixed waste that is dropped off at landfills about 100 tonnes is recycled. Also, of the dry-recyclables that are dropped off to the landfills, only about 1 tonne is landfilled indicating that the residents who use the facility generally do a good job of separating recycling materials from waste materials. The monthly kerbside rubbish collection tonnages provided by Avon Waste are shown in Table 4.

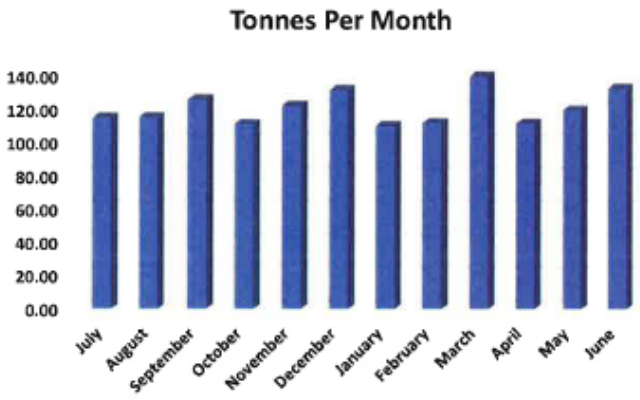
Table 4 – Avon Waste Monthly collection statistics for 2016 – 2017

AVON WASTE

Shire of Chittering
Waste Report 2016/2017

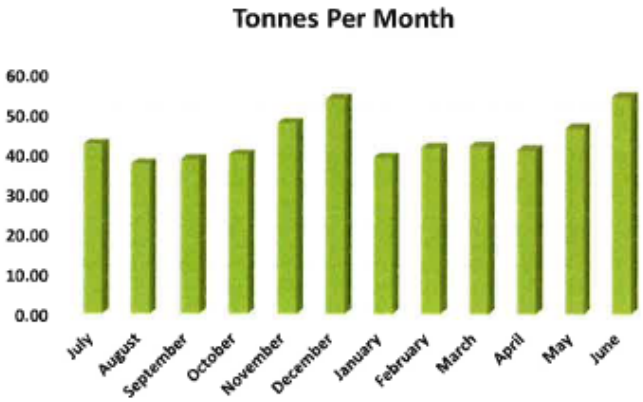
Shire of Chittering - Kerbside Rubbish Weights

Month	Tonnes Per Month
July	114.89
August	115.09
September	125.92
October	111.16
November	122.01
December	131.50
January	110.08
February	112.05
March	139.74
April	111.71
May	119.63
June	132.58
Total	**1446.34**



Shire of Chittering - Kerbside Recycle Weights

Month	Tonnes Per Month
July	42.63
August	37.70
September	38.70
October	39.94
November	47.91
December	53.96
January	39.16
February	41.73
March	41.97
April	41.16
May	46.49
June	54.45
Total	**525.80**



The breakdown of recycled products is shown below in Table 5:

Table 5 – Shire of Chittering Recycling Products breakdown 2016 – 2017

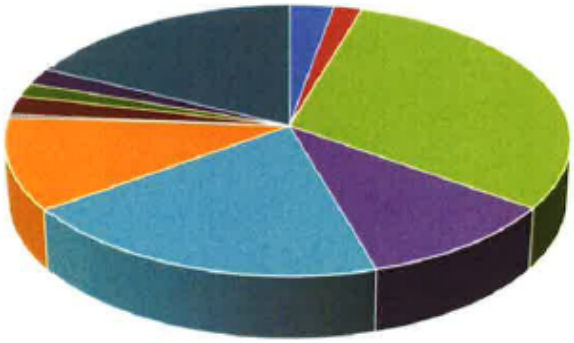
AVON WASTE

Shire of Chittering
Waste Report 2016/2017

Shire of Chittering - Recycling Product Breakdown

PRODUCT	PRODUCT WEIGHT (Tonnes)
Aluminium Cans	14.72
Steel Cans	9.46
Glass	158.79
Paper	56.26
Newspaper	102.53
Cardboard	57.34
Liquid Paperboard	1.58
Plastics	12.09
Plastic (PET)	8.41
Plastic (HDPE)	10.52
Contaminants	93.59
TOTAL	525.80

PRODUCT WEIGHT (Tonnes)



Please Note:

Recycling loads are not delivered individually to SMRC. Loads are co-mingled with other Shires to minimise collection and travel expenses. The Recycling Product Breakdown has been provided by WALGA as the result of recycling product audits , and is to be used as an estimate for the volume of each product.

- Aluminium Cans
- Steel Cans
- Glass
- Paper
- Newspaper
- Cardboard
- Liquid Paperboard
- Plastics
- Plastic (PET)
- Plastic (HDPE)
- Contaminants

Note that there was almost 94 tonnes of contaminants (18%) collected which were disposed to landfill. This indicates that there is still room for improvement in recycling practices using the kerbside bins through educational programs.

Note also that the figures provided by Avon Waste are regional averages as it is impossible to break down the figures for individual local governments. This means that improvements made in kerbside collections in any particular shire will not be recognizable as they will be masked by regional statistics.

The Shire of Chittering has fared better than other local governments in the region with regard to the kerbside recovery and drop off recovery for similar sized local governments as shown in Table 6: Note that figures for 2016/2017 are not available until the 2017/2018 report is received.

Table 6 – Recovery rate comparison with other similar sized local governments

Kerbside recovery rates:	2014/2015	2015 /2016	2016/2017
Your local government	21%	22%	22%
Average for local government with similar population	15%	14 %	NA
Waste strategy target* for municipal waste(2015-2020)	30%	50%	50%

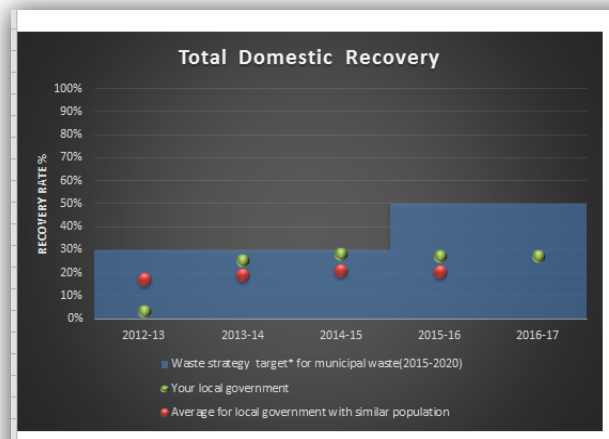
Drop off recovery rates:	2014/2015	2015/2016	2016/2017
Your local government	31%	31%	31%
Average for local government with similar population	28%	29%	NA
Waste strategy target* for municipal waste(2015-2020)	30%	50%	50%

*only applicable to metropolitan LGs and major regional centres

Table 7 indicates the Total Domestic Recovery for the Shire of Chittering versus the average for other local governments with similar populations. This indicates that the Shire of Chittering is performing better than others but still less than the Waste Strategy target.

Table 7 also indicates the Total domestic waste generation for the Shire of Chittering versus the state average This indicates that the Shire's residents produce more waste than the state average. The reason for this is uncertain.

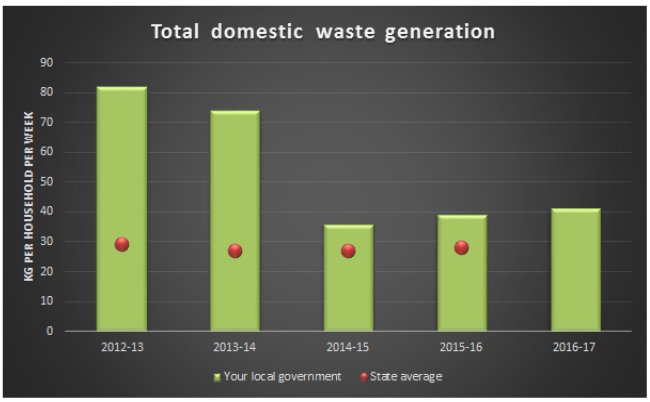
Table 7 – Total Domestic Recovery and Total Domestic Waste Generation



Recovery rates for all services, for your local government, average of similar local governments and waste strategy targets

Recovery rate for all services

Total recovery rates:	2012-13	2013-14	2014-15	2015-16	2016-17
Your local government	3%	25%	28%	27%	27%
Average for local government with similar population	17%	19%	21%	21%	
Waste strategy target* for municipal waste(2015-2020)	30%	30%	30%	50%	50%



Total waste generation per household compared against the state average

Total waste generation per household

Waste per household per week (kg):	2012-13	2013-14	2014-15	2015-16	2016-17
Your local government	82	74	36	39	41
State average	29	27	27	28	

Overall, the recovery rate for all services in the Shire was 27% which was the same as the previous year. The total waste generation per household increased by 2kgs per week.

It should be noted that although the Shire of Chittering has been a part of AROC the regional target of 50% recovery rate only applies to Northam and Toodyay based upon the Waste Strategy criteria. The Shire of Chittering falls within '*all other areas within the state*' to which no targets apply. Nevertheless, it makes sound environmental and economic sense to divert as much waste from landfill as possible by implementing good recovery practices – in local government this means removing recyclables from municipal solid waste (MSW).

Ian Watkins in the *AROC Strategic Waste Management Plan* (2015) states:

> "The *Waste Strategy is a State wide strategy for improved waste management; hence, covers all regions within the State. As can be expected, the main concentration of focus is in those areas where the most waste is generated and consequently the implementation of the Strategy's initiatives will have the most impact. The focus areas are:*
>
> - *The Perth Metropolitan Area.*
> - *Major regional centres – Avon, Greater Bunbury, Albany, Geraldton, Kalgoorlie, Karratha, Peel and Busselton.*
> - *All other areas within the State.*
>
> *Due to the distribution of the member councils within AROC, the group falls into the second focus area – major regional centre as well as the third focus area – other areas with the State. The consequence of this is that there will be Municipal Solid Waste Sector Targets for the Avon area (Northam and Toodyay) while the remainder of the members will not have specified targets. These Strategy Targets should be used to drive the Avon portion of the group to make reasonable changes and improvements to its current level of recycling, while providing a level of encouragement to the remainder of the group to follow suit."*

It should also be noted that the State Governments targets set in their Waste Management Plan "*Creating the Right Environment (2012)*" are not statutory requirements.

As mentioned in the report to Council last year on the 2015/2016 Waste and Recycling Census report, it is difficult, if not impossible, to achieve close to the Waste Authority's landfill regional recovery rate of 50% without the introduction of a third bin i.e. a green waste bin. However, in country areas a green waste bin cannot be justified because of:

a) the expense involved;
b) the nature of green waste in rural areas much of which is too large for the bins (even the larger 360 litre bins); and
c) the custom of burning off in rural areas.

The Waste Authority is concerned that the recycling and landfill diversion rates in WA are far less than most other states thereby putting pressure on available landfill sites. Those states/countries that are achieving higher landfill diversion rates do so by using higher technology than what can be afforded in WA especially rural local governments. However, necessity will in the long term drive technological advancement and this is starting to take effect in metropolitan regional councils. It remains to be seen whether the Shire's collaboration with the Northern Growth Alliance in the longer term will provide solutions to our waste and recycling needs. In the meantime, the Shire has to seriously consider the alternatives such as the cost of closure of the Bindoon landfill site, conversion to a transfer site, the lifespan of the Muchea Landfill site and the potential cost of construction of future landfill cells.

The annual waste and recycling census report for 2016-2017 is included as **Attachment 1**.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 061217
Moved Cr Tilbury / Seconded Cr King
That Council:

1. Notes the Waste and Recycling Tonnages report for the period July 2016 to June 2017.

2. Be informed of future waste and recycling census reports to the Department of Water and Environmental Regulation.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:09PM

9.1.4 Additional Dog Application: RN288 Powderbark Road, Lower Chittering*

Report date	13 December 2017
Applicant	E Scogna and K Perriam
File ref	ICS9459, A8078
Prepared by	Matthew Johns, Ranger
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality plan

Executive Summary
Council's consideration is required to determine the acceptability of an application for the keeping of a third dog within the Shire. The dog is intended to be a Tibetan Mastiff breed that is sterilised. Objections were received during the consultation period, meaning the application must be referred to Council for determination.

Background
The applicants currently own two dogs, a Kelpie and a Great Dane, both registered with the Shire of Chittering.

The applicant has made an application under section 26 of the *Dog Act 1976, Part V – KEEPING OF DOGS – Limitation as to numbers*, to add a sterilised male Tibetan Mastiff dog.

The property is on 2.5 hectares and is zoned "Rural Residential".

There is existing fencing, which consists of a mix of standard rural fencing and horse mesh ("*Equi Mesh*") to a height of 1.2 metres on external boundaries.

Consultation/Communication Implications
Local
The Shire sent letters to seven adjacent and adjoining landowners giving them the opportunity to comment on the additional dog application.

TABLE 1: Responses received

	SUBMISSIONS	OFFICER COMMENTS
OBJECTOR 1	I wish to register a strong objection to the application by my neighbour for permission to keep a third dog, a Tibetan Mastiff. They already have on the property a Great Dane and a smaller dog both of which are no problem. 1. The dog in question, Tibetan Mastiff, causes me a great deal of distress with its barking and very aggressive behaviour. It seriously affects my enjoyment of life and is disturbing my sleep. The barking starts as soon as a guest of mine or a visitor to their place starts to enter the driveway. The kids getting on and off the school bus some 400 metres away on Powderbark Road I feel are also intimidated by this dog's extraordinary	Rangers have received a receipt from the owner of the Tibetan Mastiff for a purchase of a dog barking collar from The Dog Line. No *Form 7 - Complaint as to a nuisance created by a dog* has been submitted to date. No history of dog attacks related to the Tibetan Mastiff. There is sufficient fencing around the perimeter of the property, however a condition has been provided in the Officer's Recommendation for the confinement areas to be upgraded.

	SUBMISSIONS	OFFICER COMMENTS
	aggressive behaviour. 2. Should I in the company of friends or my Grandchildren go to the fence line to have a look at the fruit trees, vegie patch or chooks, this dog races aggressively to the fence and becomes very frightening. 3. At night the dog barks until such time as the neighbours decide to put it inside or on the verandah. Should they be out for the evening there can be no going to sleep as the dog will prowl the property barking continuously. 4. As an illustration of the savage nature of this dog, over the last couple of months it has caused some $500.00 in vet bills to the Great Dane and recently I have noticed considerable damage to the front portion of the smaller dog's chest and leg areas. I witnessed the savagery of the attack. 5. I have tried to speak to the neighbour's boyfriend who owns the dog, over the past 12 months but to no avail. In conclusion, I wish to make it clear that I believe I consider the Shire has a duty to ensure that its ratepayers, such as me, can enjoy the property on which they pay rates, without unreasonable interference. Through hundreds of years of selective breeding for protective flock and family guardian, the breed has been prized for being a nocturnal sentry, keeping would-be predators and intruders at bay, barking at sounds throughout the night. Leaving a Tibetan Mastiff outside all night with neighbours nearby is not recommended. Lack of consistent, rational discipline can result in the creation of dangerous, unpredictable dogs (although this is true of virtually every dog) Courtesy Wikipedia.	
OBJECTOR 2	In reference to the above application [OBJECTOR 2] object to the application to keep more than two dogs at the above location for the following reasons: • The *Dog Act 1976* rule of no more than two dogs without consultation with the neighbours has been violated for a significant period before this application and this disregard for the neighbourhood needs to be noted. • The breed of Tibetan Mastiff is listed on various worldwide websites as one of the most dangerous breeds of dogs in the world. We have a peaceful neighbourhood on Powderbark Road, with school children walking up the road twice per day while the dog owners are often away from the property. Should the dog leave the property without the owners' knowledge a potentially life-threatening situation may occur. • The school children walk on the side of the road furthest from the property to avoid the dog and it is frightening and aggressive behaviour.	The Tibetan Mastiff is not a restricted breed as per the *Dog (Restricted Breeds) Regulations 2002* and the dog has not been declared dangerous. There has been no history of the dog wandering or attacking. Notwithstanding, a condition has been provided in the Officer's Recommendation for the confinement areas to be upgraded.

	SUBMISSIONS	OFFICER COMMENTS
	• Many cities in the world have banned the ownership of this breed due to its aggressive nature. We don't need this breed in Lower Chittering. • No reason has been provided for the keeping of this dog on the property (e.g. for breeding purposes). The property occupiers already have two other dogs of over breeds as pets; there is no reason to have more. • The strategic firebreak adjoining the rear of the property has been used in the past by residents to walk their dogs. This is no longer the case since the mastiff has been at the property due to the fear the mastiff may escape and cause personal harm. • Anecdotally, other neighbours have brought up to discuss the presence of this dog and its potential for harm. One neighbour cannot allow his grandchildren to go to the chicken run to collect eggs as the children are fearful of a dog attack. • While extensive fencing has been done around the property in the past year, it is still inadequate for a dangerous dog. Any dog could easily get under the fence, and this breed can jump, possibly over the existing fence. • For the overall wellbeing of the neighbourhood, the presence of this dog at the premises is a detriment, and this application should be declined by the Shire of Chittering. Above, nine reasons for declining the application to keep more than two dogs at 288 Powderbark Road, Lower Chittering have been presented.	
SUPPORTER 1	We don't have any issues with the Tibetan Mastiff or any off the other dogs on the other dogs on the property.	Noted
SUPPORTER 2	We have no objection to a third dog at 288 Powderbark.	Noted

State
Nil

Legislative Implications
State

- *Dog Act 1976*
  Part V — The keeping of dogs
  Limitation as to numbers
  (1) A local government may, by a local law under this Act—
  (a) limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or
  (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
  (2) A local law mentioned in subsection (1)—
  (a) may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and

(b) cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and
(c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
(d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).

(3) Where by a 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 approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption—
(a) may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and
(b) cannot authorise the keeping in or at those premises of—
(i) more than 6 dogs that have reached 3 months of age; or
(ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;
and
(c) may be revoked or varied at any time.

(4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment —
(a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under—
(i) a local law mentioned in subsection (1); or
(ii) an exemption granted under subsection (3);
or
(b) more than—
(i) 2 dangerous dogs (declared); or
(ii) 2 dangerous dogs (restricted breed); or
(iii) one of each of those kinds of dangerous dogs,
that have reached 3months of age; or
(c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.

Penalty:
(a) for an offence relating to a dangerous dog—
(i) a fine of $10,000, but the minimum penalty is a fine of $500;
(ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of $500;
(b) for an offence relating to a dog other than a dangerous dog—
(i) a fine of $5,000;
(ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of $100.

(5) Any person who is aggrieved—
(a) by the conditions imposed in relation to any exemption under subsection (3); or
(b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,
may apply to the State Administrative Tribunal for a review of the decision.

(6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

As an application for a third dog has been made in accordance with the above section, approval from the local authority is required.

Local

- *Shire of Chittering Dogs Local Law 2011*

3.2 Limitation on the number of dogs

(1) This clause does not apply to premises which have been—

(a) licensed under Part 4 as an approved kennel establishment; or

(b) granted an exemption under section 26(3) of the Act.

(2) 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—

(a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a town site, small rural holding, rural retreat or rural residential; or

(b) 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a town site, small rural holding, rural retreat or rural residential.

Policy Implications

State

Nil

Local

- *Policy 10.7 Multiple Dog*

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

(a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a town site, small rural holding, rural retreat or rural residential; or

(b) 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a town site, 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

Strategic Implications

Nil

Site Inspection

On arrival to the property, it was noted that the front gate is set back approximately 90m from the road. No dogs were seen and staff were greeted by the dog owner who advised dogs were inside the house.

The property is divided in two portions; the first is a horse paddock with horse mesh (*Equi Mesh*) fencing. The second portion contains the house, a shed and dog paddock with standard rural fencing. After the fencing was inspected, the dog owner retrieved the dogs from the house; however only two dogs were on the property at the time of the inspection, the Great Dane and Tibetan Mastiff. The third dog (Kelpie) was with the partner of the dog owner.

Triple Bottom Line Assessment

Economic implications

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

Social implications

The 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. This has been made clear with the dog owner to address the situation (excessive barking) at all times.

Environmental implications

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

Officer Comment/Details

The applicants have forwarded an application for the additional dog and a fee of $100 (including GST) to the Council, including the breed of the dogs 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 dog welfare and fencing check.

On 15 October 2017, a written complaint was received regarding the third dog in question about barking and aggressive behaviour. After ascertaining that no approval had been given for a third dog on the property, the Shire Ranger called the dog owner regarding the additional dog. Subsequently, the dog owner submitted an Additional Dog Application. There has been no history of the third dog wandering or attacking. After discussing barking with the dog owner, a bark collar has been purchased from The Dog Line (receipt of purchase has been forwarded to Ranger Services).

The dog owner has been advised that any offences relating to the Dog Act 1976 could result in the permit being withdrawn and one dog will need to be removed.

In light of the above, it is recommended to approve this application.

OFFICER RECOMMENDATION
Moved Cr Tilbury / Seconded Cr Angus
That Council approve the Application for a third dog at 288 Powderbark Road, Lower Chittering, subject to the following conditions:

1. Shire staff 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	Microchip Number
Kelpie	Rodgee	978 000 001 326 771
Great Dane	Shadow	900 088 000 413 314
Tibetan Mastiff	Grizzly	982 000 356 795 467

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.

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 dogs must be registered at all times, and be compliant to the *Dog Act 1976* and *Shire of Chittering Dog Local Law 2011*:
   a. If at any time these requirements have been breached, Ranger Services may terminate the application; and may
   b. Direct that the registration of the additional dog be cancelled, and the dog be removed from the premises within seven days.

6. Upgrading of confinement area for dogs within two months of approval to ensure the fence used to confine the dog, and every gate or door in the fence, is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it.

AMENDMENT
Moved Cr Ross / Seconded Cr Gibson
That Condition 5. be amended to read as follows:

5. The dogs must be registered at all times, and be compliant to the *Dog Act 1976* and *Shire of Chittering Dog Local Law 2011* including the requirement to manage the dogs barking:
   a. If at any time these requirements have been breached, Ranger Services may terminate the application; and may
   b. Direct that the registration of the additional dog be cancelled, and the dog be removed from the premises within seven days.

THE AMENDMENT WAS PUT AND WAS DECLARED CARRIED 5/1
AND FORMED PART OF THE SUBSTANTIVE MOTION
8:20PM

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 071217

Moved Cr Tilbury / Seconded Cr Angus

That Council approve the Application for a third dog at 288 Powderbark Road, Lower Chittering, subject to the following conditions:

1. **Shire staff 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	Microchip Number
Kelpie	Rodgee	978 000 001 326 771
Great Dane	Shadow	900 088 000 413 314
Tibetan Mastiff	Grizzly	982 000 356 795 467

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.**

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 dogs must be registered at all times, and be compliant to the *Dog Act 1976* and *Shire of Chittering Dog Local Law 2011* including the requirement to manage the dogs barking:**
   a. **If at any time these requirements have been breached, Ranger Services may terminate the application; and may**
   b. **Direct that the registration of the additional dog be cancelled, and the dog be removed from the premises within seven days.**

6. **Upgrading of confinement area for dogs within two months of approval to ensure the fence used to confine the dog, and every gate or door in the fence, is of a type, height and construction which having regard to the breed, age, size and physical condition of the dog is capable of preventing the dog at all times from passing over, under or through it.**

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 5/1
8:21PM

9.1.5 Initiation of Scheme Amendment No 66 to Local Planning Scheme No 6: Rezone Lot 22 (3728) Great Northern Highway, Muchea from "Agricultural Resource" to "Industry General" and inserting Additional Land Use No A18 - Concrete Batching Plant*

Report date	13 December 2017
Applicant	Allerding & Associates
File ref	18/02/34; A3238
Prepared by	Peter Stuart, Acting Executive Manager Development Services
Supervised by	Alan Sheridan, Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. SA66 Report

Executive Summary

Council is requested to consider the initiation of Scheme Amendment No 66 (SA66 or Amendment 66) to *Local Planning Scheme No 6* (LPS6). Amendment 66 involves the rezoning of Lot 22 (3728) Great Northern Highway, Muchea (the property) from "Agricultural Resource" to "Industry - General" and insert an additional land use A18 into Schedule 3 for the use of a 'Concrete Batching Plant'.

This item is before Council in accordance with Clause 35 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

IMAGE 1: LOCALITY PLAN

Background
The property is zoned "Agricultural Resource" under LPS6 and is centrally located within the Muchea Employment Node Structure Plan (MENSP) area with direct access to the existing Great Northern Highway alignment.

Clause 5.7.2.4 of LPS6 provides guidance for the rezoning of the subject property as it is within the MENSP. This clause allows for the rezoning of the property without the requirement for precinct or structure planning. Further clauses of LPS6 in relation to the Muchea Employment Node Special Control Area (MENSCA) will be discussed in the statutory context of this report.

Consultation/Communication Implications
Upon initiation of the amendment, the Shire will be required to forward the documentation to the EPA, who will determine the extent of assessment required prior to allowing the amendment to be put forward for consultation.

Legislative Implications
State

- *Planning and Development (Local Planning Scheme) Regulations 2015*
  In accordance with Regulation 35 of the *Planning and Development (Local Planning Scheme) Regulations 2015*, the Shire is required to classify the amendment as either: Basic, Standard or Complex and justify its reasoning for this. In this instance, Council is advised that this Scheme Amendment is classified as 'Standard' for the following reasons:
  (i) it is considered to be consistent with the strategic intent and objectives of the zone as described in LPS6 and the MENSP; and
  (ii) it is not considered to be basic or complex in nature.

  Relative to the subject lot, as it does not have any further subdivision potential, a separate, site specific Structure Plan is not required for the rezoning process.

  The amendment intends to provide for an addition use class definition to reflect the ultimate intention for the site. Reasons for the additional use are detailed within the amendment documentation within attachment 1.

- *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*
  The application at this stage is required only to complete a level 1 (desktop) environmental study, which is attached.

Local

- *Local Planning Scheme No. 6* (LPS6)
  With the gazettal of Scheme Amendment 60, additional clauses relating to the Muchea Employment Node have been inserted into LPS6. These clauses are limited to properties within the MEN Special Control Area (SCA), as follows:
  5.7.2.2 In considering zoning proposals for 'Industrial Development', 'General Industry' and 'Light Industry' within the Muchea Employment Node, proposals are to address the objectives and requirements of the Muchea Employment Node Structure Plan, including:
  a) details of how the proposal will manage stormwater run-off and wastewater disposal with specific reference to potential impacts on water quality and quantity and the nutrient load of the Ellen Brook which may include studies, commensurate with the scale of the proposal, in accordance with State Policy and the Better Urban Water Management Guidelines;

b) details of potential impacts on flora and vegetation, fauna and habitat which may include the need for studies undertaken in accordance with Environmental Protection Authority guidance and consideration of matters of national environmental significance;
c) details of potential impacts to, and proposed buffers from, waterways and wetlands which may include the need for studies in accordance with State Policy and technical guidance;
d) a land capability assessment demonstrating that the site is capable of assimilating nutrients and disposing of wastewater without an adverse impact on ecosystem health;
e) a desktop Aboriginal heritage assessment; and
f) any other matters relevant to the site, such as access and egress and basic raw materials.

The applicant has submitted a response to each of the above, with the exception of "e)" and "f)". Notwithstanding, a desktop study of the location reveals some Aboriginal Heritage, and as such should be referred to the Department of Aboriginal Affairs as part of any advertising. There remains some question surrounding acid sulphate soils, however this can more readily be addressed prior to any development application, in accordance with Clause 3.1.7 of the MENSP.

Policy Implications

State

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

  At a practical level, the modifications proposed intend to align with the MENSP by incorporating the requirements of the MENSP into rezoning, infrastructure, environment, and built form outcomes.

Local

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

Financial Implications

Initiating a rezoning on the property will facilitate in the future the construction of a development which could potentially support the progress of development within the MENSP by providing a local producer of concrete to service the area.

Strategic Implications

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

Site Inspection

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

- The Node is well serviced in reference to the road network; however locations of crossovers are to be carefully located. This is consistent with Main Roads' advice;
- Waterlogging was present during the winter months which will be required to be addressed at development stage; and
- While majority of the physical land remains as pasture, there are instances where some lots are developed for industrial purposes such as those lots within the immediate vicinity surrounding the subject property.

Triple Bottom Line Assessment

Economic implications

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

Social implications

This proposal can have positive social implications within the Muchea area which has been identified for a multitude of industrial uses. The clauses relating to development of the Node would supply appropriately designed industrial land needed for general type industrial uses and employment which the Shire of Chittering currently lacks. By providing additional opportunities for people to develop in the Node better sense of place and community is being created.

Environmental implications

The proposed amendment is designed to increase the ability for the Shire to maintain a high environmental standard, particularly within environmentally sensitive sites in close proximity to the Brockman catchment. The application generally accepts that alternative means and compliance with the following is required:

- Compliance with the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998* and the *Environmental Protection (Noise) Regulations 1997;*
- Noise Management;
- Dust Management;
- Stormwater and drainage management; and
- Environmental water management.

Officer Comment/Details

Local Planning Scheme

The rezoning and additional use is intended to deliver a high quality outcome that accords to the Scheme objectives and provisions for the General Industry zone. The clauses are similar to the original intent of the previously endorsed amendment, however, rather than being contained to the subject site, the provisions are applicable throughout the Shire. Generally, the amendment can be categorically summarised as relating to:

- Environmental regulation;
- Built form; and
- Use class and zoning table clarification.

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

(i) *Land use/built form*

The additional land use classification of Concrete Batching Plant will remain subject to approval should the Amendment be ultimately gazetted. This means that the use will have the same statutory effect as any other 'D' use within the Zoning Table permissibility classifications, and Council may ask for high levels of detail regarding potential impacts prior to determining any development on the property. Generally, Concrete Batching Plants are governed by the *Environmental Protection (Concrete Batching and Cement Product Manufacturing) Regulations 1998*.

In addition, as all residential uses inclusive of caretaker's residences will not be permissible within the Muchea Employment Node regardless of zoning, the proposed zoning and additional land use becomes the preferred activity for the area. The allotment is centrally located within the MEN, and has direct access to the existing Great Northern Highway Alignment.

Common issues regarding concrete batching plants mainly include dust, noise and contamination. The Scheme Amendment documentation does not deny this, rather that the information is required only at the development application stage.

(ii) *Special Control Area*

As discussed above, the SCA, in addition to the removed residential permissibility, provides guidance on the requirements to be submitted for initiation of a scheme amendment. The applicant has generally conformed to the requirements.

Conclusion

The initiation of the subject Scheme Amendment in this instance is acceptable primarily for the reason that the Scheme allows for general industry uses on this property. Currently there is no developable land within the Shire for the purposes of general industry.

There remains some concern regarding the lack of information surrounding the environmental aspects of the additional use, and the zoning in general, however as this is a Scheme Amendment initiation, the process will allow for far greater scrutiny through environmental agencies such as the EPA. Therefore if the agencies require significantly more detail, this can be required prior to any development occurring. Alternatively, if the agencies find that the lot is unsuitable, the amendment can be refused by the Minister, having regard to Council's (non)endorsement. For this reason, the submitted information is sufficient for initiation purposes.

Initiation is accordingly recommended.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 081217

Moved Cr Gibson / Seconded Cr King

That Council:

1. **pursuant to Section 75 of the *Planning and Development Act 2005* resolves to initiate an amendment to the *Shire of Chittering Local Planning Scheme No. 6* to:**
   a. **Rezone Lot 22 Great Northern Highway, Muchea, from 'Agricultural Resource' to 'General Industry';**
   b. **Amend Schedule 3 – Additional Uses by adding the following:**

No.	*Description of Land*	*Additional Use*	*Conditions*
A18	*Lot 22 (RN 3728) Great Northern Highway, Muchea*	*Concrete Batching Plant*	*Subject to Development Approval.*

   c. **Amend the Scheme Maps accordingly.**

2. **resolves to number the proposed amendment as 'Amendment No. 66' to the *Shire of Chittering Local Planning Scheme No. 6*.**

3. **resolves that 'Amendment No. 66' is a 'standard' amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for the following reasons:**
   a. **An amendment to the scheme map that is consistent with a structure plan, activity centre plan or local development plan that has been approved under the scheme for the land to which the amendment relates if the scheme currently includes zones of all the types that are outlined in the plan; and**
   b. **The amendment is not a complex or basic amendment.**

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

5. **forwards the Scheme Amendment to the Environmental Protection Authority in accordance with Section 81 of the *Planning and Development Act 2005* prior to advertising.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:23PM

9.2 TECHNICAL SERVICES

9.2.1 Excise Land from Rail Reserve to Dedicate as Public Road*

Report date	13 December 2017
Applicant	CPB Contractors
File ref	28/05/137
Prepared by	Jim Garrett, Executive Manager Technical Services
Supervised by	Alan Sheridan, Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1 Correspondence

Executive Summary
As part of the NorthLink project and the need to build access roads to land that has been divided by the new highway, it was found that the rail crossing to Almeria Parade from Muchea South Road has never been dedicated as a road reserve.

CPB, the contractors constructing the new highway have requested that the Shire of Chittering excise some land from the rail reserve and dedicate it as road reserve, so works can be done on a new access road to properties to the east of the rail reserve. To do this it will require a Council resolution to excise the land from the rail reserve, dedicate it as road reserve and accept management of the new road reserve.

Background
With the construction of the NorthLink project and the need for land resumption, land is divided by the new highway, some parcels of land have become land locked. Access roads to these lots need to be constructed.

In the design stage of one of these access roads if was found that a rail crossing from Muchea South Road to Almeria parade was not a road reserve but still part of the rail reserve.

When CPB contracting, contacted ARC, the rail managers, CPB was informed that this crossing could not be used and that if they wanted it to be formalised. The Shire of Chittering would need to excise some of rail reserve, dedicate it as road reserve and agree to be the road manager.

Diagram 1

Diagram 2

Following discussions between Shire of Chittering staff and CPB representatives, it was agreed that as it was part of the NorthLink project, the works involved to dedicating the road reserve would be done by CPB and Main Roads staff.

It does however require a Council resolution to dedicate the land as road reserve and become the road manager.

ARC has agreed to the Shire of Chittering, excising some of the rail reserve to dedicate it as road reserve as shown in Diagram 2.

Consultation/Communication Implications
Local
Nil

State
Nil

Legislative Implications
State
- *Land Administration Act 1997*

Local
Nil

Policy Implications
State
Nil

Local
Nil

Financial Implications
Nil. CPB have agreed to carry out the survey works and dedicate staff to process the application.

Strategic Implications
Nil

Site Inspection
Yes. The Executive Manager Technical Services inspected the crossing to determine if it was being used.

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

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

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

Officer Comment/Details
Council is requested to resolve to dedicate the shaded yellow section of the rail reserve shown in **Diagram 2** to become road reserve and agree to be the road manager. To indemnify the Minister for Lands and Department Planning, Lands and Heritage against all costs and claims associated with the road dedication.

9.2.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 091217
Moved Cr Tilbury / Seconded Cr Gibson
That Council agree to:
1. resolve to dedicate the section of the rail reserve shown in Diagram 2 to road reserve and become the Road Manager.

2. indemnify the Minister for Lands and Department Planning, Lands and Heritage against all costs and claims associated with the road dedication.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:27PM

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 30 November 2017*

Report Date	13 December 2017
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Rowena Coshan, Senior Finance Officer
Supervised by	Rhona Hawkins, Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Monthly Statement of Financial Activity for period ending 30 November 2017 Bank Reconciliation as at 30 November 2017 List of Accounts Paid as at 30 November 2017

Executive Summary
Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid for the period ending 30 November 2017.

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

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

Consultation/Communication Implications
Local
Executive Manager Corporate Services

State
Nil

Legislative Implications
State
- *Local Government Act 1995*
- *Local Government (Financial Management) Regulations*

Local
Nil

Policy Implications
Nil

Financial Implications
Nil

Strategic Implications
Nil

Site Inspection
Not applicable

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

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

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

Officer Comment/Details
Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid as at 30 November 2017 as presented.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 101217
Moved Cr Angus / Seconded Cr Ross
That Council:
1. endorse the Accounts Paid:
- **a. PR4057, PR4071, PR4076**
- **b. EFT14918 – EFT15067**
- **c. Municipal Fund Cheques 14305 – 14313**
- **d. Direct Debits and Transfers as listed**
- **e. Trust Fund payments as listed**

totalling $852,192.32 for the period ending 30 November 2017.

2. receive the Bank Reconciliation as at 30 November 2017.

3. receive the Monthly Statement of Financial Activity for the period ending 30 November 2017.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:27PM

9.4 CHIEF EXECUTIVE OFFICER

Nil

10. REPORTS OF COMMITTEES

10.1 Local Emergency Management Committee: 22 November 2017

10.1.1 Setting 2018 Meeting Dates*

Report date	13 December 2017
Applicant	Shire of Chittering
File ref	09/02/1
Prepared by	Executive Support Officer
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. "Unconfirmed" Minutes for the Local Emergency Management Committee meeting held on 22 November 2017

Executive Summary
Council is requested to receive the minutes from the Chittering Local Emergency Management Committee meeting held on 22 November 2017.

Background
The Chittering Local Emergency Management Committee meeting met on 22 November 2017 where the following formal recommendation was resolved:

5.9 OFFICER/COMMITTEE RECOMMENDATION
Moved Ryan Hamblion / Seconded Jim Garrett
That the:

1. **Local Emergency Management Committee meeting dates for 2018 are as follows:**
   a. **Wednesday, 28 February;**
   b. **Wednesday, 23 May;**
   c. **Wednesday, 22 August; and**
   d. **Wednesday, 28 November.**
2. **The Local Emergency Management Committee meetings will be held in the Council Chambers, 6177 Great Northern Highway, Bindoon commencing at 10.00am (unless otherwise advised).**

CARRIED

Consultation/Communication Implications
Local
Chittering Local Emergency Management Committee

State
Nil

Legislative Implications
State
- *Local Government Act 1995, s. 5.26*
- *Emergency Management Act 2005, s. 39*

Local
Nil

Policy Implications
State
Nil

Local
Nil

Financial Implications
There will be a one off charge for advertising the Committee meeting dates in The Ellenbrook Advocate (estimate charge $280).

Strategic Implications
Local
- *Strategic Community Plan 2017-2027*
  S3 Outcome: Safe and healthy community

Objective		Strategies		Measures
S1.3	**A safe and healthy community** *Future generations will have access to a range of health services and feel safe in their community*	**S1.3.1**	Improve the safety of our community	Community satisfaction with the Shire's role in community safety

State
Nil

Site Inspection
Site inspection undertaken: Not applicable

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

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

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

Officer Comment/Details
The minutes of the Chittering Local Emergency Management Committee meeting held on 22 November are presented to Council to be received.

10.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 111217
Moved Cr King / Seconded Cr Gibson
That Council:

1. **Receives the "unconfirmed" minutes of the Chittering Local Emergency Management Committee meeting held on Wednesday, 22 November 2017.**

2. **Approves the Local Emergency Management Committee meeting dates for 2018 are as follows:**
   a. **Wednesday, 28 February;**
   b. **Wednesday, 23 May;**
   c. **Wednesday, 22 August; and**
   d. **Wednesday, 28 November.**

3. **Confirms that the Local Emergency Management Committee meetings will be held in the Council Chambers, 6177 Great Northern Highway, Bindoon commencing at 10.00am (unless otherwise advised).**

4. **Approves the advertising of the 2018 Local Emergency Management Committee meeting dates in accordance with the *Local Government (Administration) Regulations 1996*.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:28PM

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

MOTION / COUNCIL RESOLUTION 121217
Moved Cr Ross / Seconded Cr Gibson
That Council, in accordance with c5.4(2) of *Local Government (Council Meetings) Local Law 2014* deal with Item 13.1 "Proposed Consultancy: Sewerage Alternative" as the matter is unable to be dealt with administratively by the local government and must be considered and dealt with by Council before the next meeting.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
8:29PM

13.1 Proposed Consultancy: Sewerage Alternative*

Report date	13 December 2017
Applicant	Shire of Chittering
File ref	29/01/1
Prepared by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1 Proposal "Bindoon Wastewater Scheme – Concept Design"

Executive Summary
The purpose of this report is to seek Council approval for the transfer of $10,000 from the STED Reserve for the purpose of engaging a consultant to develop an alternative proposal to service the town of Bindoon with an affordable wastewater treatment and re-use option.

Background
While there have been improvements in the technology associated with on-site wastewater treatment, reticulated sewerage remains the most reliable, efficiently managed and environmentally acceptable means of wastewater disposal. It also provides flexibility to support the widest variety of land uses. Wastewater treatment plants are designed, controlled and monitored to ensure that the quality of treated wastewater is satisfactory for release back to the environment, with minimal impact and the greatest regard for public health. For these reasons, reticulated sewerage is used extensively throughout the world to serve cities and smaller towns, and has been adopted as the preferred system in all Australian States.

The State Government's *Country Sewerage Policy* (CSP) was developed in 2002 with the aim of improving amenity and fostering the development of town-sites through the orderly provision of sewerage services. Under the Policy, reticulated sewerage is required for all subdivision or development, except where certain discretionary provisions apply. Schedule 2 of the Policy lists Bindoon as a location with public health and/or environmental constraints for onsite wastewater disposal. The CSP restricts lots within the town to not less than 1,000sqm and each development proposal is limited to 25 lots, and if being developed in stages not more than a total of 100 lots. This restricts the potential of the Bindoon townsite to develop more than 100 lots without reticulated sewerage. Existing lots within the central town site area are also restricted in their development potential because of the lack of space to install alternative treatments systems.

The former State Government allocated funding in the FY 17/18 State Budget for the implementation of a STED Scheme with construction to commence in 2018. At that time, the project was estimated at $4.8m. As connecting to the scheme and decommissioning existing leach drains represented a significant financial burden for existing property owners, Council offered and is funding, a 100% subsidy to private property owners who are directly impacted. The State Government cancelled the scheme in August 2017 primarily as a result of budget funding issues. In addition, the cost of the scheme had risen from $4.8m to $12.1m during the course of the design and planning from mid-2016 to mid-2017.

While a number of residents do not fully appreciate the need for change, they would not want the local economy and service industry to decline. If the community is not pro-active in setting its own course for the future, then this is a very real possibility. A range of strategies will be necessary to ensure the long term viability of the town and one of those strategies will need to consider diversity of development options and population growth.

This is why Council has been lobbying the State Government for the last five years regarding sewerage services for the town of Bindoon. The implications of the scheme not proceeding are dire. The long term benefit to the whole community clearly outweighs any short term issues/impacts and there are ways at Council's disposal to assist in mitigating these impacts (such as the subsidy arrangements outlined previously).

The future of the town depends, to a large extent, on the infrastructure which is available to support growth and economic development within the town centre, particularly in light of other projects which will impact on the town in the not too distant future. In particular, the proposed WA Retirees Independent Living Unit Development (64 units with central recreation facilities) is now not proceeding and part of the reason given by WA Retirees is the cancellation of the STED Scheme.

The Shire's Chief Executive Officer, Principal Environmental Health Officer and Acting Executive Manager Development Services have been in discussion with a number of reputable companies regarding suitable alternatives. However, a proposal from South Australian based engineering firm (HDS Australia) offers the best option of identifying a cost effective and viable alternative for the town (and may also provide a suitable option for Muchea). The company has extensive experience in delivering wastewater schemes for small communities including package treatment plants (with re-use options) and STED schemes. Initial indications are that a suitable scheme could be developed at a cost of about $30,000 per connection.

A copy of the HDS Australia proposal is provided as **Attachment 1** to this report. The outcomes and deliverables from the study are summarised as follows:

1. an assessment of possible wastewater management options for Bindoon;
2. early review of those options with Council and selection of a preferred option;
3. development of the preferred option into a concept design; and
4. preliminary costing of the concept design.

The cost of the consultancy is $8,300 (excluding GST), which is considered to be very cost effective. An amount of $10,000 has been allowed as it may be useful for the consultant to visit Council and discuss the outcomes. It is intended to use the results to lobby that State Government and Water Corporation regarding the delivery of a more cost effective alternative to the proposed STED Scheme.

Consultation

External

- Meetings with engineering and public infrastructure companies based in both Western Australia and South Australia.
- Ongoing discussions and correspondence with other affected Council's.
- Formal meeting with Water Corporation on 2 November as coordinated by WALGA.

Statutory Environment

Nil

Policy Implications

State

- *Country Sewerage Policy 2002*

Local

- *Strategic Community Plan 2017-2027*

  S3 Outcome: Development of local hubs

Objective		Strategies		Measures
S3.1	**Development of local hubs** *Development of town centres with improved access to housing, services and facilities*	**S3.1.2**	Activate local town centres to ensure a good mix of residential, commercial and social infrastructure	Community facilities which meet the needs of the community Community satisfaction with housing choice and community facilities in the Shire

Financial Implications

It is proposed to transfer $10,000 from the STED Reserve to fund this work. The work, therefore has no impact on the current budget.

Strategic Implications
The local economy in Bindoon is supported by a mix of service delivery for both local residents and through traffic (i.e. people travelling along the Great Northern Highway). The Bindoon bypass will change the local economy so that it will need to be less reliant on Highway traffic and more reliant on local residents. While every effort will be made to attract people travelling north and south into the town (e.g. well designed and signed Highway exits from the north and south), it would be prudent to also consider other options for boosting the local economy.

Given the impending bypass, the most effective means of mitigating the impact is to have more people living in the town. We cannot do this without piped sewerage. People living in the area will be important for preserving and creating jobs, services and stimulating a vibrant local economy. Piped sewerage will enable more diverse development options within the town area and will help insulate the economy from the impact of the bypass.

The current purpose for the STED Reserve states "*To be used to fund the connections to the Septic Tank Effluent Disposal System in the Bindoon Townsite*". As the requested funds will be used for consultancy fees and not a connection, Council will be required to change the "purpose" of the Reserve before resolving to release the funds.

Site Inspection
Site inspection undertaken: Yes
Numerous site inspections have been undertaken as part of planning for the STED Scheme. Appropriate information has been provided to the consultant to allow for the preparation of the fee proposal.

Triple Bottom Line Assessment
Economic implications
The provision of supporting infrastructure is important to the long term sustainability of the Bindoon town site, particularly in light of the impending bypass.

Social implications
A more vibrant town site with a mix of housing choices will have positive social implications.

Environmental implications
Schedule 2 of the Country Sewerage Policy lists Bindoon as a location with public health and/or environmental constraints for onsite wastewater disposal.

Officer Comment/Details
Council is requested to approve the transfer of $10,000 from the "STED Reserve" for the purpose of engaging a consultant to develop an alternative proposal to service the town of Bindoon with an affordable wastewater treatment and re-use option.

13.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 131217
Moved Cr Gibson / Seconded Cr King
That Council:

1. **Change the name of the "STED Reserve" to "Wastewater Treatment Reserve".**

2. **Change the purpose of the Reserve to read "To be used to fund the implementation of a suitable wastewater treatment system for the Bindoon Townsite".**

3. **Make a budget amendment to release $10,000 from the "Wastewater Treatment Reserve" to engage a consultant to develop an alternative and affordable proposal for wastewater treatment in the town of Bindoon.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
8:45PM

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

PROCEDURAL MOTION / COUNCIL RESOLUTION 141217
Moved Cr Ross / Seconded Cr Tilbury
That Council, in accordance with c11.1(g) of *Local Government (Council Meetings) Local Law 2014* close the meeting to the public.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
8:45PM

14.1.1 Section 31 Reconsideration: Proposed Additional Use of Storage / Warehouse and Construction of Storage / Industry–Rural Building: Lots 3 and 7 (RN 3907) Great Northern Highway, Muchea*

Report date	13 December 2017
Applicant	DSY Engineering P/L
File ref	A3344; P057/17
Prepared by	Peter Stuart, A/ Executive Manager Development Services
Supervised by	Alan Sheridan, Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Previous Resolution 2. Applicant's proposed development plans

Reason for Confidentiality
In accordance with the *Local Government Act 1995* Section 5.23:

(2) If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:

(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;

(e) a matter that if disclosed, would reveal-

(i) a trade secret;

(ii) information that has a commercial value to a person; or

(iii) information about the business, professional, commercial or financial affairs of a person,

Where the trade secret or information is held by, or is about, a person other than the local government;

Executive Summary
Council is requested to reconsider and determine a previously approved application for the intended storage / warehouse expansion for the existing business at Lots 3 and 7 (RN 3907) Great Northern Highway, Muchea. In addition to the expansion of the existing 'Industry - Rural' use on Lot 3, the applicant has applied for the additional use of 'Warehouse / Storage' through State Administrative Tribunal (SAT) appeal, to operate independently of the business. The modification requests the deletion of Conditions 3 and 4 of the existing approval, and replaces them with a single condition relating to a management plan.

14.2 Public reading of resolution that may be made public

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 171217
Moved Cr Gibson / Seconded Cr King
That Council, in accordance with Section 31 of the *State Administrative Tribunal Act 2004* (WA), sets aside its decision of 16 August 2017 and approves the revised Storage / Warehouse and Construction of Storage / Industry–Rural Building on Lots 3 and 7 (RN 3907) Great Northern Highway, Muchea for a period of four years, subject to the following conditions:

1. **The development is to be staged in accordance with the following:**
   a. **Immediately upon approval – Establish perimeter landscaping and construct on-site drainage works in accordance with the approved Catchment Management Plan;**
   b. **Following establishment of landscaping – Construction of lay down area ("Stage 2 Hardstand") with shed/workshop to follow once the lay down is completed; and**
   c. **Future stage – Construction of lay down area to the south of the site ("Stage 3 Hardstand").**

   If the subject development is not substantially commenced within the four year period, the planning approval shall lapse and be of no further effect.

2. **A Landscaping Plan is to be submitted and approved by the Shire in consultation with Chittering Landcare.**

3. **The applicant is to undertake the storage of materials and/or the parking of vehicles in accordance with the Storage Management Plan dated 29 November 2017 or any other Storage Management Plan prepared by the applicant and approved by the Shire.**

4. **A wash down and repairs station is to be installed and compliant with the approved Catchment Management Plan in accordance with *Department of Water's Water Quality Protection Note 28*.**

5. **Prior to first occupancy of any new building, the following measures are to be undertaken and completed to the satisfaction of the Shire:**
   a. **The staff and visitor parking areas are to be constructed in accordance with *Australian Standard AS 2890.1*;**
   b. **An alternative wastewater treatment and disposal system is to be approved and installed;**
   c. **Landscaping is to be installed and established in accordance with the approved plan submitted in accordance with Condition "2."; and**
   d. **Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with *Australian Standard AS 1158.3.1* (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development.**

6. **All on-site stormwater and hydrocarbon separation shall be managed in accordance with recommendations contained within the *Department of Water's Water Quality Protection Note 28*.**

7. **In order to minimise impacts on the existing and future amenity of the locality, the following measures are to be undertaken and maintained for the period of approval:**
   a. **Dust suppression measures shall be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties; and**
   b. **The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise.**

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

Advice Notes

1. This determination replaces Council's decision of 16 August 2017 in accordance with Clause 31 of the *State Administrative Tribunal Act 2004 (WA)*. Should the applicant be aggrieved by Council's decision, the applicant maintains the right of review to the State Administrative Tribunal within 28 days of Council's decision.
2. This approval does not constitute a building permit. Part 2-Division 1-Section 9 of the *Building Act 2011* states "*A person must not do building work unless a building permit is in effect for the building work*". You are required to submit to the Shire either a BA1 Application for Building Permit Certified, or BA2 Application for Building Permit Uncertified. Building work cannot be commenced until planning and building approvals have been granted. Should that occur, the penalty for a first offence is $50,000.
3. In relation to Condition 1, the staging of the development is recommended to intertwine with the completion of the Muchea to Wubin Highway extension. This condition has been imposed consistent with the additional information provided on 31 July 2017.
4. The term of this approval relates to the time in which the development must be substantially commenced.
5. In relation to Condition 5.ii., the alternative system is required to be approved by the Department of Health.
6. The Shire recommends an alternative wastewater treatment system which existing and new buildings can connect to, with the existing system decommissioned thereafter per *Health (Treatment of Sewage and Treatment of Effluent and Liquid Waste) Regulations 1974* - Regulation 20.
7. In reference to Condition 6, the following is recommended to ensure compliance in satisfying this condition:
   a. Hydrocarbon treatment to take into consideration the information in WQPN 68 (Water Quality Protection Note) and in particular the table outlining "indicative wastewater discharge criteria".
   b. The operation of the workshop should take into consideration the information in WQPN 28.
   c. Stormwater management should take into consideration relevant aspects of WQPN 52.
8. The applicant is advised that the Shire's Principal Environmental Health Officer may undertake inspections from time to time to check on the effectiveness of water quality control measures undertaken.

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

PROCEDURAL MOTION / COUNCIL RESOLUTION 181217
Moved Cr Tilbury / Seconded Cr Gibson
That Council come from behind closed doors.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0
8:54PM

15. CLOSURE

The Presiding Member declared the meeting closed at 8:54PM.

This page has been left blank intentionally

Shire of Chittering

6177 Great Northern Highway
PO Box 70 Bindoon WA 6502
T: 08 9576 4600 F: 08 9576 1250
E: chatter@chittering.wa.gov.au
www.chittering.wa.gov.au

Office hours: Monday to Friday
8.30am - 4.30pm