

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

WEDNESDAY, 19 JULY 2017

**Council Chambers
6177 Great Northern Highway
Bindoon**

**Commencement: 7.00pm
Closure: 9.56pm**



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 27 July 2017.



Alan Sheridan
Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 16 August 2017.

Signed

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

Disclaimer

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

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

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

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

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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open 7:02pm.

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

2.1 Attendance

Councillors	Cr Gordon Houston	President (Presiding Member)
	Cr Peter Osborn	Deputy President
	Cr Mary Angus	
	Cr Don Gibson	
	Cr Aaron King	
	Cr Michelle Rossouw	
	Cr George Tilbury	
Staff	Alan Sheridan	Chief Executive Officer
	Rhona Hawkins	Executive Manager Corporate Services
	Bronwyn Southee	Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Peter Stuart	Senior Planning Officer <i>left the meeting at 8:57pm</i>
	Natasha Mossman	Executive Support Officer (Minute Secretary)
Members of the public	15	
Media	0	

2.2 Apologies

Nil

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

3.1 Item 9.4.1 "Chittering Tourist Association"

Cr Osborn declared an Impartiality Interest as he is a member of the Chittering Tourist Association.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 John Curtis, Bindoon

Question 1: Why did Council vote for the STED program knowing that electors are being scammed; and can Council increase the compensation to residents affected?

Answer 1: The Presiding Member took the question on notice.

POST MEETING: Mr Curtis has asked a number of questions regarding the STED program at previous Council meetings. In regard to the voting process, the method of voting was made public and the results reported at the Ordinary Council Meeting on 18 May 2016. In relating to the subsidy for connection to the STED Scheme, Mr Curtis is referred to the response which was provided to this question at the Ordinary Council Meeting on 17 August 2016. In essence, Council is setting aside \$50,000 per year over four years to assist residents with the cost of connecting to the Scheme.

Question 2: Why is the Post Office getting free rent from Council; and is it fair that they charge for rent on PO Boxes?

Answer 2: The Presiding Member took the question on notice.

POST MEETING: The Chittering Tourist Association is a not-for-profit (NFP) organisation and in accordance with the Australian Taxation Office website "an NFP organisation is not an organisation that hasn't made a profit. An NFP organisation can still make a profit, but this profit must be used to carry out its purposes".

The Bindoon Post Office operates under the umbrella of the Chittering Tourist Association and their books of accounts are provided to Council on an annual basis for review.

4.2 Public question time

4.2.1 Clint O'Neill, Lower Chittering

(as supplied)

Question 1 Is it appropriate that a commercial statement of intent, recorded on pages 44/45 of the draft Local Planning Strategy, being "*Investigate options for future expansion of the catholic school within the Maryville village centre, including land swaps*"; '*Explore land swap (of Lots 213? & 214 Angus Way, Lower Chittering, with portion of Lot 8017 Muchea East Road, Lower Chittering for a multi user facility for recreational purposes*';

- a) be included as an element of an overarching Statutory planning document;
- b) does the commercial statement of intent qualify as giving public notice of a foreseeable commercial transaction between the Shire and school; and,
- c) can the Shire entertain the statement of intent proposal in circumstances where Lot 8017 is a dedicated 'public recreation' Crown reserve?

- Answer 1 a) *yes it is appropriate - Part One of the Local Planning Strategy is required to set the vision and strategic directions for land use and development and outline the objectives, strategies, policies and actions to achieve the Shire's vision. A strong demand of the community is for a multi-user recreation facility at Lower Chittering. The IHC has also identified that it is wanting to expand to a secondary school in the next five years however doesn't have the land. Strategically it makes sense for the school and Shire to look at developing a recreation center that benefits all of the community and can be used by the School also, therefore as an action of the strategy the Officers are required to see whether this multi user facility could be an option, and also to determine whether a land swap with the school would be required in order to achieve this outcome.*
- b) *No*
- c) *This objective is a recommendation only for officers to investigate as to whether a land swap could be considered for land designated as POS.*

4.2.2 John Curtis, Bindoon

Question 1: **Was there any collusion between the Shire and the Water Corporation to get the election passed last year?**

Answer 1: *The Presiding Member advised that there was no collusion between the Shire and the Water Corporation.*

Question 2: **Are the residents of Bindoon Vista going to be included in the Local Government election?**

Answer 2: *The Presiding Member advised that all residents of the Chittering Shire will be allowed to vote as long as they are registered.*

4.2.3 Robert Pizzino, Bindoon

Question 1: **My question is with regard to access to Lake Chittering and if there will be access like there used to be for people to use canoes on the Lake?**

Answer 1: *The Presiding Member advised that the Lake is land-locked by private landowners. The Shire's Strategy is to link the Bindoon Townsite to the Lake, and that this is something that the Council will be discussing for future direction. Through the Chair, the Chief Executive Officer advised that there is going to be a 'master plan' undertaken this financial year which will also include walk trails and how to implement this going forward. Once the document has been drafted it will be presented to Council for approval for advertising to the general public. Advertising will be in accordance with the Shire's Community Engagement Plan.*

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Item 9.1.2 "Retrospective Approval for Open Air Storage of Mining Equipment and Skip Bins: Lots 802 and 803 (3571) Great Northern Highway, Muchea (AMS)"

Scott Vincent (Planning Solutions) to address the application for Lots 802 and 802 Great Northern Highway.

5.3.2 Item 9.1.3 "Proposed Extractive Industry for Sand: Lot 52 Old Gingin Road, Muchea"

Simon O'Hara (Statewest Planning) and Peter George (Landowner) to address the application for Lot 52 Old Gingin Road, Muchea.

6. APPLICATIONS FOR LEAVE OF ABSENCE

6.1 Cr Don Gibson

6.1 MOTION / COUNCIL RESOLUTION 020717

Moved Cr Tilbury / Seconded Cr Gibson

That Cr Don Gibson be granted 'Approved Leave of Absence' for the period inclusive of Friday, 11 August until Friday, 8 September 2017.

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

7. CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council: 21 June 2017

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 030717

Moved Cr Tilbury / Seconded Cr Rossouw

That the minutes of the Ordinary meeting of Council held on Wednesday, 21 June 2017 be confirmed as a true and correct record of proceedings.

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

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Executive Manager Development Services

Tonight is the last Council meeting for our Executive Manager Development Services, Bronwyn Southee who will be leaving us at the end of this week. Bronwyn has been with the Shire of Chittering for a couple of years and in that time her professionalism and ensured that the Shire is now set-up on a significant path for future development; especially with her work on the Local Planning Strategy.

Community Emergency Services Manager

I also take this opportunity to acknowledge Jamie O'Neill, the Shire's Community Emergency Services Manager/Chief Bushfire Control Officer. Jamie is leaving the Shire at the end of the month and taking up the role of Community Emergency Services Manager at the Shire of Mundaring. Jamie has been with the Shire since 2011 and during his time he has played a significant role in managing the Shire's volunteer brigades and also fire and emergency management within the Shire.

On behalf of Council I would like to extend a very big thankyou to two dedicated employees whose professionalism will ensure that the Shire is heading in the right direction.

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Draft Local Planning Strategy Review*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	18/02/0023
Prepared by	Bronwyn Southee, Executive Manager Development Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft Local Planning Strategy Report 2. Draft Maps 3. Consultation Strategy

Executive Summary

Council is requested to consider the draft Local Planning Strategy review.

Council has provided a clear indication that its mission for the Local Planning Strategy is to 'Conserve and consolidate'. That is, to 'conserve' its natural areas and rural character, and to 'consolidate' future development in areas where infrastructure and services are available.

Background

The previous *Local Planning Strategy* (2001-2015) was endorsed by the Western Australian Planning Commission (WAPC) in June 2004.

On 28 April 2008, the WAPC requested the Shire of Chittering to review aspects of its Local Planning Strategy which included:

- (i) Reviewing all areas recognised for rural residential, rural retreat and rural small holdings outside of the Priority Development Area (PDA).
- (ii) Reduce the size of the PDA by removing those areas that are remote from existing infrastructure and services or have a negative impact on the environmental values.
- (iii) Provide a staging plan for development within the PDA recognising areas closest to existing development, services and infrastructure in the initial stage(s).
- (iv) Incorporating the Local Biodiversity Strategy and local planning strategy mapping and report.

On 16 November 2009, Council awarded the contract to Greg Rowe and Associates (now Rowe Group) to undertake the Local Planning Strategy Review with the intention of completing it unto gazettal by 2014.

Between 2009 and 2014, the Shire worked with Greg Rowe and Associates to undertake a basic review of the Local Planning Strategy (LPS). The Strategy was referred to Council and the Department of Planning in 2011, 2013 and finally in 2014 where it was determined that it could be advertised for public comment. This transpired in 2014 where the LPS was advertised in the West Australian (26 July 2014) and the Advocate (16 July 2014), and closed on 29 August 2014.

At the conclusion of the submission period, a total of 40 submissions were received from government agencies and the community. Following extensive review from the Shire and the Department of Planning, it was determined that a full comprehensive review of the Local Planning Strategy was required. In 2015 the Executive Manager Development Services developed a joint venture with the Department of Planning to undertake a joint review of the Local Planning Strategy, the results of which are now being presented to Council for consideration and its support to progress to the Western Australian Planning Commission to consent to advertise.

How 2017 compares to 2014

The proposed Strategy is consistent with the existing and *Strategic Community Plan 2017-2027* that identifies preserving the environmental assets within the Shire of Chittering is paramount.

The key issues identified through the workshops with Council and through community feedback on the *Strategic Community Plan* are:

- (1) Rural Living – concerns that this is no longer a sustainable form of development for Council, and is actually resulting in extensive maintenance for the Shire.
- (2) Bush fire risk/community safety – due to the Shire's heavy vegetation and topography, the whole Shire has been identified as Bushfire Prone. This requires us to think differently about how we develop.
- (3) Biodiversity – the Shire has an existing *Local Biodiversity Strategy*, but it isn't being implemented to its full capacity.
- (4) Water supply – due to the privatisation of water licences and limited service provided by the Water Corporation, the Shire has faced a number of challenges about appropriate development and the provision of water supply.
- (5) Industry and employment – the proposed Muchea Employment Node is expanding in interest and development, as there have been a number of rezonings within the Node supported and further interest, however the Shire needs to be a catalyst to help facilitate this land to develop innovative planning techniques. This would need to be implemented.
- (6) Visual landscape – the major reason identified within the *Strategic Community Plan 2017-2027* that people love living here is the green landscape. It is critical that this be protected for our community.

Accordingly techniques and methods have been developed to help protect this for future generations.

- (7) Bindoon Town Site – with the imminent development of the Perth/Darwin Highway Bypass measures need to be put in place to ensure that Bindoon Town Site is protected and sustainable for future generations, this also is the only serviced town site within the Shire of Chittering.
- (8) Community facilities – due to the extensive Rural Residential sprawl within the Shire not requiring developers to contribute to any community infrastructure; Lower Chittering particularly has been left poor of infrastructure.

Attached is an Executive Summary of Objectives, Strategies, Policies and Actions which inform the Local Planning Strategy.

Consultation

Due to the importance of the Local Planning Strategy being the Key Planning document for the Shire of Chittering, a substantial amount of consultation was undertaken prior to this formal draft being referred to Council for consideration. Landcare and the Department of Planning have been consistently involved with this version of the report from conception.

Four workshops were held with Council earlier this year in February and March. The workshops were valuable in determining what Council's priorities are for future land use and development. In addition to this the Executive Manager Development Services and Planning team were involved in the public workshops for the Strategic Community Plan review In February 2017 which helped to align the community's overall vision with future development objectives.

Future consultation of the Strategy will be required in accordance with section 13 of *Planning and Development Regulations 2015*, which involves the following;

- 13. *Advertising and notifying local planning strategy*
 - (1) *A local government must, as soon as reasonably practicable after being provided with certification that a local planning strategy complies with regulation 11(2), advertise the strategy as follows —*
 - (a) *publish a notice of the local planning strategy in a newspaper circulating in the area to which the strategy relates, giving details of —*
 - (i) *where the strategy may be inspected; and*
 - (ii) *to whom, in what form and during what period submissions may be made;*
 - (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 strategy;*
 - (d) *publish a copy of the notice and the strategy on the website of the local government;*
 - (e) *advertise the strategy as directed by the Commission and in any other way the local government considers appropriate.*
 - (2) *The local government must ensure that arrangements are in place for the local planning strategy to be made available for inspection by the public during office hours —*
 - (a) *at the office of the local government; and*
 - (b) *at the office of the Commission.*

The period for making submissions in relation to a local planning strategy must not be less than a period of 21 days commencing on the day on which the notice of the strategy is published under subregulation (1)(a).

- (3) *Notice of a local planning strategy as required under subregulation (1) may be given in conjunction with the notice to be given under regulation 20(1) for the scheme to which it relates.*

In addition to the statutory process, Officers have developed a Community Consultation Strategy to ensure that the Shire effectively communicates its proposal and objectives with the community of Chittering. This has been attached for Council's reference and input if required.

Statutory Environment

State

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Scheme) Regulations 2015*
Part 3 of the Regulations sets out the process and requirements for Local Planning Strategies, the required statutory consultation process has been stipulated above.

Local

- *Shire of Chittering Local Planning Scheme No. 6*
Once the Local Planning Strategy is formally endorsed by the Western Australian Planning Commission, Council is recommended to request Officers to undertake a total Scheme review to incorporate the objectives of the strategy, thereby aligning the objectives with the standards.

Policy Implications

State

A number of State Planning Policies are used to inform this document.

- *SPP 1 - State Planning Framework*
- *SPP 2 – Environment and Natural Resources*
- *SPP 2.2 – Gnamptera Groundwater Protection*
- *SPP 2.7 – Public Drinking Water Source*
- *SPP 2.5 – Rural Planning Policy*
- *SPP 2.9 – Water Resources*
- *SPP 3 – Urban Growth and Settlement*
- *SPP3.1 – Residential Design Codes*
- *SPP 3.7 – Planning for Bushfire Management*
- *SPP4.1 – State Industrial Buffer*
- *SPP 5.2 – Telecommunications Infrastructure*
- *SPP 5.4 – Road and Rail Transport Noise and Freight Considerations in Land Use Planning*

Development Control Policies as follows:

- *DCP 2.3 – Public Open Space in Residential Areas*
- *DCP 2.5 – Special Residential Zones*
- *DCP 3.4 – Subdivision of Rural Land*
- *DCP 4.3 – (Draft) Planning for High Pressure gas Pipelines*

Other Informing State government documents implicating the Strategy include:

- *Draft Country Sewer Policy 2003*
- *Rural Planning Guidelines*
- *Bushfire Planning Guidelines*
- *Visual Landscape Planning Manual*
- *Better Urban Water management*
- *Strategic Assessment of Perth & Peel*
- *Bindoon-Chittering Water Reserve Drinking Water Source Protection Plan*

Discussion regarding the Policy specifics on the Strategy is detailed in the attached Draft Local Planning Strategy.

Financial Implications

Council will incur advertising costs for the draft Strategy this financial year. These costs have been included in the draft 2017-2018 budget.

Strategic Implications

Local

- Shire of Chittering Local Planning Strategy 2001-2015
This Strategy Review has been informed by the previous Strategy, which is now redundant.
- Shire of Chittering Local Biodiversity Strategy 2010
This is the key strategic document for planning the Shire of Chittering, many objectives and actions from the Local Biodiversity Strategy have been incorporated into the draft Local Planning Strategy.
- Strategic Community Plan 2017-2027
As detailed in the table below, the key strategic directions from the Strategic Community Plan have been extrapolated and applied to the Local Planning Strategy, to ensure the communities and Councils direction is consistent throughout its strategic documents.

Strategic Community Plan - outcome areas and strategic directions	Local Planning Strategy
1. Our Community: 'An inclusive, active, safe and healthy community for all to enjoy.'	Planning Precincts
1.1 Active and supported community - Our communities will have services and facilities within their local community hubs. 1.2 Strong sense of community - Our communities will be cohesive and connected through engagement, interaction and participation. 1.3 Safe and healthy community - Our future generations will be healthy and feel safe in their community.	Bindoon Lower Chittering Reserve Road Employment Node Muchea
2. Natural Environment: 'A protected and bio-diverse environment, which the community and tourists enjoy in a well-managed, respectful manner.'	Natural Resource Management
2.1 Protected environment - Our local diversity will be valued, protected and promoted as unique and valuable. 2.2 Sustainable resources - Energy and water are valued with a focus on improved water and energy use. - Waste is reduced and valued through recycling and reuse. 2.3 Protection of life and property - Bush fire management and mitigation is a high priority.	Biodiversity conservation Visual landscape protection Rural land use Catchment management Bushfire management
3. Built Environment: 'Well planned built landscapes that are progressive, vibrant, diverse and reflect the Shire's unique country lifestyle.'	Settlement, Infrastructure
3.1 Development of local hubs - Development of town centres with improved access to housing, services and facilities. 3.2 Safe access	Townsites New residential Transport

Strategic Community Plan - outcome areas and strategic directions	Local Planning Strategy
<ul style="list-style-type: none"> - Diversity of transport modes. 3.3 Improved amenities <ul style="list-style-type: none"> - Focus on improved asset management. 	Water supply and sewerage
4. Economic Growth: 'Thriving, sustainable and diverse economic investments and employment opportunities, from cottage to large-scale industry.'	Economy
4.1 Economic growth <ul style="list-style-type: none"> - Provision of future local employment. 4.2 Local business growth <ul style="list-style-type: none"> - Local businesses are supported. 4.3 Increased visitors <ul style="list-style-type: none"> - Visitors are welcome to stay and recreate. - Improved environmental access as places to visit. 	Industrial land use Tourism and recreation
5. Strong Leadership: 'A responsive and empowering Council, which values consultation, accountability and consistency.'	
5.1 An engaged community <ul style="list-style-type: none"> - The community feels actively involved. 5.2 Strong partnerships and relationships <ul style="list-style-type: none"> - Working with stakeholders to build strong and sustainable relationships and to ensure the best use of Shire resources. 5.3 Accountable governance <ul style="list-style-type: none"> - Good governance which supports efficient and effective service delivery. 	

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

Local Planning Strategies have been traditionally used by developers to help foreshadow areas appropriate for future development.

The Draft Local Planning Strategy has three economic focuses:

- 1) Muchea Employment Node
- 2) Agri-Business
- 3) Tourism.

A number of objectives have been built into the Strategy to improve the economic viability of the Shire of Chittering. Agriculture and associated agricultural type businesses such as the Western Australian Meat Industry Association (WAMIA) are effective economic contributors within the Shire. However this alone is not enough to support a growing community. Therefore, a key focus is on the future economic development of the Muchea Employment Node. Facilitation measures such as precinct structure planning, being resourceful around alternative service suppliers and ensuring appropriate development is approved within this area are just some of the incentives put in place to help stimulate economic activity within the Node.

A primary objective of the Draft Local Planning Strategy is to allow for rural zonings to be more open and encouraging of tourism type uses that support the existing agricultural use on the site 'Paddock to Plate' approach which includes uses such as wayside stalls, markets, wedding reception centres in converted farm sheds, accommodation and wineries/breweries. These industries are considered valuable to the Shire of Chittering's character and future economic development.

Social implications

Unfortunately the Shire has a legacy of sprawled rural residential development with little to no community infrastructure, particularly in the South areas of the Shire. To help improve social capital and a sense of community, a centralised development focus around existing infrastructure has been implemented in the Draft Strategy.

Environmental implications

The draft Local Planning Strategy's key intent is to have a major impact on the environment, whilst the Local Biodiversity Strategy has been endorsed and applied at the Shire for over seven year's, important vegetation was still being cleared for the purpose of development. In 2015, there were two major legislative changes to the planning framework: first, the Planning and Development Regulations 2015; and secondly the *State Planning Policy 3.7 – Planning for Bushfire Management* (SPP3.7) were mandatorily implemented. What this forced was a shift in the system to encourage people and developers to think about bushfire management in a holistic way, not just through clearing.

The draft Local Planning Strategy has aligned the intent of SPP3.7 with the *Local Biodiversity Strategy* and community's strategic direction '*A protected and bio-diverse environment, which the community and tourists enjoy in a well-managed, respectful manner.*' There are a number of key objectives which include encouraging landowners through incentives to protect areas of high conservation value on their properties, all future development proposals must consider and retain any vegetation of high conservation value, future subdivisions can only occur on existing cleared land. A further breakdown of the environmental retention and quality building strategies are detailed in the complete strategy attached.

Officer Comment/Details

The draft Local Planning Strategy is completely different to the previous draft seen by Council in 2014. The reason for this is the previous Strategy did not focus on the community's key priorities which are the environment and community facilities.

From a future development perspective guided by the Strategy, Council, Shire officers, developers and the community will have clear guidance of what development and land uses can and cannot be entertained within this Shire. Following the advertising period and formal endorsement of Council Officers would be recommended to undertake a Local Planning Scheme review to further strengthen the objectives of the Local Planning Strategy.

It is therefore, recommended that Council grant its support of the Local Planning Strategy and forwards it to the Western Australian Planning Commission for approval to advertise.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040717

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

- 1. Grant its support of the draft Local Planning Strategy.**
- 2. Forward a copy of the draft Local Planning Strategy (where amended) to the Western Australian Planning Commission in accordance with Regulation 12(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* for approval to advertise.**
- 3. On receipt of certification from the Western Australian Planning Commission that the draft Local Planning Strategy complies with Regulation 11(2), grants permission for the Chief Executive Officer advertise the Strategy in accordance with Regulation 13 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the attached Community Consultation Strategy.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

7:33PM

9.1.2 Retrospective Approval for Open Air Storage of Mining Equipment and Skip Bins: Lots 802 and 803 (3571) Great Northern Highway, Muchea (AMS)*

Report date	19 July 2017
Applicant	Planning Solutions on behalf of Karratha Enterprises Pty Ltd t/as Aussie Modular Solutions (AMS)
File ref	A11670
Prepared by	Brooke Mills, Compliance/Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> 1. Applicant's report 2. History of site 3. Correspondence from Department of Planning dated 2 December 2016 4. Submissions received 5. Examples of equipment and bins (photographs) 6. Aerial view

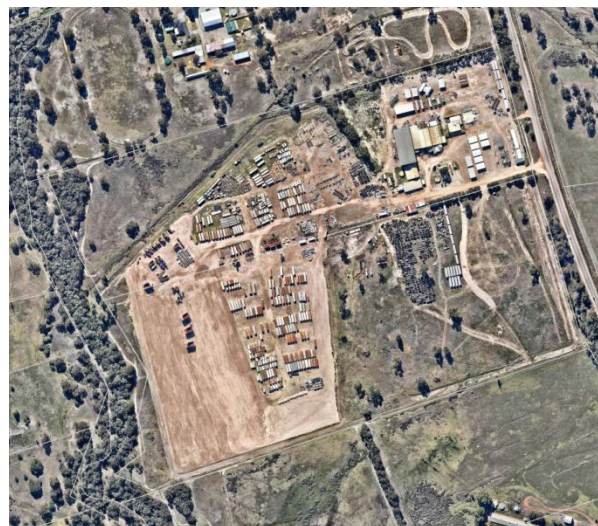
Executive Summary

Council is requested to consider an application for retrospective approval for the open air storage of mining equipment (dump trucks and other heavy machinery) and a large number of skip bins on Lots 802 and 802 (3571) Great Northern Highway, Muchea ("the property").

Background

Lots 802 and 803 are currently zoned "Agricultural Resource" under the provisions of *Local Planning Scheme No 6* (LPS6). The property is also partially (eastern portion) located within the Muchea Employment Node Structure Plan area and Special Control Area (per the seriously entertained Scheme Amendment 60), the Military Considerations Special Control Area, and is guided by the Muchea Employment Node Structure Plan ("MENSP"). In addition, the property is wholly contained within the Water Prone Special Control Area.

Historically, and due to the fact that there has not previously been any industrial zoned land available within the Shire, industrial land uses were considered on land zoned "Agricultural Resource".



Since the early 80's, this property (formerly Lots 5 and 6 but primarily on Lot 5) had been used as an industrial site to manufacture steel frame structures and as a transport depot.

In September 2011, the applicant purchased Lot 802 (formerly Lot 5) and continued to run a modular building manufacturing company from the property.

In March 2013, the applicant purchased Lot 803 (formerly Lot 6) as vacant land.

On 15 November 2013, Amendment No 50 was gazetted which added the following "Additional Use" for Lots 5 and 6 (now Lots 803 and 802) into Schedule 3 of LPS6:

"Industry - General Builder Storage Yard:

1. Industry - General shall be limited to:

- The manufacture of transportable buildings;*
- The assembly of transportable buildings;*
- The storage of transportable buildings; and*
- The transportation of transportable buildings.*

2. All development, including a Single House, is subject to development approval.

3. A stormwater management plan prepared to the satisfaction of local government, in consultation with Department of Water, is required prior to development approval and is to be implemented as a condition of approval."

A history of the approvals issued for the property has been prepared, and is located in **Attachment 2**.

On 22 May 2015, a hardstand was approved for construction on Lot 802 which covered the majority of the lot and conditioned a 50m buffer distance from the Ellen Brook to the edge of the hardstand. The approved plan issued with the planning approval stated a 30m buffer distance and, in this instance, it is considered that the 30m buffer is the correct distance. The material used to construct the hardstand is recycled construction and demolition waste. A condition of the approval states as follows:

"12. Hardstand shall only be used for the purpose of the Additional Uses approved on the land."

During 2016, it was identified that the property was being used for land uses which are outside the scope of any previous approval. For instance, the applicant began storing heavy mining machinery and a large number (in the thousands) of skip bins on site without approval.

Negotiations took place between the applicant and the Shire where it was resolved that an application for retrospective approval would be the best way forward to resolve compliance issues. Advice was also sought from the Department of Planning in relation to this issue. A copy of the advice from the Department of Planning is attached and labelled **Attachment 3**.

On 4 February 2016, a Deposited Plan was lodged to demonstrate the compulsory resumption of land by Main Roads WA. An approximately 123m wide strip of land was resumed from the middle of the applicant's property by Main Roads WA for the purposes of construction of the new highway.

An application for retrospective approval for storing mining equipment and the storage and refurbishment of skip bins was received in February 2017 (**Attachment 1**). Further information was requested in March 2017 and the requested information was received in April 2017.

Consultation

Advertising of the application was undertaken in accordance with *section 64 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015*. Advertising involved sending the application to relevant government departments for a period of 42 days and forwarding letters to surrounding landowners for a period of 21 days.

Four submissions from adjoining landowners were received along with three submissions from agencies consulted. The submissions are detailed in **Attachment 4**. It should be noted that six objections and one letter of support were received.

The general direction of the schedule of submission shows concern in relation to the water management for the site and, in particular, the possible effect on the Ellen Brook and catchment area. It is considered that removing the additional land-uses from the western portion to the eastern portion will ameliorate the heightened concern for the water source and will allow the landowner time in which to undertake further detailed investigations in relation to what land-uses may be able to be considered on the western portion via an amendment to the Additional Use A17 in LPS6 and an application for development approval.

Statutory Environment

State

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
Clause 65 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) states:
65. *The procedures relating to applications for development approval set out in Part7, Part 9 and this Part apply, with any modifications necessary, to an application for development approval for development already commenced or carried out.*

Under the above clause, Council is able to consider an application for development that has already commenced.

- *State Planning Policy 2.5 Rural Planning (SPP2.5)*
SPP2.5 applies to the proposed retrospective approval, however, as the property has an additional use approved under LPS6, it is considered that SPP2.5 may only be used to direct appropriate uses for the different areas of the property. Environmental management principles for the appropriate location of varying levels of industrial activity in relation to proximity to sensitive land uses and environmental concern should apply. SPP2.5 makes reference to *State Planning Policy 2.9 Water Resources* which provides guidance in relation to water sensitive areas and waterways in general.
- *State Planning Policy 2.9 Water Resources (SPP2.9)*
4 *Policy Objectives*
The objectives of this policy are to:
 1. *Protect, conserve and enhance water resources that are identified as having significant economic, social, cultural and/or environmental values;*
 2. *Assist in ensuring the availability of suitable water resources to maintain essential requirements for human and all other biological life with attention to maintaining or improving the quality and quantity of water resources; and*
 3. *Promote and assist in the management and sustainable use of water resources.*

The Ellen Brook and surrounding catchment area has been identified as being located within the Swan River Surface Water Area which is proclaimed under the *Rights in Water and Irrigation Act 1914*. As such, management plans detailing stormwater filtration and retention systems will be required to be submitted and approved. The physical infrastructure contained within those plans will be required to be constructed within specified timeframes and suitable conditions will be imposed on any approval.

5 Policy Measures

Planning should contribute to the protection and wise management of water resources by ensuring local and regional planning strategies, structure plans, schemes, subdivisions, strata subdivisions and development applications adopt the following measures:

5.1 General Measures

- (i) *Protect significant environmental, recreational and cultural values of water resources.*
- (ii) *Aim to prevent, or where appropriate, ameliorate the following potential impacts:*
 - *Any adverse effect on water quality and quantity and, as a minimum, proposed development should aim to maintain water quality and ensure water quantity is compatible with the receiving waters;*
 - *Increased nutrient loads into receiving waters;*
 - *Increased acidity and leaching of acid sulfate soils;*
 - *The removal of associated native vegetation important for long-term management of the water resource, particularly vegetation associated with wetlands and waterways respectively;*
 - *Increased erosion, sedimentation and turbidity, particularly at the construction phase of development;*
 - *Any potential adverse effect on environmental water requirements and, as a minimum, proposed development should aim to maintain natural flow regimes and variability;*
 - *Excessive build-up of organic matter;*
 - *Pollution and contamination;*
 - *Salinity over and above the natural levels; and*
 - *Any potential cumulative impacts.*
- (iii) *Promote improved outcomes such as:*
 - *Environmental repair and rehabilitation of the water resource;*
 - *Improved water quality;*
 - *Reduction in nutrient export to receiving waters to a level lower than existing;*
 - *Restoration of natural flow regimes and variability; and*
 - *Use of site works such as fencing, revegetation or water monitoring.*
- (iv) *Inform planning actions by identifying all water resources above and below ground in the subject area, and mapping and prioritising them in terms of state, regional or local significance. Water resources to be identified include wetlands, waterways (such as rivers, streams and creeks), estuaries, groundwater and surface water catchments, dams, floodplains, foreshores and existing and future surface and groundwater drinking water catchments and sources (see Schedule 1 for additional guidance).*
- (v) *Take into account potential impacts the water resource may have on a land use when determining the compatibility of locating a land use near natural or artificial water resource/s (for example, flooding or disease vector and nuisance insects such as mosquitoes and midges).*
- (vi) *Recognise and take into account State Government management strategies for water resource issues such as water protection areas, wetland protection, water provisions for*

environmental flow requirements, riparian management and water allocation plans. (See Schedule 3 for information sources regarding these types of documents.).

- (vii) Recognise and take into account water resource management plans as required by the Rights in Water and Irrigation Act 1914.*
- (viii) Recognise and take into account relevant accredited natural resource management strategies, endorsed by State Government statutory authorities that contain recommendations to address water resource matters.*

It could be considered that the storage and maintenance of mining equipment may have too much negative impact to the Ellen Brook and it may be that the release of hydrocarbons is unavoidable, however, the applicant has not been forthcoming in supplying this facet of the existing site conditions. Regardless, it may be a better planning outcome to locate heavy machinery and any maintenance of machinery of any nature to the eastern side of the property. This will allow for a greater distance from the Ellen Brook and will allow the heavier industrial aspect to be separated by the construction of the Northlink Highway Project. With this outcome, the impact of hydrocarbons into the waterway might be reduced to more acceptable levels.

5.2 Surface and Groundwater Resources

- (i) Recognise the hydrological importance of groundwater and surface catchments with regards to water management and the associated value of catchment planning on a regional, district and local scale.*
- (ii) Protect, manage, conserve and enhance surface and groundwater catchments and recharge areas supporting significant ecological features or having identified environmental values, by ensuring, where possible, appropriate management or limiting inappropriate land use/s to maintain water quality and quantity for existing and future environmental and human uses.*
- (iii) Ensure the availability of water resources is compatible with the future requirements of the proposed and surrounding land use through an assessment of quantity and quality requirements for both the development and the environment.*
- (iv) Take into account the potential adverse impacts that development may have on catchment areas and encourage development to participate in catchment management activities.*

Although the western portion of the property has been approved for a hardstand, land uses proposed for the hardstand must be assessed and deemed appropriate given the possible impact to the water source. It is considered that the storage of mining equipment may, without the appropriate filtration systems and drainage basins being installed, have a negative impact to the Ellen Brook. In addition, the hardstand has been constructed well within the conditioned 30m buffer area which may further impact the water source.

5.3 Wetlands, Waterways and Estuaries

- (i) Protect, manage, conserve and enhance the environmental functions and values of waterways and estuaries. The natural alignment of waterways should be retained except where adjustments are unavoidable and do not compromise the natural environment values.*
- (ii) Protect, manage, conserve and enhance the environmental attributes, functions and values of significant wetlands, such as Ramsar wetlands, conservation category wetlands and wetlands identified in any relevant environmental protection policy.*
- (iii) Manage, conserve and, where possible, restore the environmental attributes, functions and values of resource enhancement wetlands.*
- (iv) Ensure use of best management practices in the development and use of multiple use wetlands, consistent with the principles of total water cycle management (Schedule 4).*

- (v) *Ensure adequate and appropriate buffering of wetlands, waterways and estuaries to maintain or enhance the environmental attributes, functions and values of the water resource and minimise the impact of nearby land uses, both existing and future. (information in Schedule 2 of this Policy should be applied in the determination of appropriate buffering to waterways and estuaries).*

Allowing the storage of mining equipment in the western portion of the property may be considered to be detrimental to the water source and to the Ellen Brook.

5.4 *Total Water Cycle Management*

- (i) *Take into account total water cycle management and water-sensitive urban design principles (Schedule 4) and ensure that development is consistent with current best management practices and best planning practices for the sustainable use of water resources, particularly stormwater.*
- (ii) *Seek to achieve no net difference in water quality and quantity, unless necessary to meet identified environmental water requirements, such that post development water quality and quantity conditions are equal to or better than pre-development conditions.*
- (iii) *Promote management of the urban water cycle as a single system in which all urban water flows are recognised as a potential resource and where the interconnectedness of water supply, stormwater, wastewater, flooding, water quality, wetlands, waterways, estuaries and coastal waters is recognized.*
- (iv) *Maximise the opportunities for compliance with best practice stormwater management, including infiltration/detention of stormwater on site/as the source.*
- (v) *Promote water conservation mechanisms that increase the efficiency of the use of water, including stormwater.*
- (vi) *Incorporate the re-use and recycling of water, particularly stormwater and grey water, consistent with state water strategy recycling objectives. Black water reuse and recycling should be considered where deep sewerage is not available. Alternative non-potable water sources should be considered where appropriate for fit-for-purpose use.*
- (vii) *Promote the retention and use of local native vegetation in development to minimise water use and maximise filtration, particularly where landscaping is proposed.*

A water management plan will be required to be submitted and approved by the Department of Water within a specified timeframe in order to satisfy the above requirements, pursuant to advice received from the Department.

Schedule 1 of SPP2.9 states as follows:

Guidance for Incorporation of Policy Measures into Planning Mechanisms and Decision Making

Water resources are defined as “water in the landscape (above and below ground) with current or potential value to the community and the environment” (WRC, 1998). Water resources that may be the subject of this policy include the following natural or modified features:

- *Wetland (such as a seasonal or intermittent lake, swamp, marsh, spring, dampland and tidal flat, and including significant artificial wetlands)*
- *Waterway (such as river, stream and creek)*
- *Estuaries*
- *Groundwater*
- *Surface water*
- *Irrigation dam*
- *Floodplain*
- *Foreshore*
- *Stormwater*

- Existing and future surface and groundwater drinking water catchments and sources (for example reservoirs and borefields) for public and private supplies
- Wastewater

The property falls within the above categories and, therefore, contains water sources in relation to the proximity to Ellen Brook and the catchment area.

Schedule 1 of SPP2.9 states as follows:

Subdivision and Development Control

Guidance for decision making with regards to water resources at subdivision and development stages, particularly greenfield sites, should ideally be provided by relevant planning strategies and schemes, prepared in the context of this policy. Where no strategic document exists, consultation should occur with involved agencies, such as the Department for Planning and Infrastructure, the Department of Environment and Conservation, the Department of Water and the Water Corporation or other relevant responsible service providers, and be consistent with other relevant policies and plans.

In assessing proposed subdivision or development, a number of core considerations exist for water resources that should be taken into account to ensure sustainable decision making. While the scope and scale of these considerations may vary according to the particular characteristics of an area, the type of development and the type of water resource that may be impacted on, it is essential that a framework is provided to ensure that these matter are consistently considered throughout the State, particularly where development pressures exist.

The following are, therefore, generic considerations that should be addressed in planning decision making on subdivision and development applications where deemed relevant:

- 1. Where subdivision or development is proposed on a lot that contains water resources that have been identified as having significant economic, social and/or environmental values, the following should apply:*
 - *Any development in the buffer and/or setback area should be appropriate to the primary aim of protecting the water resource; and*
 - *Where subdivision is proposed, the WAPC may impose conditions regarding the transfer of land to the Crown and the preparation and implementation of management plans to ensure the protection of wetlands and waterways in accordance with current operational policy.*
- 2. Promote the implementation of water sensitive urban design principles for proposed or new development, including residential, industrial, commercial and special rural development that is consistent with best practices in sustainable total water cycle management with particular regard to the functioning of stormwater management as well as the need to maximise control of stormwater at the source. Water sensitive urban design measures should recognize that development needs to be responsive to site conditions, especially in areas that have significant environmental constraints such as a high groundwater table or existing contamination.*
- 3. Proposed stormwater management measures will need to address water quality and quantity objectives, together with the need to balance environmental benefit and long-term cost and establish the requirements of the service provider or catchment manager who will have ultimate responsibility for the maintenance/management of the stormwater services.*
- 4. Consideration should be given to the following:*
 - *rehabilitation of the water resource/s;*
 - *preparation of the management plan/s and any necessary site works to achieve a positive outcome (such as fencing, revegetation or water monitoring);*
 - *improving water quality;*
 - *reducing nutrient export levels into receiving waters to a level lower than the existing land use; and*
 - *contributing to restoring natural flow regimes and variability.*

5. *Where water resources that have not been identified as being of significance but are proposed to be retained as part of a proposed development or subdivision, such as in public open space, careful consideration needs to be given to:*
 - *The proposed end use and function of the water resource;*
 - *Its design and compatibility with surrounding land uses;*
 - *Who will have ultimate responsibility for its ongoing maintenance;*
 - *Any rehabilitation that may be required; and*
 - *Its future management.*
6. *Construction following subdivision or development approval may lead to off-site impacts on water resources resulting from a lack of adequate site management practices. This in turn may result in the erosion of exposed areas and flow paths, which would increase turbidity of stormwater and receiving waters. Inadequate site management practices also increases the potential for contamination from pollutants (for example fuels and oils) stored on site and litter. Management measures should be incorporated into the approvals process to minimise these and other impacts from construction and land development activities.*

Key principles of total water cycle management and integrated urban water management are:

1. *Consideration of all water sources (including wastewater) in water planning, maximising the value of water;*
2. *Integration of water and land use planning;*
3. *The sustainable and equitable use of all water sources, having consideration of the needs of all the water users including the community, industry and the environment;*
4. *Integration of water use and natural water processes; and*
5. *A whole of catchment integration of natural resource use and management.*

General objectives of water sensitive urban design:

1. *To manage a water regime.*
 - *Maintain appropriate aquifer levels, recharge and stream flow characteristics in accordance with assigned beneficial uses.*
 - *Prevent flood damage in developed areas.*
 - *Prevent excessive erosion of waterways, slopes and banks.*
2. *To maintain and, where possible, enhance water quality.*
 - *Minimise waterborne sediment loading.*
 - *Protect existing riparian vegetation.*
 - *Minimise the export of pollutants to surface of groundwater.*
 - *Minimise the export and impact of pollution from sewerage.*
3. *To encourage water conservation.*
 - *Minimise the import and use of scheme water.*
 - *Promote the use of rainwater.*
 - *Promote the reuse and recycling of wastewater.*
 - *Reduce irrigation requirements.*
 - *Promote opportunities for localised supply.*
4. *To enhance water-related environmental values.*
5. *To enhance water-related recreational and cultural values.*

It is considered that the impact to the water source is significant and will require detailed management measures to be put in place within specific timeframes.

Local

- Local Planning Scheme No 6 (LPS6)

LPS6 applies at A17 in Schedule 3 as follows:

"A17 Lots 5 and 6 Great Northern Highway, Muchea

Industry - General Builder Storage Yard:

1. *Industry - General shall be limited to:*
 - *The manufacture of transportable buildings;*
 - *The assembly of transportable buildings;*
 - *The storage of transportable buildings; and*
 - *The transportation of transportable buildings.*
2. *All development, including a Single House, is subject to development approval.*
3. *A stormwater management plan prepared to the satisfaction of local government, in consultation with Department of Water, is required prior to development approval and is to be implemented as a condition of approval."*

The above additional use allows the property to be used for Builders Storage Yard and Industry General limited to the manufacture, assembly storage and transportation of transportable buildings in addition to uses already listed in the zoning table of LPS6.

LPS6 provides the following definition applies to storage:

"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."*

It is not considered that this land use applies to the application for retrospective approval as the landowner is not simply storing skip bins and mining industry vehicles and equipment as a static activity. Skip bins are being refurbished and maintenance is being carried out on the mining industry vehicles and equipment. It is considered that as soon as a secondary process is undertaken to an object that is being "stored" it is no longer being stored and is no longer static. By undertaking secondary processes such as maintenance and repairs, this falls under other land uses defined within LPS6 such as "Industry" or "Motor Vehicle Repair".

Industry is defined under LPS6 as:

"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; or*
 - (d) The provision of amenities for employees;*
- incidental to any of those industrial operations."*

Motor Vehicle Repair is defined under LPS6 as:

"Motor Vehicle Repair means premises used for or in connection with:

- (a) Electrical and mechanical repairs, or overhauls to vehicles;*
- (b) Repairs to tyres;*

but does not include premises for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping."

The above definitions clearly incorporate the activities that are currently being undertaken on the property in relation to the mining industry vehicles and equipment and the skip bins. It also encompasses the proposed activities as outlined in the landowner's application.

When considering whether a land use or development is acceptable, the following provisions from the Deemed Provisions of the Regulations and the provisions located in Schedule A - Supplemental Provisions are required to be considered:

Part 9 Clause 67 of the *Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2016* state, in part, so far as is relevant to the application as follows:

"67 Matters to be considered by local government

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

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

The aims of LPS6 that are considered relevant to this application are:

1.6 The Aims of the Scheme

The aims of the Scheme are:

- (a) To provide environmental protection and enhancement of biodiversity and the natural resources including land, air and water quality.*
- (c) To ensure all developments comply with the principles of catchment management.*
- (g) To protect and improve areas of remnant vegetation and, waterways from further degradation.*
- (k) To promote employment opportunities by setting aside land for light and service industry development.*

Whilst the eastern portion of the subject property is possibly capable and appropriately positioned within the planning framework to accommodate the existing and proposed industrial type land uses, the western portion is not. The western portion is positioned outside of future industrial planning framework and is also in close proximity to the Ellen Brook. Accordingly, the abovementioned aims are applicable to the western portion of the subject property as the guiding principles.

The possible impacts and leachate from industrial type activities entering the catchment area via infiltration through the approved hardstand and runoff into drainage swales which are directed into the Ellen Brook are considered to be detrimental to the Ellen Brook and surrounding catchment area.

In relation to the eastern portion, this area of both lots has been identified for further studies under the MENSPP in order to determine land capability for sustainable industrial land uses and is the more appropriate area for supporting industrial type activities.

The objectives of LPS6 clearly define the objectives of the Agriculture Resource zone as outlined under this section. The objectives of the zone are discussed later in the report.

It is considered that the large scale storage of skip bins and mining equipment does not meet the objectives of the zone and this is discussed later in the report.

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

Although the application is for retrospective approval for storage of mining equipment in the western portion of the property, in actuality the mining equipment is being maintained by changing tyres and other mechanical activities. This in itself defines the land use as an industrial type activity or, at the very least, a motor vehicle land use such as "Motor Vehicle Repair" as defined under LPS6.

These land uses are not supported within the Agriculture Resource zone and are noted as "X" uses as they do not meet the objectives of the zone and the impact to the land in close proximity to the Ellen Brook is not considered to be adequately mitigated under this application.

- (c) *any approved State planning policy;*
(d) *any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);*
(e) *any policy of the Commission;*
(f) *any policy of the State;*
(g) *any local planning policy for the Scheme area;*
(h) *any structure plan, activity centre plan or local development plan that relates to the development;*

There is currently no Local Planning Policy applicable to the management of industrial land uses on Agriculture Resource zoned property.

There is, however, the MENSPP over the eastern portion which sets out the management of industrial land uses in the area identified under that structure plan. It also sets out buffer areas for sensitive land uses to the west of the structure plan area.

The requirements of the MENSPP will be discussed later in the report.

- (i) *any report of the review of the local planning scheme that has been published under the Planning and Development (Local Planning Schemes) Regulations 2015;*
(j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
(k) *the built heritage conservation of any place that is of cultural significance;*
(l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*

The subject application is considered to not impact the above provisions.

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

In terms of the location of the skip bins, these are currently located in the eastern portion of the property and may be appropriate in this area given the future industrial zoning proposed under the MENSF.

The location of the storage of mining equipment is currently taking place on the western portion of the property and is considered to be inappropriate due to the visual aspect of the height and bulk of Haulpaks and other related heavy mining equipment. The visual aspect relates to the proximity to Rural Residential property to the western side of the Ellen Brook and the visual impacts from the existing Great Northern Highway and Brand Highway in the short term and the future highway in the long term.

Storing and maintenance of mining equipment which is considered to be industrial in nature due to the height, bulk and potential environmental impacts on the western portion is considered to be inappropriate given that the expected zoning outlook for this portion is for rural land uses and intended as a buffer to sensitive land uses which is clearly identified within the MENSF. To allow an industrial land use such as the storage and maintenance of mining equipment in the western portion would be contradictory to the specified buffer zone under the MENSF.

Therefore, it is considered that the proposed land use of storage of mining equipment is inconsistent with this objective.

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

Environmental impacts of the proposed location of the mining equipment on the western portion of the property is of the most concern. Although the landowner has stated that the fuel is drained from the vehicles prior to arrival on site, the fact that tyre removal or any other mechanical process that may take place in this area may contribute to hydrocarbon release into the wetland and adjoining Ellen Brook by seepage through the hardstand or via direct stormwater release which is, currently, unmanaged.

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

Water management has been addressed within the current application. However, given that the mining equipment proposed to be located on the western portion has potential for the release of hydrocarbons through the maintenance activities currently being undertaken into the ground water and the runoff water into the Ellen Brook, it is considered that the information and management systems proposed are not adequate.

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

Landscaping requirements have been previously conditioned on earlier approvals and will be discussed later in the report.

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

It is considered, given the property location within the Water Prone Special Control area and the proximity to the Ellen Brook, that industrial type activities which could potentially release hydrocarbons into the ground water and Ellen Brook be avoided, especially in the western portion.

Possible acceptable locations for the positioning of mining equipment could be the eastern portions of the property. This would allow, at some point in the future, structure planning in accordance with the precincts identified in the MENSPP which will take into consideration servicing and land capability as well as environmental impact.

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

This may not be a consideration as it is not apparent that there will be any risk to human health or safety.

- (s) *the adequacy of—*
(i) *the proposed means of access to and egress from the site; and*
(ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

Currently, the western portion of the property is accessed through a Main Roads WA ("MRWA") acquired parcel of land which runs through (roughly) the middle of both Lots 802 and 803, for the proposed Northlink project. Should MRWA fence the acquired parcel of land, there will be no access to the western portion of the property until such time as MRWA have constructed the access road identified on the western side of the proposed new highway. There is no way of knowing exactly when this may occur or when the access road will be completed to allow access to the western portions of the property.

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

MRWA have currently not provided information in relation to what standard the access road will be constructed to. It is possible that the access road will not be capable of carrying the size of trucks required to transport mining equipment such as Haulpaks. It is highly likely, given the planning framework allocation of land uses for the western portion of the property, that the intersection of the access road and Brand Highway may also not be upgraded to cater for the manoeuvring of these transport trucks onto the highway network.

The above would determine that the proposed activity of locating mining equipment on the western portion of the property cannot be supported due to insufficient constructed access and interference with the traffic flow for the proposed highway network.

- (u) *the availability and adequacy for the development of the following—*
 - (i) *public transport services;*
 - (ii) *public utility services;*
 - (iii) *storage, management and collection of waste;*
 - (iv) *access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
 - (v) *access by older people and people with disability;*

Waste management facilities are available as onsite effluent disposal units.

- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*

It is not considered that there will be any loss of community service.

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

There is extensive history within this property which includes non-compliance with previous approvals and also the undertaking of various land uses without approval. These issues will be discussed later in the report.

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

It could be considered that the movement and storage of mining equipment on the western portion of the property may have negative impacts in relation to size, scale, bulk and noise associated with the maintenance of those vehicles on the Rural Residential properties located on the western side of the Ellen Brook.

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

Submissions received will be discussed later in the report.

- (zb) *any other planning consideration the local government considers appropriate.”*

The objectives of the Agriculture Resource Zone are:

- “a) Preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*
- b) Protect the landform and landscape values of the district against despoliation and land degradation;*
- c) Encourage intensive agriculture and associated tourist facilities, where appropriate;*
- d) Allow for the extraction of basic raw materials where it is environmentally and socially acceptable.”*

Although the property is not considered to be primary agricultural land, it is considered that the proposal does contribute to intensification of the site which has led to despoliation and may lead to degradation of the western area, including the Ellen Brook.

The proposed land use of storage of mining equipment on the western portion is not an intensive agriculture or tourist land use and considered to be industrial in nature.

Therefore, the proposal does not comply with all the objectives of the zone.

Relevant provisions of the MENSPP which affect the eastern portions of the property only are discussed hereunder:

2.6.1 Military Considerations

The majority of the structure plan area lies in the Shire's military considerations overlay (for RAAF Air Weapons Base Pearce - flight paths), which poses restrictions on development that may be a safety risk for aircraft. The objective is to protect the integrity of operations of the RAAF Air Base Pearce and its flight paths and provide conditions on development on land in the designated special control area which may be affected by noise. It also aims to minimise the number of people residing in the delineated flight path, subject to significant levels of aircraft noise. Height restrictions to buildings and structures in excess of 15m may apply to the eastern portion of the structure plan. Further consultation with the RAAF is recommended for development within the employment node.

The eastern portion of the property is located within the Military Considerations Special Control Area (SCA), however, the proposal subject of this report, is not considered to have any impact in relation to the requirements of the SCA and, therefore, the above requirements are not considered to be relevant.

2.6.4 Water prone area: Ellen Brook Palusplain

Land subject to inundation or flooding is delineated under this special control area. Its purpose is to manage development in areas where there is a high risk of inundation, so as to protect people and property from undue damage. It aims to preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems. It also aims to ensure that wetland environmental values and ecological integrity are protected.

The industrialisation of the western portion of the property is considered to have a high impact to the Ellen Brook and the SCA generally. It is not considered appropriate to repair or maintain any vehicles within this area and is also considered that the storage and/or maintenance of skip bins and/or mining equipment is industrialisation outside of the provisions of the SCA.

However, it may be more appropriate to allow less impact activities in the area located within the SCA which is adjacent to the Ellen Brook. It may be possible to condition the storage of mining equipment subject to strict conditions excluding the repair and maintenance of any vehicles. It is considered, however, that in terms of the overall impact of the storage of mining equipment in terms of height, bulk and scale, it would be considered more appropriate to locate these activities to the eastern portion of the property.

Similarly, the location of the skip bin component would be better suited to the eastern portion of the property given that maintenance is proposed to occur within the existing factory buildings which are also located on the eastern portion.

6.3.3 Precinct 3 (west)

1. *Low water use type industries with a minimum lot size of 10,000m² may be established in this area unless the developer can demonstrate prior to development commencing, that wastewater generated can be adequately managed as per the requirements outlined in the water management strategy or a more detailed local water management strategy.*

Storage is generally not considered to be a high water use land use, however, the impacts of stormwater carrying potential hydrocarbons from vehicles and other pathogens from skip bins into the groundwater or water sources is considered to be adequate for the preparation of a detailed local water management strategy. It is considered that the best practices outlined in the submitted Water Management Strategy by Strategen may not be sufficient to ameliorate the potential impacts.

2. *For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels.*

The property is not proposing to produce more wastewater as a part of this application and, therefore, this condition does not apply.

3. *Development shall not conflict with the proposed Perth-Darwin National Highway road reserve and requirements external to it such as the interchange embankment build up and ramp constructions.*

It is considered that the storage and/or maintenance of mining equipment and skip bins could occur without any negative impact to the Perth-Darwin National Highway except in terms of visual aspect. This could be conditioned to be contained within a landscape plan.

4. *The access road shall be designed with provision for a road reserve of 30 metres. This will allow for a road cross section to be developed, which contains 2 x 3.5 metres lanes and a sealed 1.5 metres should on either side, in accordance with the Shire of Chittering Local Planning Policy No 16 for other rural roads.*

At this stage, the road reserve referred to in Precinct 3 may or may not eventuate. Storage and/or maintenance of mining equipment and skip bins is considered to be "temporary" in nature in that no permanent structures are being constructed and, therefore, it is considered that the storage and/or maintenance of mining equipment may be able to be approved within the eastern portion of the property.

5. *Future planning is to specifically address treatment of lots abutting the future Perth-Darwin National Highway road reserve and/or the Ellen Brook, with regard to water management and amenity.*

It is considered that inadequate water management has been proposed for the eastern portion of the property in that there are no retention basins and no adequate drainage swales or treatment ponds are proposed to be installed or are demonstrated for installation on any plans provided by the applicant. If conditional approval is granted for the eastern portion, a detailed water management and amenity plan will be required to be submitted.

6. *Structures higher than 90m require referral to RAAF.*

No structures are proposed to be constructed as part of this application and, therefore, this point is considered to be irrelevant.

Policy Implications

Nil

Financial Implications

Due to this matter being a non-compliance matter the Shire has incurred indirect financial costs in hours spent with employees trying to work with the landowner to achieve compliance on the site.

Strategic Implications

Supporting local businesses can have the effect of providing future employment opportunities for local residents.

When considering this application, thought must be given to the projected outcomes of the Muchea Employment Node Structure Plan and the applicant should be guided in the directions outlined within that Structure Plan.

Difficulties will arise with this application in relation to road network integration due to the resumption of land by Main Roads WA and the creation of internal access roads to the western portion of Lots 802 and 803. There is also a proposed access road identified in the Muchea Employment Node Structure Plan which will require construction at some point in the future.

Site Inspection

Although a number of site visits have historically been undertaken by various Shire staff, the most recent site inspection was undertaken on 16 May 2017 where the extent of the storage being applied for was identified. Photographs taken on site are provided in **Attachment 5**.

Also whilst on site, it was observed that some of the mining equipment was in the process of having the tyres changed for which the landowner advised that those types of activities occur from time to time.

Triple Bottom Line Assessment

Economic implications

Allowing the applicant's business to operate within the Shire provides economic stimulation and can provide a source of modular buildings as well as local employment. Economic gain in relation to the skip bins and mining equipment storage is only beneficial to the applicant.

Social implications

Implications relating to the size, scale and bulk of the mining industry equipment and vehicles is considered to be a detriment in terms of visual and streetscape amenity.

Environmental implications

There is a concern in relation to the effect the development is having and may possibly have on the Ellen Brook. There is also concern regarding the construction of necessary access roads within the property which may restrict the development potential of the property.

Officer Comment/Details

Approved Land Uses and Structures

At present, the only land uses that have approval are as outlined in Additional Land Use 17 in Schedule 3 of LPS6. These land uses are in relation to the building, construction, storage and transportation of modular buildings.

Currently, the hard stand, dwelling, outbuildings and office structures have been approved on the property. There has been no approval issued for sea containers, fuel cells (or any fuel storage) or any other land use including storage other than storage directly relating to the manufacturing of modular buildings.

Council is requested to bear in mind that the mining equipment, skip bins and various other items are currently located on the property without approval of any kind and are, therefore, unlawful.

It is not considered that the storage of skip bins or mining equipment is directly related to the manufacturing of modular buildings as these do not contribute in any way to the manufacturing process of those buildings except to say that a skip bin may be utilised as a receptacle for waste materials produced during the manufacturing process. That being said, the utilisation of skip bins as part of the manufacturing process would encompass a relatively small number of skip bins being utilised for this purpose rather than the need to store large numbers of skip bins on the site which form part of a separate business.

Accordingly, it is considered that it may be appropriate to conditionally approve the storage of skip bins and mining equipment. In order to assess the appropriateness of the proposal, the individual aspects of the application are broken down as follows:

Skip Bins

Currently, the landowner is allowing the placement of skip bins on the property which are used and operated by a separate business known as Instant Waste Management. Generally, these skip bins are already located within the eastern portion of the property.

Advice from Department of Planning

In relation to the advice received from the Department of Planning ("DoP"), the following comments are made.

Although it is acknowledged that the letter from the DoP states that the use and maintenance of skip bins on the property could be incidental to the predominant land use, it is considered that the size, scale and actual processes taking place on the property in relation to the skip bins does not constitute storage but rather constitutes an industrial land use. The fact that the skip bins are being utilised as part of another company other than the landowner and used in conjunction with Instant Waste Management further demonstrates the inability to approve as an incidental land use.

It is further considered that the advice given by the DoP was done so without viewing the property and without understanding the scale and the actual processes being undertaken on site.

Despite the difference of opinion, it is feasible to allow industrial type uses on the property such as what is proposed in this application provided it is appropriately located and managed. This may be achieved via an amendment to the Additional Land Use A17 within LPS6.

It is not desirable to allow industrial type activities on the western portions of the lots without further investigations relating to possible effect as difficulty controlling pollutants to the Ellen Brook could be onerous, expensive and may not be completely effective methods of control.

Instant Waste Management has a head office in Morley but stores skip bins on the property in preparation for collection and use elsewhere. Once the skip bins arrive at the site, they are stored until required. Once they are required, they are then repaired and painted and taken to their booked job thereafter.

It is considered that this aspect of the activities on site is not storage but a separate industry. Storage could be considered to mean the act of placing an object in a stationary position for future use and without undertaking any other activity or process to the object. It is viewed that the act of repairing and restoring the skip bins for use elsewhere could constitute a process and, therefore, an industry. It is not true to say that the skip bin component is strictly a storage activity.

Storage is defined under the provisions of LPS6 as:

“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”*

As discussed above, the land use involves repairing and restoring, which does not fit under this definition. Accordingly, it is possible to better define the skip bin component of the application as “Industry”. The Shire’s LPS6 defines “Industry” as:

“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; or*
 - (d) The provision of amenities for employees;*
- incidental to any of those industrial operations.”*

Industry is an “X” use within the Agricultural Resource zone of LPS6 and is unable to be approved on the property until such time as the land is rezoned pursuant to the MENSPP.

It is the clear direction of the Shire, which is established within various strategic documents, that the eastern portion of the property is proposed for future industrial development and the western portion of the property to remain as Agricultural Resource. It is, therefore, appropriate to allow the land use of storage of skip bins on the eastern portion and reaffirm the use of the hardstand for the remainder of the property as being in accordance with the previous approval and in accordance with the Additional Use A17 under LPS6.

In order to consider the retention of skip bins on site to fall strictly within the storage land use definition, it is necessary to condition the approval such that no maintenance or repair of the skip bins is to occur on site. It may be that maintenance and repair of the skip bins could occur in the future subject to a modification being undertaken to the Additional Use A17 to include the industrial processes of the skip bin component together with appropriate controls to limit the industrialisation of the property to the eastern portion only.

Therefore, it is recommended that all skip bins are to be moved to be solely contained on the portion to the east of the Perth-Darwin National Highway which will clearly demonstrate the strategic direction the Shire has allocated for the property. In order to maintain immediate acceptable visual aspects to Great Northern Highway, it is recommended that all skip bins be adequately screened from view by the implementation of a landscape plan to the satisfaction of the local government.

Aerial photographs are contained at **Attachment 6** which demonstrates the extent of the existing skip bins on site.

Mining Equipment

The landowner wishes to obtain retrospective approval to store mining equipment including oversize vehicles (dump trucks) and various other mining industry vehicles and machines.

Currently, there is a variety of mining machinery on site. These machines are generally located in the western portion of the property and have been observably increasing in number since mid-2016. The landowner has advised that an independent mining company stores their mining equipment on the site for an unknown period of time. Periodically some of the mining equipment is removed, however on site observations suggest this is rare. During the period of time the equipment and/or vehicles are on site, some of the vehicles receive tyre changes, brake changes and repair and general maintenance and/or dismantling processes.

Due to the fact that some of these vehicles receive general maintenance, dismantling and/or tyre changes, it is not considered that this is strictly a storage activity and does not fit within the definition of storage under LPS6. It is considered that this component of the application is an industry. It could be more accurately defined as "Motor Vehicle Repair" or "Industry". These land uses are defined in the Shire's LPS6 as:

"Motor Vehicle Repair means premises used for or in connection with:

(a) Electrical and mechanical repairs, or overhauls to vehicles;

(b) Repairs to tyres;

but does not include premises for recapping or retreading of tyres, panel beating, spray painting or chassis reshaping."

"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; or

(d) The provision of amenities for employees;

incidental to any of those industrial operations."

Like the industry use, motor vehicle repair is an "X" use in the Agricultural Resource zone. Therefore, it is considered that this component of the application is generally not acceptable in this zone.

Due to the potential impacts to the Ellen Brook and the catchment area by way of possible hydrocarbon release, it may be considered that the eastern portion of the property which has been identified as future industrial land is better suited to receive this type of industrial activity than the western portion which is proposed to remain zoned Agricultural Resource. This is discussed further under the heading below.

Aerial photographs are contained at **Attachment 5** which demonstrates the extent of the existing mining equipment on site.

Impacts to Ellen Brook and the Catchment Area

Water source management is discussed extensively in State Planning Policy 2.9. This document, broadly speaking, seeks to ensure that any land use is to have minimal impact to any water source. Water Sources are defined within SPP2.9.

Whilst the static storage of mining equipment on the western portion can be conditionally approved under the land use of "warehouse/storage", it is considered that the impact of potential hydrocarbon release into the water source is likely to be detrimental. Therefore, as the applicant has not sufficiently demonstrated that the impacts are not detrimental, this aspect of the proposal is not able to be considered for approval until such time as further investigations have taken place.

Allowing the static storage of motor vehicles of any description (regardless of whether the vehicles are drained of fuel) may lead to hydrocarbon release from sources such as grease, engine bays, hydraulic components etc. via the instance of rainwater traversing the vehicles. This therefore would warrant further investigation in relation to amelioration measures.

There is a concern that the maintenance of the mining equipment via tyre changes and brake changes could further contribute to the release of hydrocarbon into the water source.

The submitted Water Management Strategy is considered to be unacceptable as it is not clear as to what physical infrastructure will be constructed which will restrict pollutants filtering through to the water source. During consultation, Department of Water provided preliminary information in relation to the adequacy of the Water Management Strategy. These are located within the Schedule of Submissions.

On 27 June 2017, the Department of Water provided additional comments in relation to the Water Management Strategy. These are discussed in the attached schedule of submissions.

As can be clearly seen from the above, the water management strategy is lacking in a number of areas and, until such time as further investigations can confirm that the western portion of the property (in particular) is capable of receiving industrial type activities which have potential for hydrocarbon release, it is recommended that the mining machinery be relocated to the eastern portion and suitable conditions imposed such that no maintenance or repair is undertaken to the mining equipment whilst in this location.

Similarly to the skip bin component, further land use control and acceptability may be catered for via an alteration to the existing approved Additional Land Use A17 under the LPS6. At present, drainage swales have been filled in which is contrary to approvals granted and will be required to be reinstated as part of this approval process.

Access to the Western Portion of Lots 802 and 803

MRWA have resumed a portion of land from the centre of Lots 802 and 803 and, as such, has effectively landlocked the western portion. MRWA is proposing to construct an access road to create a legal point of access to the western portions of the property and for the western portion of the land to the south of Lots 802 and 803.

However, until such time as the access road is complete, there is no legal point of access for the western portions of the lots. At some point in the near future, it is anticipated that MRWA will fence off the resumed portion of land within Lots 802 and 803 which will physically prevent any access to the western portion of the property. It may be that MRWA will allow access through their road reserve and onto Great Northern Highway until the proposed access road is constructed but, at this stage, that has not been demonstrated and is unable to be considered in the context of this application.

In respect of this and, without taking into account the possible detrimental impact the proposed land use may have to the Ellen Brook and the catchment area, it is not considered a possibility to approve any land use on the western portion of the property until such time as a legal point of access has been constructed.

It is not known at this stage as to the estimated completion date for the access road and, in light of this, it is recommended that all additional land uses be refused for the area encompassed by the western portion of Lots 802 and 803. Additional land uses may, however, be considered for the eastern portion of the property and it is recommended that all objects be relocated from the western portion of the property to the eastern portion of the property.

Summary

In light of all the information that has been presented in relation to the possible impacts to the Ellen Brook and the catchment area and, subject to the provisions of further investigations for amelioration of potential impacts, it is the officer's recommendation that the skip bins and mining equipment be restricted to the eastern portion of the property and place suitable conditions on the separate components such that they are strictly for storage purposes as defined under LPS6. This will require the imposition of suitable conditions to not allow any maintenance or repair to any of the mining equipment or skip bins until such time as additional land uses are incorporated into LPS6 through A17 and will require those additional land uses to be restricted to the eastern portion.

As the eastern portion is relatively restricted in size, it is considered appropriate to allow a reduced setback in order to accommodate all additional land uses in this area. It is recommended that the setback distance to Great Northern Highway be reduced to 80m and the setback to the future Northlink Highway no less than 30m.

Further, in relation to the fact that there is no legal point of access to enable the use of the western portion of the property, it is further recommended that all existing development or objects, machinery, materials and incidental be moved to the eastern portions of Lots 802 and 803.

It is further recommended that an amendment to the existing Additional Land use at A17 in Schedule 3 of Local Planning Scheme No 6 be investigated such that additional land uses are incorporated into the eastern portion of Lots 802 and 803. It may be that some form of additional land uses (not necessarily industrial in nature) can be entertained in the western portion at some point in the future but this would be subject to further investigation into the possible effects on the water sources and subject to a legal point of access being constructed.

Additionally, after the completion of the Scheme Amendment process to alter A17 in Schedule 3 of LPS6 in order to allow the consideration of additional land uses in the western portion of the property, a development application will be required to be submitted before any land uses can commence in that area of the property.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr King

That Council grant approval for the storage of equipment and vehicles associated with the mining industry and the storage of skip bins at Lots 802 and 803 Great Northern Highway, Muchea subject to the following conditions:

1. All mining related equipment and/or vehicles and skip bins shall be relocated to the eastern portion of Lots 802 and 803 as delineated on the approved plan within 30 days from the date of this approval.
2. Repairs, washing down, maintenance or servicing of any nature of equipment or vehicles associated with the mining industry is not permitted on any portion of Lot 802 or 803.
3. The sale of equipment and vehicles associated with the mining industry is not permitted from any portion of Lot 802 or 803.
4. Repairs, washing down or maintenance of any nature of skip bins is not permitted on Lot 802 or 803.
5. A revised Water Management Strategy be submitted and approved by the Department of Water within six months from the date of this approval which takes into account existing and future land uses and the requirements for nutrient and hydrocarbon filtering as well as water quality testing for the eastern portion of Lots 802 and 803.
6. A revised Water Management Strategy be submitted and approved by the Department of Water within six months from the date of this approval which takes into account existing and future land uses and the requirements for nutrient and hydrocarbon filtering as well as water quality testing for the western portion of Lot 802 or 803.
7. Approved Water Management Strategies are to be implemented within six months of their approval and water quality testing results are to be submitted to the Shire on an annual basis thereafter.
8. No activities are to occur on the western portion of Lot 802 or 803, as delineated on the approved plan, other than the uses listed in Additional Use A17 as defined in *Local Planning Scheme No 6*.
9. No development, including the placement of mining industry equipment and vehicles or skip bins, is permitted within 80 metres of Great Northern Highway.
10. No development, including the placement of mining industry equipment and vehicles or skip bins, is permitted within 30 metres from the boundary of Lot 301 as described on the approved plan.
11. The hardstand is to be setback a minimum distance of 30 metres from the rear of both Lots 802 and 803 as delineated on the approved plan and any hardstand material that is currently located within 30 metres of the western boundary and shall be removed within 60 days of the date of approval.
12. The hard stand on Lot 802 must be set back 30 metres from the southern boundary of Lot 802 and hardstand material that is currently located within 30 metres of the southern boundary of Lot 802 shall be removed within 60 days of the date of approval.
13. The crossover from Lot 803 to Great Northern Highway shall be designed and upgraded in accordance with the standards and specifications of Main Roads WA within six months of the date of

approval.

14. No access or egress to Lots 802 or 803 shall occur between Lot 802 and Great Northern Highway.
15. A Landscaping Plan shall be submitted within 30 days of the date of approval which addresses the following:
 - a. Visual vegetation screening in relation to property boundaries and streetscape values from roads;
 - b. Planting for filtration purposes for all drainage swales and drainage infrastructure;
 - c. Types of indigenous plant species to be planted;
 - d. Planting regime; and
 - e. Maintenance of plants.
16. The Landscaping Plan shall be implemented within six months of its approval.
17. A Dust Management Plan shall be prepared and submitted to the Shire within 30 days of the date of approval.
18. The Dust Management Plan shall be implemented within six months of its approval.
19. The permitted uses for the eastern portion of Lots 802 and 803 shall only be in accordance with this approval and the uses listed within the Additional Use A17 defined in Schedule 3 of *Local Planning Scheme 6*.
20. All activities shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
21. Any existing lighting or future lighting of the property is to be installed in accordance with Australian Standard AS1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or adjoining land to the satisfaction of the Shire.

AMENDMENT

Moved Cr Rossouw / Seconded Cr Osborn

That the Officer Recommendation be renumbered into two parts (i.e. Recommendation 1 will start at ***"That Council grant approval for the storage of equipment and vehicles associated with the mining industry and the storage of skip bins at Lots 802 and 803 Great Northern Highway, Muchea subject to the following conditions"*** and Conditions ***"1-21"*** be renumbered ***"a-u"***) and the following ***"Recommendation 2"*** be added:

2. That Council instruct the Chief Executive Officer to investigate compliance measures to ensure the existing development on the property is in accordance with this approval.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

7:41PM

AMENDMENT

Moved Cr Rossouw / Seconded Cr Osborn

That the following "Recommendation 1.v." be added:

- v. The eastern portion of the hardstand area is to be suitably sealed to the satisfaction of the Chief Executive Officer, and the surface water be managed in accordance with the approved Water Management Strategy.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 5/2
AND FORMED PART OF THE SUBSTANTIVE MOTION

7:48PM

AMENDMENT

Moved Cr Osborn / Seconded Cr Rossouw

That the following "Recommendation 3" be added:

3. That Council instruct the CEO to commence legal action in the form of prosecution of the landowner of Lots 802 and 803 GNH for contravening provisions of LPS6.

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

7:53PM

AMENDMENT

Moved Cr Rossouw / Seconded Cr Tilbury

That "Recommendation 1.o.vi" be amended to read as follows:

- vi. Planting regime in consultation with Chittering Landcare; and

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

7:55PM

9.1.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 050717

Moved Cr Gibson / Seconded Cr King

1. That Council grant approval for the storage of equipment and vehicles associated with the mining industry and the storage of skip bins at Lots 802 and 803 Great Northern Highway, Muchea subject to the following conditions:

- a. All mining related equipment and/or vehicles and skip bins shall be relocated to the eastern portion of Lots 802 and 803 as delineated on the approved plan within 30 days from the date of this approval.
- b. Repairs, washing down, maintenance or servicing of any nature of equipment or vehicles associated with the mining industry is not permitted on any portion of Lot 802 or 803.
- c. The sale of equipment and vehicles associated with the mining industry is not permitted from any portion of Lot 802 or 803.
- d. Repairs, washing down or maintenance of any nature of skip bins is not permitted on Lot 802 or 803.
- e. A revised Water Management Strategy be submitted and approved by the Department of Water within six months from the date of this approval which takes into account existing and future land uses and the requirements for nutrient and hydrocarbon filtering as well as water

- quality testing for the eastern portion of Lots 802 and 803.
- f. A revised Water Management Strategy be submitted and approved by the Department of Water within six months from the date of this approval which takes into account existing and future land uses and the requirements for nutrient and hydrocarbon filtering as well as water quality testing for the western portion of Lot 802 or 803.
 - g. Approved Water Management Strategies are to be implemented within six months of their approval and water quality testing results are to be submitted to the Shire on an annual basis thereafter.
 - h. No activities are to occur on the western portion of Lot 802 or 803, as delineated on the approved plan, other than the uses listed in Additional Use A17 as defined in Local Planning Scheme No 6.
 - i. No development, including the placement of mining industry equipment and vehicles or skip bins, is permitted within 80 metres of Great Northern Highway.
 - j. No development, including the placement of mining industry equipment and vehicles or skip bins, is permitted within 30 metres from the boundary of Lot 301 as described on the approved plan.
 - k. The hardstand is to be setback a minimum distance of 30 metres from the rear of both Lots 802 and 803 as delineated on the approved plan and any hardstand material that is currently located within 30 metres of the western boundary and shall be removed within 60 days of the date of approval.
 - l. The hard stand on Lot 802 must be set back 30 metres from the southern boundary of Lot 802 and hardstand material that is currently located within 30 metres of the southern boundary of Lot 802 shall be removed within 60 days of the date of approval.
 - m. The crossover from Lot 803 to Great Northern Highway shall be designed and upgraded in accordance with the standards and specifications of Main Roads WA within six months of the date of approval.
 - n. No access or egress to Lots 802 or 803 shall occur between Lot 802 and Great Northern Highway.
 - o. A Landscaping Plan shall be submitted within 30 days of the date of approval which addresses the following:
 - i. Visual vegetation screening in relation to property boundaries and streetscape values from roads;
 - ii. Planting for filtration purposes for all drainage swales and drainage infrastructure;
 - iii. Types of indigenous plant species to be planted;
 - iv. Planting regime in consultation with Chittering Landcare; and
 - v. Maintenance of plants.
 - p. The Landscaping Plan shall be implemented within six months of its approval.
 - q. A Dust Management Plan shall be prepared and submitted to the Shire within 30 days of the date of approval.
 - r. The Dust Management Plan shall be implemented within six months of its approval.
 - s. The permitted uses for the eastern portion of Lots 802 and 803 shall only be in accordance with this approval and the uses listed within the Additional Use A17 defined in Schedule 3 of Local Planning Scheme 6.
 - t. All activities shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
 - u. Any existing lighting or future lighting of the property is to be installed in accordance with Australian Standard AS1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or adjoining land to the satisfaction of the Shire.
 - v. The eastern portion of the hardstand area is to be suitably sealed to the satisfaction of the

Chief Executive Officer, and the surface water be managed in accordance with the approved Water Management Strategy.

2. That Council instruct the Chief Executive Officer to investigate compliance measures to ensure the existing development on the property is in accordance with this approval.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
7:56PM

9.1.3 Proposed Extractive Industry for Sand: Lot 52 Old Gingin Road, Muchea*

Report date	19 July 2017
Applicant	Statewest Planning
File ref	A10587; P030/17
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> 1. Applicant's Report 2. Bioscience report 3. Schedule of Submissions

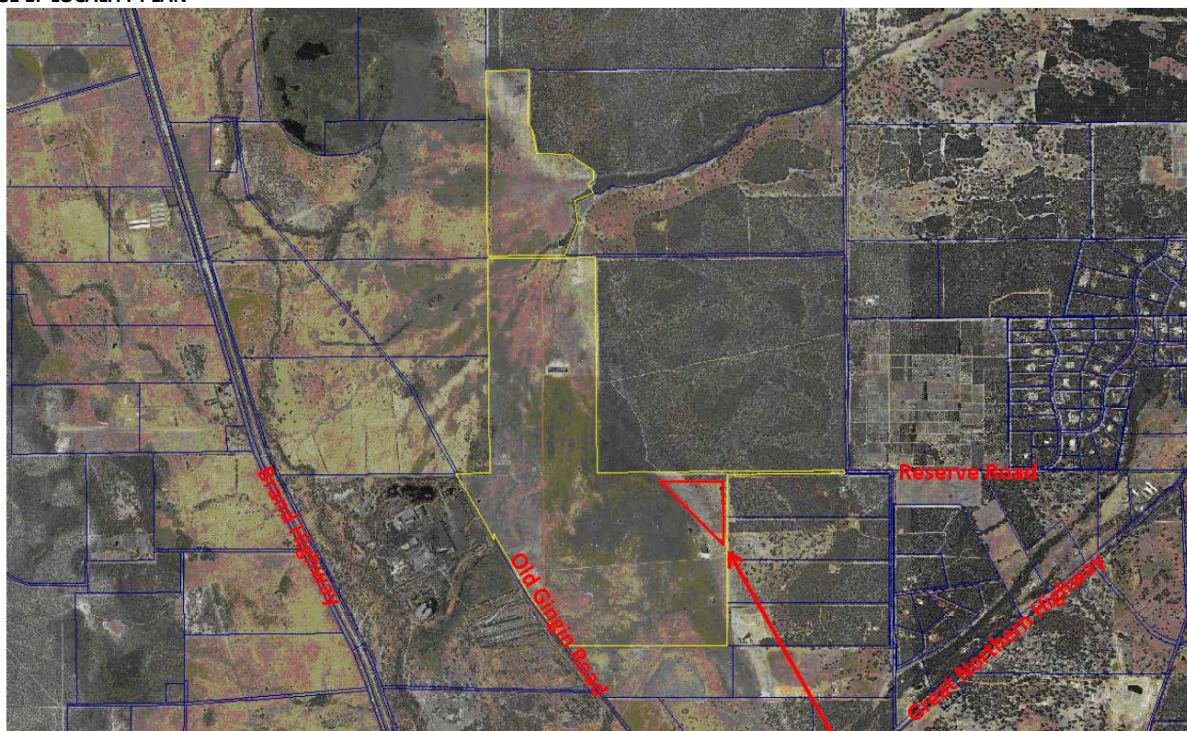
Executive Summary

Council is requested to consider the application for a proposed extractive industry for sand on Lot 52 Old Gingin Road, Muchea.

The application comprises of one proposed extractive area measuring approximately 7.989 hectares with a maximum depth of five metres. The landowner has previously been granted planning consent for two additional excavation areas on the property in 2012 and 2015 respectively. These approvals remain current, however relate to separate, specific locations.

The subject property is located within land zoned for 'Agricultural Resource', for which 'Industry – Extractive' is an 'A' use. While this is technically not a change of use, the item is being referred to Council as objections were received during the public consultation period.

IMAGE 1: LOCALITY PLAN



Pit A – Proposed Extractive Area

Background

Lot 52 Old Gingin Road, Muchea measures 416 hectares and is located approximately five kilometres north of the Muchea townsite. The property has frontage onto an unsealed portion of Old Gingin Road as well as a small access leg to Reserve Road. Currently, the subject property is used for both grazing purposes as well as sand extraction.

Lot 52 is surrounded by a mix of land uses. The Tronox processing plant is located on the western side of and is separate from the lot via an unsealed portion of Old Gingin Road. To the north of the subject lot, the land is dominated dense bushland, some of which contains threatened and priority ecological communities. The remaining land adjoining is either pasture or small agricultural lots used for residential purposes. It should also be noted the access leg to Reserve Road adjoins the newly rezoned Lot 2 Reserve Road precinct.

The applicant is proposing to extract an area of approximately 7.989 hectares (1,152,000m³) sand from 'Pit A' for the purpose of providing resources to the construction of the new Perth Darwin National Highway. The maximum depth of extraction is specified as 5m with battered banks of 1:3 rising to the crest of the sand dune. The anticipated extraction area is located on the Dandaragan Plateau and forms part of a natural dune formation which is cleared of vegetation.

In order to remove the materials required, maintain access roads and suppress dust, the applicant intends to use machinery including a wheel loader, excavator and bulldozer. Hours of operation are limited from 06:00 to 18:00 Monday to Friday and 07:30 to 17:00 hours on Saturdays. The applicant's report stipulates transport of materials from site is to occur via Old Gingin road to the construction area (see Map 4 in applicants report). At no point is it proposed that materials leaving the site will be accessing Great Northern Highway.

Water required on site for operations will be sourced from a licensed dam on the property. A ground water license is also said to have been issued by the department of water. As mentioned earlier, a water truck will be used for dust suppression when required.

Rehabilitation is said to occur via stockpiling of topsoil on the base of the pit to later be applied using a wheel loader and spread by means of a grader. Depth of topsoil is determined at approximately 100–200mm. The applicant has suggested that deep ripping will be carried out for replanting of trees (at a ratio of 1:60) which have been removed. Having said this, the applicants report also suggests that the area to be excavated are cleared with the end use remaining as grazing after the sand resource has been extracted. Rehabilitation is said to be ongoing.

Two approved extractive areas currently exist on the site, these being 'Pit B' and 'Pit C'. Approval was originally granted by Council in 2012 for Pit B. Council then later resolved to amend the approval in 2015 (following the applicant's request) to include Pit C. The applicant has stated there is a further 500,000m³ of sand left to be extracted from Pit B and 707,000m³ to be extracted from Pit C. Planning Approval granted for Pit C advised that the extractive industry license would not be issued until Pit B is rehabilitated to an appropriate stage to the satisfaction of Chief Executive Officer. It was also requested the previous approval granted in 2015 be amended once again to include Pit A, however Shire Officers consider this to be inappropriate due to a number of reasons, this is further explained in the 'Officer Comment/Details' section.

Consultation

Consultation was undertaken in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Accordingly, the proposal was advertised for a period of 21 days via letters to land owners within a two kilometre radius of the subject properties' boundary. The application was also advertised via the Shire's 'Have Your Say' webpage.

In addition to the above, the proposal was referred to the below state agencies:

- Chittering Landcare
- Environmental Protection Authority (EPA)
- Department of Planning (DoP)
- Department of Parks and Wildlife (DPaW)
- Main Roads Western Australian (MRWA)
- Department of Water (DoW)
- Department of Health
- Department of Lands

During the advertisement, a total of 30 letters were sent to land owners with only one submission received, that being an objection. The reasons for objecting to the proposal is as follows:

- (i) Requested amount of sand to be extracted exceeds current license
- (ii) Impact on neighbouring residents.

Further analysis of both state and public submissions are referred to in the 'Officer Comment/Details' section in addition to the Schedule of Submissions (**Attachment 3**). The Shire Officer also conducted internal consultation with the Shire's Executive Manager Technical Services (EMTS).

Statutory Environment

State

- *Planning and Development Act (2005)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
Part 10 – Procedure for Dealing with Applications
10.2 Matters to be considered by Local Government
In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application
—
 - (c) any approved State planning policy;
 - (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
 - (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
 - (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
 - (r) the suitability of the land for the development taking into account the possible risk to human health or safety;

- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66.*

The subclauses are considered individually, and in detail in the sections following.

Local

- Shire of Chittering Local Planning Scheme No. 6 (LPS6)
Under LPS6, Lot 52 Old Gingin Road is zoned "Agricultural Resource". The objectives of this zone are, per Clause 3.2.5, to:
 - *preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*
 - *protect the landform and landscape values of the district against despoliation and land degradation;*
 - *encourage intensive agriculture and associated tourist facilities, where appropriate;*
 - *allow for the extraction of basic raw materials where it is environmentally and socially acceptable*

In this instance the proposal can be considered consistent with point four. This is due to the proposed use being located a significant distance from a major road and a minimum distance of approximately 690m from the nearest residential dwelling. Some inconsistency remains however as to the environmental significance of the proposal, this being mainly in relation to the depth of excavation and its proximity to the highest known level of the winter water table level. Comment received from Chittering Landcare has indicated possible impacts from excavation regarding groundwater flow into Lake Chandala – a wetland of national significance. Currently, the Shire Officer considers insufficient evidence has been provided within the application to disprove Chittering Landcare's comment. Consequently, further information has been requested prior to any excavation license being granted.

Part 4.15 of LPS6 also specifically references requirements for Basic Raw Material extraction in the Shire, these being:

- a) *Extraction of essential materials for roads and construction are to be permitted in areas where they will not adversely affect living environments, the landscape quality or contribute to land degradation problems during and after operations;*
- b) *Extraction of basic raw materials within the rural zones is to be managed in accordance with best industry practices including consideration of end use and rehabilitation at time of decommission;*
- c) *Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;*
- d) *Local government will not support development within those buffer areas, which may be detrimental to the efficiency of the industries. This is to protect the basic raw materials precincts from development that may compromise its operations.*

- Shire of Chittering Extractive Industries Local Law 2014

The local law provides requirements and guidance for operators to obtain and hold a license to extract basic raw materials. License applications are applied for subsequent to a planning approval for the land use being granted. Notwithstanding, particular clauses such as Part 6 of the law are applicable to the assessment of the proposal.

Part 6.1 (e) of the law states the following *"500 metres of any adjoining residence unless approved by Council and adjoining neighbours in writing in accordance with the Department of Environment and Conservation Guidelines, March 2011—"A Guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other activities."*

The applicant has complied with this part due to the closest dwelling being located more than 500 metres from proposed Pit A resource.

In addition to the above, the local law specifies further separation distance requirements for easements, thoroughfares, wetlands and lot boundaries as seen below:

- (a) *50 metres of the boundary of any land on which the excavation site is located including earth bund and haul road, unless the site is located within the Special Control Area—Basic Raw Materials as depicted in the Shire of Chittering Town Planning Scheme No 6 Map, where a lesser distance may be allowed with written consent from adjoining landowners;*
- (b) *20 metres of any land affected by a registered grant of easement;*
- (c) *40 metres of any watercourse and/or wetland;*
- (d) *50 metres of any thoroughfares; or*

Lot 52 is not located within the Basic Raw Materials Special Control Area (SCA), therefore the 50m boundary applies. The proposed sand excavation area shown on the site map illustrates the applicant has complied with c6.1(a) for all boundaries. No easements are present on site and water bodies are limited to dams on the property, whereby the proposal complies with the required 40m setback requirement. The access leg that connects to reserve road remains the nearest thoroughfare to the proposed extractive area. Reserve road is consistent with the required 50m setback.

Policy Implications

State

- *State Planning Policy 2.0 Environment and Natural Resources Policy*
- *State Planning Policy 2.5 Agricultural and Rural Land Use Planning*
- *State Industrial Buffer Policy*
- EPA Guidance Statement No 3 Separation Distances between Industrial Uses and Sensitive Land Uses
The guidance statement outlines the recommended setback of industries from sensitive land uses such a residential dwellings. The below image is taken from the statement and recommends the appropriate buffer. The applicant is proposing to extract sand and is not blasting therefore (in this case) the subject of this application is most likely to fit the 'sand and limestone category' by which the buffer distance is 300–500 metres. The applicant has complied with the 500 metre separation distance, as the nearest dwelling is located approximately 690m to the east.

IMAGE 2: BUFFER RECOMMENDATION

Extractive industries – hard rock, Darling Scarp	quarrying (including blasting), crushing and screening	√ (5, 12, 70)	DoIR, WRC	CoP - 1990, revised in 1995	√	√	√	1000
– not hard rock	blasting, grinding and milling works – material processed by grinding, milling or separated by sieving, aeration etc	√ (5, 12, 70)	DoIR, WRC	CoP - 1990, revised in 1995	√	√	√	case by case
conducted	works – material processed by grinding, milling or separated by sieving, aeration etc	(5, 12, 70)	WRC	revised in 1995				
– sand and limestone extraction	no grinding or milling works		WRC, local gov't		√	√		300-500, depending on size

- State Planning Policy 2.5 Agricultural and Rural Land Use Planning (SPP 2.5)

SPP 2.5 supersedes State Planning Policy 2.4 Basic Raw Materials and is relevant to the proposal due to the subject sites location in an agricultural zone and the proposal of extraction of a basic raw material. The Policy provides information of planning considerations by which planning officers are required to take into account when making a recommendation. Additionally, it works as a guide that outlines other policies, statements and acts relevant to proposal in rural and agricultural locations. SPP 2.5 is also accompanied by a Basic Raw Materials Fact sheet. The Policy works in an overarching sense to guide development and planning in rural and agricultural zones while the fact sheet provides a more detailed approach to determining basic raw materials proposals.

In assessing the application, Section 5.9 of SPP2.5 is most relevant. The proposed extraction is generally consistent with s5.9 policy measures. The provided site map indicated boundaries for Pit A do somewhat intersect the vegetation located within the 1.7ha rectangle portion in the lower north eastern portion of the lot. Desktop Research conducted indicates Banksia Woodland is likely to occur within the area, which is listed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999) as a threatened and priority ecological community. Notwithstanding, the applicants environmental report state the proposed extractive areas are either cleared of vegetation or contain vegetation which is highly degraded. In addition to this, no concerns were raised by any state authority in relation to the vegetation on site.

The fact sheet outlines in further detail, aspects of the proposal to be taken into account by decision makers, these include:

- water and availability
- conservation values
- buffers
- transport management
- visual impacts
- noise and vibration
- dust
- management plans
- environmental licensing and works approval

Local

- Local Planning Policy 10 - Basic Raw Materials and Extractive Industries (LPP 10)
LPP10 sits under LPS6 and requires the Shire to have regard to provisions in the Policy.

The LPP10 includes the following notable provisions in relation to basic raw materials extraction:

5.4 Preferred Development

- a) Council prefers extractive industries that:
- i) are located south of the Bindoon Townsite
 - ii) do not involve prime agricultural land
 - iii) cater for basic raw material needs within the Shire of Chittering
 - iv) are situated within areas identified in the WAPC's State Planning Policy No. 10 Basic Raw Materials
 - v) are more than 1000m from the nearest house
 - vi) do not require the management of acid sulphate soils
 - vii) have direct access to Brand or Great Northern Highway
- b) Subject to a) above, Council will not approve extractive industries that:
- i) are situated in a visually significant location, such as on a ridge or along an unscreened section of regional or tourist road
 - ii) involve major disturbance of high value remnant bushland or natural areas, following detailed environmental assessment
 - iii) remove material below the winter groundwater table
 - iv) are located on any lot where dieback is present
 - v) are situated within 500m of the nearest house
 - vi) are located in the Chittering Valley or require access from Chittering, Chittering Valley, Julimar, Blue Plains or Maddern (North) Roads.

Preferences for preferred development as per Clause 5.4(a) are generally met with the exception of 5.4 (iv), (v) and (vii). In relation to the site not being within an identified Basic Raw Materials area, it is noted that this references a broad strategic policy that cannot fully address all potential resource sites across the state. The subject site has been chosen both for its resource as well as its proximity to the new highway upgrade. It is recognised the site is within 1,000m of a dwelling, however the proposal still complies with both the EPA's *Guidance Statement No.3* and the Shire's *Extractive Industries Local Law 2014*, which both require a minimum 500m distance from any inhabited dwelling. Lot 52 does not have direct access onto either Brand or Great Northern Highway however the proposed access route for transporting materials is stipulated as being hauled onto the northern point of the newly constructed Northlink highway via Old Gingin Road, without accessing the existing Great Northern Highway alignment. This proposed route is indicated in the applicant's report (Map 4). Vehicles entering the site are predicted to travel from the existing Great Northern Highway onto Old Gingin Road.

With regards to cl5.4(b), the Pit A is not considered to be situated within an area that is visible from tourist routes or an otherwise significant location. Furthermore, the proposed extraction area is not inclusive of large amounts of native vegetation. Any vegetation that has been included is sparse or degraded. This has been indicated in the applicant's environmental report. The report also highlights the absence of Acid Sulphate Soils (ASS) and dieback on the subject property. With reference to cl5(b)(iii), the dams on site are said to be representative of the ground water levels of the site and the applicant has specified excavation will be to a maximum depth of 5m with the base of the pit being level with the existing land pasture. This level of information provided by the applicant is not determined to be sufficient in order to assess whether excavation will occur beneath the winter ground water table. To ensure the objectives and measures of the policy are upheld, the officer has

recommended a condition to ensure effort is made to clarify the highest known winter water table level.

Financial Implications

Nil

Strategic Implications

Local

- Shire of Chittering Local Planning Strategy (2001 – 2015)

Lot 52 is not located in an area designated for 'Basic Raw Materials' extraction, rather in the 'Agricultural Resource' area. The aims of the area are as follows:

- *To maintain agricultural lands for primary productive purposes;*
- *To protect and improve the natural environment, including the landscape quality of the land.*
- *To facilitate the conversion of suitable land, to intensive agriculture based upon appropriate soils and irrigable water supplies;*
- *To prevent the loss of productive land to non-agricultural purposes;*
- *To allow agro-tourism and eco-tourism to develop in the rural areas;*
- *To allow for the subdivision of non-productive land or areas of vegetation worthy of preservation in sustainable lot sizes under conservation covenants in accordance with WAPC policy*
- *To protect and revegetate streamlines to provide for biodiversity corridors.*

Site Inspection

Site inspection undertaken: Yes

A site visit was conducted 5 July 2017. The proposed extractive area was not accessible or able to be viewed from Old Gingin Road therefore; Shire Planning Officers were required to meet with the land owner on site.

Triple Bottom Line Assessment

Economic implications

The proposal is intended to provide the construction of the new highway alignment with a local, easy access material which will serve to improve the economics of the construction.

Social implications

One objection was submitted to the Shire relating to the impact the proposal would inflict on the community. The submission was not specific in how the extraction would affect nearby residents, only that the predicted amount to be extracted was in excess of the current license. In addition to this, Chittering Landcare, whose premises are located along Old Gingin Road, remarked the inevitability of the project to cause impacts to the locality as a result of dust and traffic generated. These concerns have been addressed at length in the schedule of submissions.

Environmental implications

Agency submissions raised concern for a number of environmental aspects, these being namely that related to stormwater management and impacts on ground water. No clarification is provided within the application pertaining to the separation between excavation and the highest known winter water table. Comments received from Chittering Landcare discuss possible impacts from excavating below the winter ground water level as well as potential implications of excavating within the boundaries of the Ellenbrook Palusplain. Issues with storm water management raised by the Department of Water are inclusive of management related to parking areas, ground water and hydrocarbons. These issues are discussed in further detail in both the Schedule of Submissions and in the comments section.

Officer Comment/Details

Initially, the proposal was put to Council for all three pits to be approved however it was determined in 2012 to stage the excavation to approve only Pit B and subsequently, Pit C in 2015. The applicant has requested the current planning approval be amended to include Pit A however a new planning determination is recommended be issued instead. Amending the current approval for Lot 52 would result in the existing conditions being carried onto the new determination as well as exclude the land owner from requiring a new extractive license. Previous conditions first placed on the approval in 2012 may be outdated or no longer relevant. Additionally, given the comments received from agencies during the referral period relating to water management on site, it is therefore necessary to include new conditions.

Local Planning Scheme No. 6 (LPS6)

The application has been advertised in accordance with cl64 of the Regulations 2015 in relation to the requirements for an "A" use. Clause 64 of the Regulations 2015 replaced the previous clause within the Local Planning Scheme relating to advertising.

The subject site is determined as being in compliance with s4.15(b)–(d) of LPS6. Some inconsistency does remain in relation to possible impacts on ground water flow felt on living environments. These concerns were mainly targeted towards the possibility of the depth of excavation being below the highest known winter water level and consequently the environmental risk to the groundwater flow to Lake Chandala. Currently, it is not clear whether the proposal is non-compliant with s4.15(a) of LPS6 due to comment received from agencies and insufficient evidence provided by the applicant to prove otherwise. Therefore it has been recommended the applicant undertake studies to ensure no risk to groundwater flow. To further ensure correct management of stormwater is being undertaken, the officer has recommended a stormwater management plan be supplied to the Shire. Both the management plan and study are to be received and approved by the Shire prior to any excavation license being issued.

Flora and Fauna

LPS6 makes provision for the extraction of basic raw materials where it is environmentally and socially acceptable. The applicant's Biodiversity Plan indicated the proposed resource area has previously been cleared. The report also indicates that any vegetation remaining within the boundaries of proposed Pit A are either degraded or too small to be considered for conservation. No significant fauna was detected on site.

Management

The applicant has provided management plans pertaining to dieback, weed and acid sulphate soils. The Bioscience report states samples taken do not meet the criterion for Acid Sulphate Soils or Dieback to be present.

As stated above, it has been recommended the applicant supply a stormwater management plan to the Shire's satisfaction prior to an excavation license being granted. This plan should address any management of stormwater relating to parking areas, hardstand areas, groundwater management and details on how hydrocarbons will be managed.

Dust:

Dust suppression is said to occur when necessary and via a water truck. It has been noted that significant levels of dust have been generated from past and current excavation activity. Due to this, it is suggested the applicant upgrade a portion of Old Gingin Road to minimise the impact on those properties.

Noise Management

Some screening may occur however no blasting is proposed. Notwithstanding, the hours of operation detailed in the report are compliant with that in LPP10 and the location of Pit A also indicate compliance with the EPA's *Guidance Statement No. 3*. As a result, it is considered management of noise is sufficient.

Rehabilitation

A rehabilitation plan supplied by the applicant was found to be sufficient by the Shire Officer with stored topsoil being applied at a depth of 100-200mm. While some replanting of trees is to occur, it is noted in the report the land owner intends the end use of the land to be converted to pasture. Notwithstanding, a tree planting ration of 1:60 of existing trees that are being removed has been proposed. The applicant has stipulated rehabilitation is to be in conjunction with Chittering Landcare. It has been recommended that rehabilitation of both Pits B and C occur prior to the commencement of excavation of Pit A. Simply put, an excavation license for Pit A will not be granted if rehabilitation of the previously excavated areas (Pit's B and C) are not completed.

Conclusion

With the exception of water management on the site, the proposed extractive industry is considered to be generally consistent with statutory provisions contained within LPS6. The applicant has also complied with required buffers indicated in LPP10 and the Shire's Extractive Industries Local Law.

Given the first approval for excavation was provided in 2012, amending that original approval and hence, carry the conditions over, is not considered appropriate. Consequently, a new approval for the excavation of Pit A has been recommended, with conditions relevant and suitable for the proposal detailed below. The recommended conditions will ensure environmental issues related to the impact on ground water are taken into account and managed adequately prior to an excavation license being issued. It can also ensure that correct rehabilitation of Pits B and C is completed prior to any excavation commences in proposed Pit A. It is important to note that granting approval for the 'extractive industry' land use on the site for proposed Pit A does not relinquish the need for the applicant to gain an extractive industry license. Simply put, should Council resolve to approve Pit A, the granting of an extractive industry license will be subject to conditions (such as the request for a water management plan) being fulfilled to the satisfaction of the Shire. Further to this, the below recommended conditions ensure no extractive industry license may be granted unless both Pit B and C are decommissioned and rehabilitated to the satisfaction of the Shire.

The application contains an environmental management plan, rehabilitation plan, excavation programme and biodiversity report to support the proposal. The plans provided mostly demonstrate the extractive industry the subject of the application can operate within statutory requirements. Notwithstanding, further information is recommended be supplied to ensure the proposal can be effectively managed to minimise or mitigate the impacts of excavation. Such information can be satisfactorily cleared following any planning approval, prior to the issue of an excavation licence.

Accordingly, the proposal is recommended for approval, subject to appropriate conditions, for a period of 10 years as the use is considered acceptable and compatible with the locality.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr King

That Council grant Development Approval for the Extractive Industry (sand) at Lot 52 Old Gingin Road, Muchea subject to the following conditions and advice notes:

Conditions

1. The excavation license shall only be granted for Pit A once Pits B and C have been decommissioned and rehabilitated to the satisfaction of the Shire.
2. The terms of this approval shall be for the period of 10 years, being from the date of completion of Pit C per Condition 1, at which time all excavation and distribution activities must cease and the site be rehabilitated in accordance with the approved documentation.
3. The planning consent shall only apply to Pit A as shown on the Excavation Plan prepared by Statewest Planning dated 1 May 2014 reference 14921.
4. Prior to the commencement of any works the applicant shall submit to the Shire evidence of currency of Public Liability Insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the applicant. The applicant shall ensure that the proprietor and/or the excavating contractor and/or transportation contractor hold sufficient Public Liability Insurance for any claim against them.
5. Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process. No direct sales from the site shall occur as part of this approval.
6. Prior to the issue of an Extractive Industry Licence, a detailed Hydrogeological Assessment Report by a qualified groundwater professional with at least two years' experience in the discipline, that clearly identifies, understands and addresses the risks of the extractive industry proposal, discussed in the context of the groundwater resources, is to submit a suitable Risk Management Strategy to be developed for protection of an undisturbed peak water table.
7. Water Management Plan
Prior to an Extractive Industry License being granted, a Stormwater Management Plan is to be prepared to ensure all water on the site is adequately managed. The Plan is to include:
 - a. All stormwater management of hardstand areas.
 - b. Details on how hydrocarbons will be managed to prevent pollution.
 - c. Ground water management.
8. All stormwater generated within the pits and access way shall be directed away from the regrowth thicket and in accordance with the Water Management Plan.
9. Dust suppression measures shall be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby residents in accordance with the Dust Management Plan.
10. Old Gingin Road
Access and egress to the site via Gingin Road is subject to the following:
 - a. Satisfactory arrangements being made with the Local Government for the full cost of upgrading and/or construction of Old Gingin Road to a sealed standard of the remainder of the road to the satisfaction of the Chief Executive Officer.
 - b. A levy of 0.50c per tonne of material extracted is to be paid on an annual basis to Council to assist in the upgrade and maintenance of gazetted roads used for access to the pit.
 - c. Prior to the issue of an extractive industry license the applicant shall enter into an agreement with the Shire for payment of fees for the upgrade and maintenance of Old Gingin Road.
11. A maximum of 20 single truck loads are permitted on a daily basis. Additional movements may be

permitted provided a Traffic Management Plan is submitted and approved by the Shire identifying how the road network is capable of managing the impacts of additional traffic in accordance with the Transport Impact Assessment (TIA) guidelines prepared by the Department of Planning.

12. No access is to occur via Reserve Road.
13. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise but, notwithstanding, the operations to have due regard to the health and amenity of any person in the vicinity.
14. All vehicles' loads entering and exiting the site shall be fully covered and secured prior to and upon leaving the site to prevent spread of material.
15. Any storage of fuels or refuelling on site is to be located on a designated hardstand area location to the satisfaction of the Shire.
16. Any fuel leakages or spills are to be cleaned up within 24 hours.
17. The hours of operation shall be in accordance with the approved Traffic Management Plan, limited to:
 - a. Monday to Friday 0600 to 1800 hours;
 - b. Saturday 0730 to 1700 hours;
 - c. Sunday and Public Holidays not permitted; and
 - d. Any variation of these times requires written approval from Council.
18. Noise suppression measures are to be undertaken at all times where any operation onsite is likely to generate noise nuisance to nearby residents in accordance with the Noise Management Plan.
19. Excavation for the extractive industry shall not occur in the following areas:
 - a. within 50 metres of a boundary of any land not owned by the applicant/landowner or Planning Consent holder;
 - b. within 50 metres of any identified threatened ecological community;
 - c. within 20 metres of any land affected by a registered grant of easement;
 - d. within 50 metres of any designated Resource Enhancement Wetland;
 - e. within 500 metres of any house;
 - f. below the level of winter groundwater table;
 - g. within 50 metres of any road or road reserve; and
 - h. outside of the approved excavation areas shown on the site map dated 01-05-14 Cross Sections of Existing Contours in accordance with the submitted and approved plans.
20. Areas of remnant vegetation are to be fenced off to the satisfaction of the Shire of Chittering and Chittering Landcare.
21. Rehabilitation and Land Management Plan
 - a. Prior to the issue of an Excavation Licence a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in Part 5 of the *Extractive Industries Local Law 2014* and the Shire's adopted *Schedule of Fees and Charges*.
 - b. Revegetation is to include a ratio 1:60 of existing trees that are removed as a result of the excavation.
 - c. Upon decommissioning of Pit B and C, rehabilitation shall take place in accordance with the approved plan, or as otherwise stipulated, prior to commencement of the next stage.
 - d. Rehabilitation of Pit A shall include surface water and wind control measures on all pit faces to prevent gully erosion, and final batters to be graded to provide safe entry and exit slopes should access to any standing water within the pit be required or accidentally occur.
 - e. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases.

- f. Any amendments or variations to the Rehabilitation or Land Management Plan associated with the excavation shall be approved in writing by the Shire within three months of the commencement of operations.
 - g. An Annual Report shall be submitted to the Shire that includes:
 - i. the progress of excavation;
 - ii. depth to groundwater from each pit floor;
 - iii. monitoring program results and findings;
 - iv. progress of rehabilitation;
 - v. contingency actions and outcomes; and
 - vi. community complaints and responses.
23. The applicant is to maintain two metres of undisturbed profile from the maximum winter water table for the site.
24. Piezometers are to be installed on the eastern side of the excavation area, two for each resource. Meters are to be constantly monitored and results provided to the Shire.
25. Stockpiles are to be limited to eight metres in height.

Advice Notes

1. The applicant is to liaise with the Department of Environmental Regulation in relation to compliance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
2. In relation to Condition "21.a.", the rehabilitation bond/bank guarantee may be limited to a single stage and rolled over to after each stage is rehabilitated in accordance with this approval.
3. In relation to Condition "21.b.", the applicant is recommended to liaise with Chittering Landcare regarding a species list and planting regime.
4. The Stormwater Management Plan is recommended to be undertaken and managed thereafter in accordance with the Stormwater Management Manual of Western Australia (DoW, 2004-2007).
5. The applicant is to obtain a Clearing Permit from the Department of Environment and Regulation where applicable.

AMENDMENT

Moved Cr King / Seconded Cr Gibson

That Condition 11 be amended as follows:

That a maximum of 300 traffic movements per day for a period of 12 months commencing on the day from the first truck movement from Pit A, upon the issue of the granting of the Extractive Industry Licence.

THE AMENDMENT WAS WITHDRAWN

PROCEDURAL MOTION / COUNCIL RESOLUTION 060717

Moved Cr King / Seconded Cr Rossouw

That item 9.1.3 be laid on the table subject to the Traffic Impact Assessment received on 18 July 2017 with the Development Application being reviewed by Officers (if and where required), and should it be determined that the proposal significantly varies from the current application that it then be advertised for further community consultation.

THE MOTION WAS PUT AND DECLARED CARRIED 4/3

8:20PM

9.1.4 Local Planning Scheme No.6: Developer Contributions*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	18/02/0009
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Declaration	Nil
Voting requirements	Simple Majority
Attachments	1. Background Information – report to Council from 2007 2. Shire consultant findings

Executive Summary

Council's consideration and determination is requested to reconsider the appropriateness to pursue a Developer Contributions Plan (DCP). The DCP was initiated by Council initially as part of Scheme Amendment No. 29 to *Local Planning Scheme No.6* (LPS6) to introduce an additional Special Control Area for the collection of Developer Contributions to finance the Shire's physical and community infrastructure.

Shire Officers have been working closely with consultants over the past 18 months to progress Council's request for a DCP for Community Infrastructure and the Muchea Employment Node. However recent information from the growth projections of the draft Local Planning Strategy has confirmed that the Shire does not have the projected growth in population to support/sustain a DCP. This item is being referred to Council to close its resolution to develop DCPs for the Shire.

Background

For a significant period of time the Shire of Chittering has been subjected to unprecedented development pressures from the overspill of Perth metropolitan expansion. Traditionally the Shire had been unable to protect areas of natural bush valuable for their biodiversity, however was able to control this via the adoption of the Local Biodiversity Strategy in 2010. In contrast many constructed rural residential estates have little more than roads, electricity and telephone – development costs have been low and profits high.

With its small population and limited rate base, the Shire has been unable to deliver on community expectations for connecting roads and drainage works, schools, recreation facilities and other community infrastructure. Unlike other Local Governments to the south, the Shire does not lie within the Perth metropolitan administrative area and enjoy the benefits of the Metropolitan Region Planning Scheme and Improvement Tax for the provision of regional open spaces, roads and other community infrastructure.

To prevent the Shire from becoming financially unsustainable, developer contributions were seen as the only means to maintain the financial viability of the Shire.

At a Special Meeting of Council held behind closed doors on 12 October 2007 a draft amendment was considered and, for the purpose of authoring discussions between the Shire's administration and State Government agencies, it was resolved as follows:

"That Council:

- 1. in pursuance of Section 75 of the Planning and Development Act 2005, resolves to initiate an amendment to Shire of Chittering Town Planning Scheme No. 6, to create an additional Special Control Area for the purpose of collecting Developer Contributions;*
- 2. numbers the amendment No. 29 of the Shire of Chittering Town Planning Scheme No. 6;*
- 3. authorises the Shire President and Chief Executive Officer to engross three (3) copies of the amendment documents in accordance with the Town Planning Regulations 1967 (as amended);*
- 4. forwards a copy of the amendment to the Environmental Protection Authority for assessment in accordance with section 81 of the Planning and Development Act 2005 prior to advertising in accordance with the Town Planning Regulations 1967 (as amended).*

With minor changes, the amendment was finally endorsed by the Minister of the day on 20 May 2011.

Following this insertion into LPS6, Council was granted capability to collect financial benefits for the specific expenditure on community facilities and/or services via a DCP. Initially the DCP was targeted on the entirety of the Shire, including the Muchea Employment Node (MEN). This DCP model was supported by a draft Community Infrastructure Plan, however this document was never endorsed by Council.

Thereafter Shire staff at the time inserted a clause into Scheme Amendment 54 – relating to the MEN – that DCPs would apply to industrial development within the Node.

Because of the desire to see the MEN develop, this clause was removed. At this time the Shire agreed to engage an independent consultant to assess and develop the appropriate mechanisms for applying DCPs, and its appropriateness to where, how and who it applied to.

Following a review of the statistics relating to the number of new lots approved, compared to the number of lots created, the view of the consultant is to place a hold on the application of DCPs.

Consultation

No formal consultation has occurred relating to this process. Council and the Executive Team have been briefed by the consultant regarding the findings and the need to explore alternative solutions.

Statutory Environment

State

- *Planning and Development Act 2005*

Local

- *Local Planning Scheme No.6 (LPS6)*
Clause 4.18 of LPS6 provides the statutory backing for Council to introduce and regulate the areas in which DCPs apply. The Clause allows for and sets the guiding principles for DCPs.

Policy Implications

State

- State Planning Policy 3.6 Development Contributions for Infrastructure (SPP3.6)
The policy sets out the principles and considerations that apply to development contributions for the provision of infrastructure in new and established urban areas, and the form, content and process to be followed.

Any future DCPs applied by the Shire will be required to conform to the policy.

Financial Implications

Withdrawing the request to install DCPs for the Shire will result in the removal of contributions to fund community projects. Alternative systems will be required to be explored and implemented.

Strategic Implications

The Shire's Local Planning Strategy includes an analysis of population growth rates, actual lot creation and lot production forecasts.

Work to date to prepare the DCP has been based on a forecast population growth rate of 4.1% per annum over the next 10 years. Based on average occupancy rates, this growth would generate the need for an additional 870 dwellings over 10 years.

The analysis has found, however, that the actual lot production rate is significantly lower than modelled growth scenarios. Data collated by the Department finds only 71 lots have been created since 2009. This amounts to approximately 10 lots per year – significantly less than modelled scenarios that would yield around 87 dwellings per year.

Subdivision approvals granted by the Western Australian Planning Commission provide for 1,793 lots over the same timeframe, however as mentioned above, only 71 titled lots were created. This variation indicates the speculative and unpredictable nature of the local housing market.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The Shire is not in a position as a result of the findings to rely on DCP funding to finance community facilities.

Social implications

The Shire will not be in a position to fund additional community infrastructure above and beyond what is budgeted for annually in the short term.

Environmental implications

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

Officer Comment/Details

DCPs can be a helpful means to ensure equitable sharing of costs amongst those who benefit from the services provided. It does however require a minimum level of development to succeed however. Statistical analysis of development in the Shire since 2009 – often referred to as the being within the economic 'boom' – suggest that the DCP system is unlikely to garner enough funds to justify implementation. As a result alternative means of funding DCPs in a fair and equitable way will need to be explored and implemented. Some of these are discussed in the consultant's report, per attached.

Conclusion

Per the consultant's report, the need and nexus for DCPs fails to intersect appropriately. Put simply the nexus does not satisfy the need, and as a result would rely on too few to support too much.

Therefore Council is recommended to explore alternative solutions to funding community infrastructure.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070717

Moved Cr Rossouw / Seconded Cr Gibson

That Council:

- 1. Receive the consultant's report regarding the Developer Contributions Plan findings.**
- 2. Acknowledge Developer Contributions Plans are not appropriate to enforce until further notice.**
- 3. Direct the Chief Executive Officer to explore and present alternative solutions to fund community infrastructure.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

8:21PM

9.1.5 Proposed Scheme Amendment No. 64: Rezone from 'Agricultural Resource' to 'Rural Smallholdings' – Lots 1 and 2 Teatree Road, Bindoon*

Report date	19 July 2017
Applicant	Veris Pty Ltd (formerly Whelans Pty Ltd)
File ref	18/02/26
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Declaration	Bronwyn Southee declared an impartiality interest in this item as a former employee of Whelans Pty Ltd
Voting requirements	Simple majority
Attachments	<ol style="list-style-type: none">1. Scheme Amendment document includes, but not limited to:<ol style="list-style-type: none">(i) Locality Plan(ii) draft Structure Plan(iii) Flora and Fauna Survey(iv) Bushfire Management Plan2. Schedule of Submissions

Executive Summary

Council is requested to reconsider a previously initiated Scheme Amendment proposal to rezone Lots 1 and 2 Teatree Road, Bindoon from '*Agricultural Resource*' to '*Rural Smallholdings*' for the purposes of endorsement.

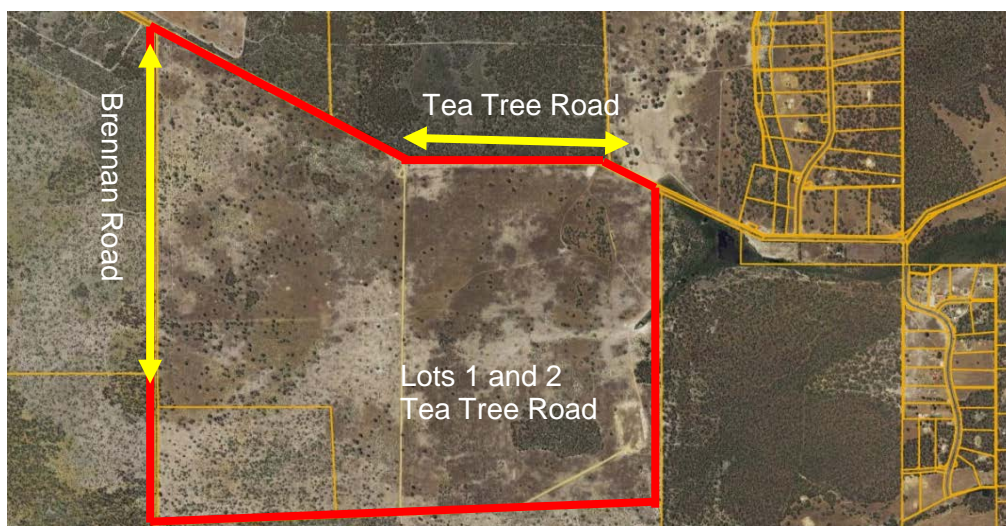
The endorsement of a Scheme Amendment is required to be undertaken by Council as officers do not have delegated authority.

This proposal was initially considered by Council at its Ordinary Meeting of 18 November 2015, where it was resolved to allow the proposal, name it Amendment 58, and advertise it accordingly. Subsequent to the gazettal and publication of the *Planning and Development Regulations 2015*, the amendment process was required to begin again. Accordingly, the application was reconsidered by Council at its Ordinary Meeting of 17 August 2016. Because the proposal was entertained prior to the moratorium on Scheme Amendments outside of the Muchea Employment Node, Council, upon recommendation of staff, consented to the application being initiated as a 'complex' amendment.

As a result of an administrative error, the subject amendment has been renumbered to 64, as 58 related to an amendment that was not continued with.

As required for Complex Scheme Amendments, consent of the Western Australian Planning Commission prior to forwarding to the EPA for advertising approval. In summary the requisite advertising procedures were undertaken and the application is now put back to Council for endorsement.

IMAGE 1: LOCALITY PLAN



Background

The subject land comprises 484 hectares, is predominantly cleared and is currently being used for grazing. The site is bound by Teatree Road (constructed gravel) along the northern boundary and Brennan Road (constructed gravel), a no-through road, along the western boundary.

The subject land features an eight hectare 'pocket' of remnant vegetation on the south eastern portion on the ridgeline of the property. A small soak is also located on the north eastern part of the site, where groundwater generally soaks to and connects into the neighbouring wetlands in Lot 4 Teatree Road.

The Scheme Amendment proposes to rezone Lots 1 and 2 from 'Agricultural Resource' to 'Rural Smallholdings' (minimum 5 hectare lots). The 2005-2015 Local Planning Strategy identified the land for 'Rural Retreat' (minimum 10 hectare lots). The applicant has provided justification for the proposed zone, however such an amendment is to be considered 'complex' in any case. The applicant has also submitted a draft Structure Plan which indicates the creation of a total of 48 lots; 47 of these approximately 5 hectares in size and one being the 186 hectare balance lot. As a result of the highway upgrade alignment, the balance lot is likely to be affected. The draft Structure Plan also proposed Public Open Space corridors totalling 34 hectares, being 7% of the site, which is to be assessed at the Structure Plan stage.

The applicant, following initiation of the subject amendment, and albeit somewhat unrelated to the amendment, submitted a formal Local Structure Plan (LSP) application over the lot as an advanced attempt to determine the location of the Bindoon By-Pass Highway extension. Ultimately Main Roads WA were not in a position to advise the location at that time. Consequently as the LSP did not relate to the zoning of the land, Council resolved to refuse to entertain it.

Consultation

Consultation of the Scheme Amendment was undertaken in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations 2015)*. Per the *Regulations 2015* the proposal was referral to the Western Australian Planning Commission (WAPC) for support to advertise. Subsequent to the referral, advice was eventually received confirming the application was able to be referred to the Environmental Protection Authority (EPA).

Thereafter the *Planning and Development Act 2005* requires the Scheme Amendment to be referred to the EPA for consent to advertise. Following this additional process, advertising commenced for a period of 60 days from 29 March 2017 until 28 May 2017, and included the following:

- (a) notice published in the local newspaper circulating in the scheme area;
- (b) a copy of the notice displayed in the offices for the period for making submissions set out in the notice;
- (c) a copy of the notice to each public authority likely to be affected by the amendment; and
- (d) publication of the notice and the amendment on the Shire's website.

These methods are in line with Clause 38(2) of the *Regulations 2015* for complex Scheme Amendments. In this instance no public submissions were received during the consultation process.

In addition to this, the LSP referred to above was advertised to all surrounding landowners in addition to the above methods.

Advice was received from Main Roads WA; Chittering Landcare; Department of Water; and Department of Parks and Wildlife. The full list of feedback comments is located in **Attachment 2**. In summary, none of the referral agencies cited objections to the proposal, however concerns were raised with the removal of native vegetation and water management. Both are able to be addressed as conditions of development through a Local Structure Plan.

Statutory Environment

State

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Scheme) Regulations 2015* (the Regulations)
Part 5 of the Regulations sets out the process and requirements for scheme amendments. The Regulations separates scheme amendments into three types: basic, standard and complex. In this instance the proposed scheme amendment is defined as being complex due to being inconsistent with the Local Planning Strategy (seeking approval for a zone not identified in the Strategy) therefore Division 2 of Part 5 is to be followed.

Local

- *Shire of Chittering Local Planning Scheme No. 6*
The subject land is zoned 'Agricultural Resource'. The objectives of this zone are:
 - *To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner;*
 - *To protect the landform and landscape values of the district against despoliation and land degradation;*
 - *To encourage intensive agriculture and associated tourist facilities, where appropriate;*
 - *To allow for the extraction of basic raw materials where it is environmentally and socially acceptable.*

The objectives of the 'Rural Smallholdings' zone are:

- *To preserve productive land suitable for intensive horticulture and other compatible productive rural uses in a sustainable manner;*
- *To protect the landform and landscape values of the district against despoliation and land degradation.*
- *To provide lots with a minimum size of 5ha.*

The proposed rezoning meets the objectives of the 'Rural Smallholdings' zone in protecting the landscape values, retaining agricultural land (balance lot proposed) and developing the site in response to the capabilities and constraints. The applicant will be required to demonstrate how the land can be preserved from despoliation and land degradation, and that the land can be used for horticultural purposes. The latter can be achieved by communal gardens, or other similar private uses.

Policy Implications

State

- State Planning Policy 3.7 Planning in Bushfire Prone Areas (SPP3.7)
The applicant has submitted a Bushfire Management Plan (BMP) which includes a Bushfire Hazard Assessment and demonstrates the development of the site would comply with SPP3.7. The BMP has been referred to the Shire's Community Emergency Services Manager who has advised the proposal will comply with the Guidelines, subject to those conditions of the BMP being upheld.
- State Planning Policy 2.5: Land Use Planning in Rural Areas (DSPP2.5)
The objectives of DSPP2.5 are to protect priority agricultural land, invest in economic growth in rural areas, security of basic raw materials, minimise land use conflict, improve environmental and landscape assets and promote sustainable settlement.

Policy measures 5.6 (b) (i) through to (x) are to be regarded for rural living proposals. The proposed scheme amendment to rezone to 'Rural Smallholdings' is not considered to conflict with these measures.

Local

- Administration Policy 1.5 Execution of Documents

Financial Implications

Nil

Strategic Implications

State

- Northlink' Bypass
The Bindoon Bypass Corridor is currently identified as traversing the subject site. Accordingly, Main Roads have advised that the landowners have been advised and are currently in liaison with Main Roads regarding the optimum location of the highway. A full transcript of Main Roads WA's advice is contained within **Attachment 2**.

Local

- Shire of Chittering Local Planning Strategy 2001-2015
The property is located within the 'Dandaragan Plateau' Geographical Unit, as identified in the Strategy. The aims for this area are to protect productive agricultural land, preserve landscape values and create biodiversity corridors. The proposed scheme amendment meets these aims.

The property is currently zoned 'Agricultural Resource'. Section 8.8 of the Strategy outlines the need to protect productive agricultural land and support conversion where appropriate.

The subject land is identified for 'Rural Retreat' development on the Local Planning Strategy map and is characterised by poor soils.

The applicant proposes to rezone the land to the 'Rural Smallholdings' zone, with the strategies for this zone as follows:

9.8 *SMALL RURAL HOLDINGS*

Prior to rezoning of land for Small Rural Holdings the following matters shall be addressed:-

- *Access to Great Northern Highway and the management of increased traffic;*
- *The potential conflict between agricultural production and Rural Smallholdings;*
- *The 'Linear Greenway' in the Avon Arc Sub-Regional Strategy, the general presumption against closer rural subdivision in this vicinity, and the need to consider protection of land along the river if subdivision is supported;*
- *Land capability and water availability to sustain intensive agriculture on Rural Smallholdings.*

Strategies and Actions

- *Rezoning shall only occur after a comprehensive analysis of the land has been undertaken to ensure suitability of the proposed land uses, and acknowledging the surrounding land uses;*
- *The designated areas adjacent to Bindoon, Blue Plains Road and Maryville shall be the limit of this development;*
- *To permit a limited range of land uses including horticulture, tourist facilities and passive recreation;*
- *Lot sizes shall not be less than 5 hectares with an average lot area of 10 hectares.*

It is considered the proposed scheme amendment meets the criteria of the Strategy and the applicant has provided sufficient justification for the proposed intensification.

- *Shire of Chittering Local Biodiversity Strategy 2010*

The surrounding properties contain vegetation which adjoins the subject property and have been identified as 'Indicative High Conservation Value Area' (IHCVA). The maps in the Local Biodiversity Strategy delineate Local Ecological Linkages running east-west across the subject property.

Site Inspection

A site inspection undertaken resulted in the following observations.

The property is largely cleared sandy soils and is extensively grazed. There is a small pocket of remnant vegetation on the ridge line and a small soak in the north east portion of the site. Ultimately this soak may impact on the precise location of the highway. There are no existing improvements on the property.

Triple Bottom Line Assessment

Economic implications

It is considered the creation of additional lots in close proximity to Bindoon Townsite would result in economic stimulus to local businesses and provide for additional rateable properties to the Shire.

Social implications

The proposal provides for semi-rural properties currently not available in the Bindoon area or Shire. This is considered beneficial for providing a range of lot sizes in the Shire.

Environmental implications

The applicant has provided a range of environmental reports and prepared the draft Structure Plan in response to the environmental constraints and land capabilities of the site for the proposed zoning.

From the Land Capability Report, it has been determined that the proposed reduced lot size with a larger balance lot inclusion does not have negative environmental implications. It has also been demonstrated that the smaller lot size is capable of effluent disposal.

Officer Comment/Details

Local Planning Scheme

The Scheme Amendment proposes to rezone the current 'Agricultural Resource' land to 'Rural Smallholdings'. The applicant proposes to maintain the existing agricultural activities of the owner by proposing a large balance lot. The landowner did obtain planning approval for an extractive industry on the site however did not wish to proceed. The proposed zoning would prohibit an extractive industry on the land. This would be marked on the Structure Plan documentation should the scheme amendment progress to ensure reduction of all possible conflicts in land use.

As the proposal to rezone the land is considered to meet the objectives of the zone by encouraging more intensive agriculture, the draft Structure Plan responds to the landscape values and allows for the continuation of rural uses appropriate to the capability of the land.

Because of the low quality soils, intensive agriculture is unlikely to result in market competitive yields. Regardless, this Scheme Amendment may provide an opportunity to improve the soil types within the scheme amendment area. This could potentially have a twofold effect. Firstly is improving the land for its zoning purpose – small, intensive agriculture common to hobby farms; and secondly as a potential addition to tourism – this is evident with the western adjoining property potentially developing for intense tourism.

Local Planning Strategy

The existing Local Planning Strategy identifies the site for Rural Retreat development due to the poorer soils and progression into agricultural land. The applicant seeks approval to rezone to Rural Smallholdings to allow a greater lot yield to make the development viable (due to internal road construction) and to contain the development to a portion of the site to allow for a balance 'agricultural' lot. The applicant has indicated the land capability does allow for rural smallholding type development (supports smaller lot size, groundwater availability and on site effluent disposal) to support the proposed 'Rural Smallholdings' zone.

The Shire has considered the proposed zoning, supported by land capability, can meet the strategic requirements of the 'Rural Smallholdings' zone and can be reflected in the review of the Local Planning Strategy. Notwithstanding that the Shire's strategic direction does not specifically identify this locality for rural smallholdings. Regionally the area/geographic unit is identified as having poorer soils not suitable for the more intense development of 'Rural Residential' (generally two hectares), hence the strategic planning for rural retreat development (minimum 10 hectare lot sizes). It is not considered such zoning is detrimental or deviating from the general strategic direction of the locality as the applicant has demonstrated the site is capable for the proposed development. Furthermore the Structure Planning of the site can adequately address this in detail to correspond to the site constraints.

Structure Plan

The proposed draft Structure Plan will be dealt with in line with the new deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* following the Scheme Amendment should it be supported by the Western Australian Planning Commission.

Access

Teatree Road fronts the site and Brennan Road adjoins the west of the site, both of which are a gravel standard. Should this proposal progress, it would be a requirement of subdivision that Teatree Road be upgraded and internal subdivision roads be constructed in accordance with the Subdivision Guidelines. Ultimately this would result in the full sealing of Teatree Road from the proposed Highway upgrade per the following diagram from Main Roads WA:



FIGURE 2: unconfirmed location of the new highway. Source: Main Roads WA

Bushfire Management

The applicant has submitted a Bushfire Management Plan (BMP) in accordance with the *Planning for Bushfire Guidelines* (Guidelines). The BMP indicates the overall hazard to be moderate due to woodland vegetation on site and adjacent to the site. The BMP requires construction of dwellings in accordance with the Australian Standards in bushfire prone areas. The draft Structure Plan provides more than two access/egress points which comply with these Guidelines. The Shire's Community Emergency Services Manager (CESM) supports the mitigated hazard level of the development and its compliance with the Guidelines. The Shire CESM would undertake a more detailed assessment of the BMP at subdivision stage.

Environment

The subject site is predominantly cleared with pasture due to it being used predominantly for agricultural uses with extensive grazing being undertaken. As indicated in the application, there is one significant cluster of vegetation which has been identified for protection and a wetland feature in the north east. The surrounding land contains high conservation value areas and the subject site contains local ecological linkages connecting between these conservation areas.

The applicant has aimed to address the environmental matters through the draft Structure Plan which is to be considered following the Scheme Amendment. It is not considered the environmental features are adversely impacted by the proposed 'Rural Smallholdings' zone.

Both Chittering Landcare and the Department of Water have cited a water management plan will be required. On this basis, questions of water access and sustainability are capable of being satisfied.

DPaW have stated that the subject area contains potential breeding, roosting and feeding habitat for black cockatoos, which are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Structure Plan and Bushfire Management Plan documents indicate there may be significant trees cleared as part of this proposal, however a survey of habitat trees is required to determine the level of impact proposed. DPaW have therefore recommended the proposal be referred to the Commonwealth for assessment under the EPBC Act as it is likely to significantly impact upon a matter of national environmental significance. The applicant has acknowledged this. Similar to Scheme Amendment No. 58, specific conditions relating to the identification and retention of significant vegetation at the Structure Planning stage is an optimal outcome in this regard.

Conclusion

In consideration of the long term objectives for the area, the proposed Scheme Amendment for 'Rural Smallholdings' at the subject property is ad-hoc and inconsistent with the strategic outlook for development within the Shire. However as previously considered, while the proposed rezoning would result in a higher intensity than identified in the Local Planning Strategy; the land is no less capable of supporting the allowable lot size for the zone. Furthermore, the amendment ultimately provides a transition of development in the region with a variety of lot sizes and lifestyle options within close proximity to the location of the highway extension / by-pass.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080717

Moved Cr Osborn / Seconded Cr Gibson

That Council:

- 1. Receive the submissions as outlined in the Schedule of Submissions (Attachment 2).**
- 2. Pursuant to Section 87 of the *Planning and Development Act 2005*, give final approval to Amendment No 64 to *Local Planning Scheme No 6* with modification to:**
 - a. Insert a new schedule, 'Schedule 14 - Rural Smallholdings' into the Scheme Text:**

No.	Description of Land	Conditions
1.	Lots 1 and 2 Teatree Road, Bindoon	<ol style="list-style-type: none"> 1. These conditions are to be read in conjunction with the Scheme requirements for the Rural Smallholdings zone. Where conflicts exist, these conditions prevail. 2. The minimum lot size shall be 5 hectares. 3. The structure plan is to respond to the significant environmental features of the site and is to contain the following: <ol style="list-style-type: none"> a) the provision of a lot layout that minimises impact on areas of remnant vegetation in excellent and very good condition; b) the identification of building envelopes in locations that minimise the need for clearing of vegetation including for asset

			<p>protection zones, access, firebreaks and fencing;</p> <p>c) the identification of measures for the protection and retention of existing and potential Black Cockatoo habitat trees and priority flora species;</p> <p>d) lot boundaries that do not dissect areas of remnant vegetation that are in excellent condition.</p> <p>4. The structure plan is to be supported by a Bushfire Management Plan prepared to the specifications and satisfaction of the local government and the Department of Fire and Emergency Services.</p> <p>5. The structure plan is to be supported by a District Water Management Strategy (DWMS). The DWMS should be consistent with the Better Urban Water Management document (WAPC, 2008) and the policy measures outlined in State Planning Policy 2.9.</p> <p>6. The structure plan is to be supported by a better soils management plan, which will identify how the land can be improved for small intensive horticulture and associated uses.</p> <p>7. All lots are to be provided with a demonstrated sustainable fit-for-purpose water supply in accordance with Scheme requirements, including the provision of a 120,000L tank.</p>	
<p>b. Amend the Scheme maps to rezone Lots 1 and 2 Tea Tree Road from 'Agricultural Resource' to 'Rural Smallholdings'.</p> <p>3. Authorises affixing the Common Seal to <i>Local Planning Scheme No. 6 Amendment No.64</i> documents, and that the Amendment be executed referred to the Western Australian Planning Commission and Minister for Planning for consideration of final approval.</p> <p>4. Authorise the affixing of the Common Seal to, and endorse the signing of the amendment documentation, by the Shire President and Chief Executive Officer.</p> <p>5. Pursuant to regulation 44 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>, provide Local Planning Scheme Amendment No. 64 to the Western Australian Planning Commission.</p> <p style="text-align: right;">THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0 8:22PM</p>				

9.1.6 Section 70A Notification Authorisation: Freehold (Green Title) subdivision of Lot 65 Fewster Street, Muchea*

Report date	19 July 2017
Applicant	Total Survey Solutions Pty Ltd
File ref	18/03/127; WAPC Ref 154174
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Section 70A Notification Document 2. Deposited Plan

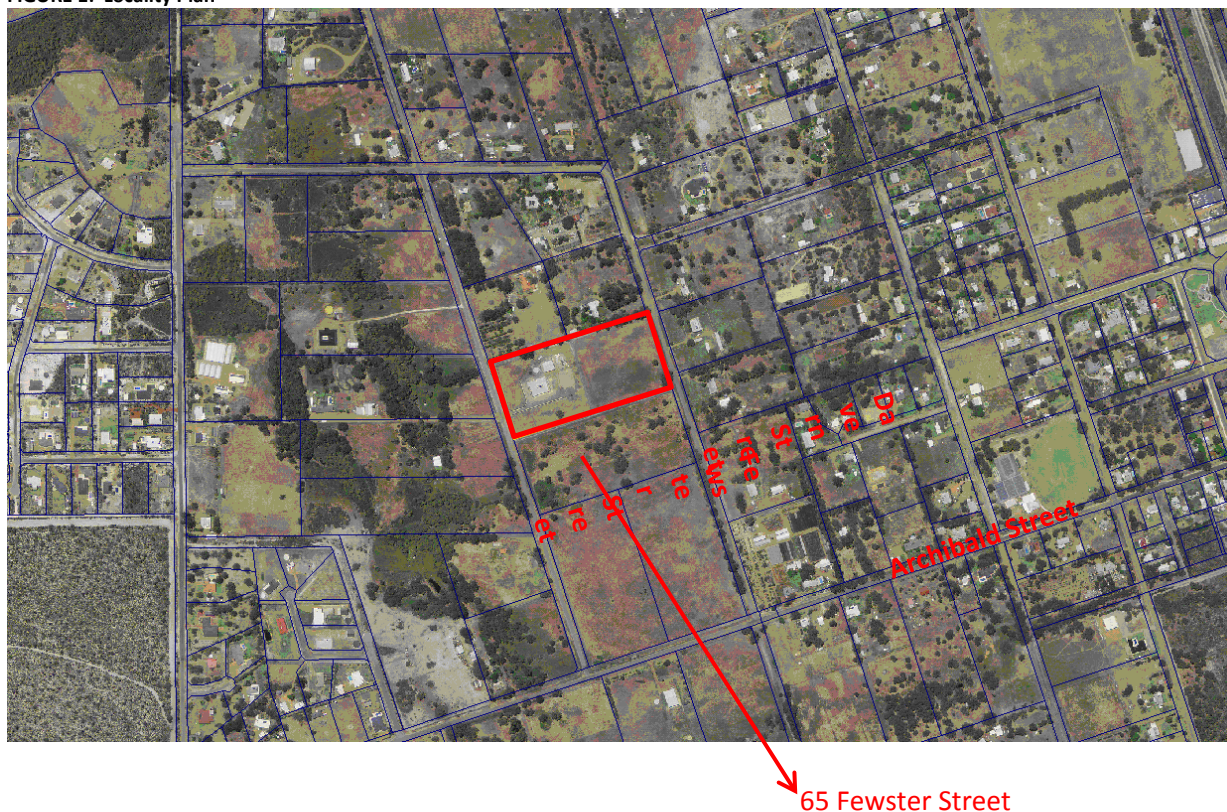
Executive Summary

Council's consideration is requested in relation to the execution of a Section 70A Notification for the subdivision of Lot 65 Fewster, Muchea. The applicant has approval for the freehold subdivision of 65 Fewster Road into two lots being 2.0227 ha and 2.0217 ha respectively.

Background

On 13 February 2017, the Shire was notified that the subdivision of Lot 65 Fewster Street had been conditionally approved by the Western Australian Planning Commission.

FIGURE 1: Locality Plan



Conditions 6, 7 and 8 of the subdivision approval requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), to be placed on the Certificate of Titles for the proposed lots. The purpose of the Section 70A Notification is to advise the future landowners that 'a reticulated sewerage service is not available to this lot', 'a mains potable water supply is not available to the Lot' and 'this land is within 300 metres of the Dampier to Bunbury Natural Gas Pipeline'.

Consultation

Not applicable

Statutory Environment

State

- *Transfer of Land Act 1893* (as amended)

Policy Implications

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Officer Comment/Details

In order to satisfy Conditions No 6, 7 and 8 of the subdivision approval, the applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (see Attachment 1). The execution of this document requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090717

Moved Cr Tilbury / Seconded Cr Rossouw

That Council authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal in relation to the subdivision of Lot 65 Fewster Street Road, Bindoon (proposed as Lots 650 and 651 Fewster Street), upon:

- 1. The Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to a notice that *'a mains potable water supply is not available to the lot', 'this land is within 300 metres of the Dampier to Bunbury Natural Gas Pipeline' and 'a reticulated sewerage service is not available to this lot'* on Lots 650 and 651 Fewster Street, Muchea on Deposited Plan 411463.**
- 2. Any other relevant documents pertaining to subdivision WAPC 154174.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

8:23PM

9.1.7 Additional Dog Application: 51 Hereford Way, Lower Chittering

Report date	19 July 2017
Applicant	C Syred
File ref	A4070
Prepared by	Mark Smith Ranger
Supervised by	Bronwyn Southee, Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Executive Summary

An application has been received by the Shire of Chittering for a third dog at Lot 51 Hereford Way, Lower Chittering. This application is being referred to Council as objections were received during the public comment period.

Background

An application for an additional dog was received on 29 May 2017. The applicant currently owns two white female German Shepherd dogs, which are 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 German Shepherd.

The property is on 2.2 hectares and zoned “Rural Residential”. The dogs are indoor/outdoor dogs they sleep, eat and spend most of the time inside. The dogs have access to outside via a dog flap attached to a door, with ample room to exercise on the property at any time.

The containment fencing on the site is in good condition, as it consists of standard rural fencing to a height of 1.2 metres on external boundaries. The applicant is changing the fence to a more suitable mesh 100x100 rather than the standard 300x100, 180 metres of the property boundary fence has been replaced already on the south side of the block at his own expense.

Consultation/Communication Implications

Local

The Shire Ranger has sent letters to seven adjacent and adjoining land owners giving them the opportunity to comment on the additional dog application. At the conclusion of the consultation period a total of four submissions were received: two in support and two objecting.

TABLE 1: RESPONSES RECEIVED

Respondent	Summary of respondents comments	Officers comment
1	Support: <ul style="list-style-type: none"> Good neighbours, Dogs do not cause any problems and the dog owner has replaced the fence at his expense. 	Noted
2	Support (no comments)	Noted
3	Objection: <ul style="list-style-type: none"> claims of already having four dogs at the property (2 Huskies). One of their dogs killing their own sheep. the owners are FiFo workers. 	<ul style="list-style-type: none"> Huskies are no longer residing on the property. The daughter occasionally stays the weekend explaining the other dog, this dog registered to another shire.

Respondent	Summary of respondents comments	Officers comment
		<ul style="list-style-type: none"> There are three people living at the address, the son is a permanent resident on the site..
4	<p>Objection:</p> <ul style="list-style-type: none"> 3 dogs have been there for last 4-5 months. Dogs howl/cry owner does not look after them. Doesn't appear to have control of dogs. Gate left open often 	<ul style="list-style-type: none"> It is the Shires' understanding that the new dog has been there for the last few months to see if it gets along with the existing dogs on site. Dogs are in excellent condition, the dogs are inside at night, No noise complaints have been received. Two dogs under 1yr old, they are involved with a training group. Electric gate has broken down and is going to be fixed, No wandering complaints received

State

Not applicable

Legislative Implications

State

- Dog Act 1976

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

- 1) *The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.*
- 2) *Subject to subsection (1), a Local Government, pursuant to local laws, may limit the number of dogs over the age of 3 months, or the number of such dogs of any specified breed or kind, that may be kept on any premises situated in a specified area to which those local laws apply unless those premises are licensed as an approved kennel establishment or are exempt.*
- 3) *Where by local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to the approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in the respect of those premises but any such exemption–*
 - a. *May be made subject to conditions, including a condition that it applies only to the dogs specified therein;*
 - b. *Shall not operate to authorize the keeping of more than 6 dogs on those premises; and*
 - c. *May be revoked or varied at any time.*
- 4) *Subject to the provisions of subsection (3), a person who keeps any premises, not being premises licensed as an approved kennel establishment, dogs over the age of 3 months in numbers exceeding any limit imposed in relation to those dogs by a local law made under subsection (2) commits an offence.*

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

- 5) *Any person who is aggrieved–*
 - a. *By the conditions imposed in relation to any exemption from the provision of a local law placing a limitation on the number of dogs that may be kept on any premises; or*
 - b. *By the refusal of the local government to grant such an exemption, or by the revocation of an exemption.*

may appeal in writing to the Minister who may, after such inquiry as he thinks fit, give directions to the local government concerned and effect shall be given to any such direction.

- 6) *An appeal under subsection (5) shall be lodged with the Minister not after that 28 days after the day on which a notice of the decision that it appealable is served on the person affected by that decision.*

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 townsite, 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 townsite, small rural holding, rural retreat or rural residential.*

Policy Implications

State

Not applicable

Local

- Environment and Health 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 townsite, 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 townsite, small rural holding, rural retreat or rural residential.*

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

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection was undertaken. It was noted how well the dogs responded to the owner and the living conditions were very clean and well presented. The dogs are kept in at night and have a room of their own inside the house.

If needed the dogs can also be contained in the large patio area.

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 any 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 \$165.00 (including GST) to the Council, including the breed of the dog/s and fencing or confinement details.

In determining the application the following processes were undertaken:

- 1) All adjoining and adjacent landowners were notified in writing giving them the opportunity to make comment to support or object to the application within a period of 21 days from the date of the letter.
- 2) The Shire Ranger attended the property and undertook a dog welfare and fencing check.

Even though there were formal objections received during the public consultation period regarding the dogs' behaviour, no complaints have been received regarding the three dogs in question. Also the Huskies mentioned in the objections have been permanently removed from the property and therefore not relevant to this application.

The dog owner has been warned that any complaints that are ongoing/continuing i.e. barking, wandering or serious offences could result in the permit being withdrawn and one dog will need to be removed.

Ranger Services therefore request that consideration be given to approve this application.

9.1.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100717

Moved Cr Gibson / Seconded Cr King

That Council approve the Application for an Additional Dog by Camille Syred, 51 Hereford Way, 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
German Shepherd X	George	953010001356939
German Shepherd X	Mocha	953010001356899
German Shepherd	Angel	941000018238170

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*.

Advice note:

1. If at any time these requirements have been breached, Ranger Services may terminate the application; and
2. Direct that the registration of the additional dog(s) be cancelled, and the dog(s) be removed from the premises within seven days.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/1

8:24PM

9.2 TECHNICAL SERVICES

9.2.1 Section 70A Notification Authorisation: Road Widening Lot 126 Spice Road*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	A10594, WAPC Ref 153927
Prepared by	Jim Garrett, Executive Manager Technical Services
Supervised by	Alan Sheridan, Chief executive officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Section 70A Notification Document 2. Deposited Plan

Executive Summary

Council's consideration is requested in relation to the execution of Section 70A Notifications for the subdivision of Lot 126 Spice Road, Bindoon for the purpose of road widening. The Shire of Chittering is the applicant for the subdivision application for the road widening.

Background

Spice Road was approved by Council, to be included in the 2016/2017 budget, for an upgrade from a gravel road to a bitumen sealed road, as part of the road construction program.

It was identified when measuring for the road design and costing the road for the budget, that the road reserve near Lot 126 Spice Road was too narrow and the road reserve would require land resumption for the widening.

A meeting was held with the land owner on the 16 January 2017, to discuss the land acquisition of a portion of Lot 126 Spice Road for the road widening.

The land owner agreed to the land resumption of a portion of Lot 126 on the 20 January 2017, which enabled the process to begin to subdivide the portion of land.

Scanlan Surveys was engaged to survey the amount of land required for the road widening and proceed with a subdivision application to the WAPC, to resume the land for the road widening.

Following the survey, the portion of land required for the road widening was 2,384m². A Form 1A was signed by the landowners on the 24 April 2017 to allow for the land resumption process to begin.

A letter was received on the 4 July 2017, from Scanlan Surveys, requesting that the Form 70A be signed for the subdivision clearance.

Consultation

Not applicable

Statutory Environment

State

- *Transfer of Land Act 1893* (as amended)

Policy Implications

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

Lot 26 Spice Road has a rateable value of \$3.33 per m², in the 2016/2017 financial year. The amount offered to purchase Lot 126 Spice Road (2,384m²) was \$8,000.00. The property owner has informed the Shire that they accept the offer from the Shire of Chittering.

An amount of \$10,000.00 was allowed for in the \$148,864.00 budgeted amount for the Spice Road upgrade.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

Upgrading Spice Road from a gravel road to a sealed road will reduce maintenance costs, as it will require less grading.

Social implications

Sealing of Spice Road will improve road safety for road users.

Environmental implications

Upgrading Spice Road from a gravel road to a sealed road will reduce dust in the drier months.

Comment

The execution of the Form 70A document requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.2.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110717

Moved Cr Rossouw / Seconded Cr Tilbury

That Council (for the purposes of road widening) in relation to the subdivision approval (WAPC 153927) of Lot 126 Spice Road, Bindoon, authorise the Shire President and Chief Executive Officer to sign and affix the Common Seal on:

- 1. the Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to notice that a reticulated sewerage service and mains potable water supply is not available on Lots 126 and 127 on Deposited Plan 410132.**
- 2. any other relevant documents pertaining to subdivision approval (WAPC 153927).**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

8:24PM

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 30 June 2017*

Report Date	19 July 2017
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Rowena Coshan, Finance Assistant
Supervised by	Rhona Hawkins, Executive Manager Corporate Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Monthly Statement of Financial Activity for period ending 30 June 2017 Bank Reconciliation as at 30 June 2017 List of Accounts Paid as at 30 June 2017

Executive Summary

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

Background

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

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

Consultation

Executive Manager Corporate Services

Statutory Environment

State

- *Local Government Act 1995*
- *Local Government (Financial Management) Regulations 1996*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid as at 30 June 2017 as presented.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120717

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

- 1. endorse the Accounts Paid:**
 - a. PR3924 PR3938 PR3948**
 - b. EFT 14178 – EFT14377**
 - c. Municipal Fund Cheques 14261 - 14274**
 - d. Direct Debits and Transfers as listed**
 - e. Trust Fund payments as listed****Totalling \$1,106,321.32 for the period ending 30 June 2017.**
- 2. receive the Bank Reconciliation as at 30 June 2017.**
- 3. receive the Monthly Statement of Financial Activity for the period ending 30 June 2017.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

8:27PM

9.4 CHIEF EXECUTIVE OFFICER

Cr Osborn declared an Impartiality Interest as he is a member of the Chittering Tourist Association

9.4.1 Chittering Tourist Association*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	04/18/0005
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Presentation dated 13 September 2016

Executive Summary

The purpose of this report is to formally table a Report which was provided to Council at its Briefing Session on 13 September 2016. As a result of that report, Council was satisfied that the matter had been properly investigated and reported to Council and that there was no need for further discussion.

Despite the extensive work undertaken to review the operations of the Chittering Tourist Association and produce the accompanying report, a considerable degree of misinformation continues to be circulated within the community regarding the Association and the efforts of the group in fostering and growing tourism within the region.

Background

History

The Chittering Tourist Association was first established by local tourism operators in the mid 1980's. The Association acquired the Local Post Office Licence in 1993 and employed a part-time Tourism Officer in 2001. The Association also runs the Visitor Information Centre, which was formally accredited in 2015, runs the annual wildflower festival and assists with a number of significant annual events within the Shire.

The purpose of the Association is to support and grow tourism in the Shire of Chittering through connection and promotion of the industry and attractions of the region. The Association occupies a Council owned building in Bindoon. The original building was constructed in 1983, with a minor extension to accommodate the post office licence in 1993. An extension to the building (with Federal Grant Funding) was undertaken in 2008. The extension was self-managed by the organisation and was largely constructed with volunteer labour and tradespersons.

Activities

The Chittering Tourist Association supports a range of activities as outlined in the attached report. In particular, the Association runs the Annual Wildflower Festival and provides support to other Council events including the Taste of Chittering. The Association also runs the Tourist Information Centre and has six regular volunteers working at the centre. Visitor numbers at the centre continue to rise with a doubling in numbers over the last two financial years. The Association also maintains close links with other visitor centres and groups including Avon Tourism. The Association also maintains updates and promotes events and activities through promotional brochures, advertising and through the tourism website.

Council Support

Council provides for the maintenance costs associated with the Council owned building (approx. \$20,000.00 per annum). Council also provides direct funding support to the Association to assist with the employment of a Tourism Promotions Officer. In recent years that support has been capped at an amount of \$20,000.00 per annum. The actual cost to the Association from employing the part-time tourism promotions officer is about \$50,000.00 (including salary and overheads such as leave and superannuation).

Profit and Loss

The Associations Financial Statements for the 2015/16 Financial Year indicate that the group had an revenue of \$208,000.00 and expenses of \$190,000.00 for that year (i.e. a profit of \$18,000).

The Australian Tax Office rules for not-for-profit associations clearly state that *"An NFP organisation is not an organisation that hasn't made a profit. An NFP organisation can still make a profit, but this profit must be used to carry out its purposes"*.

In terms of engaging or employing staff, the Australian Government web site (Charities and Not-for-Profit Commission) clearly states that *"An organisation does not fail to be a not-for-profit if it simply provides a benefit to a member while genuinely carrying out its purpose"*. The advice goes on to say that *"Staff or responsible persons (such as board or committee members or trustees) can of course be paid for their work, but not an unreasonable amount"*.

Accountability

The Chittering Tourist Association operates as a Not-for-Profit Association under the *Associations Incorporations Act 2015* (the Act). Under the Act, the Chittering Tourist Association is a Tier 1 Association (revenue less than \$250,000.00 per annum). In accordance with the Act, no review or audit is required unless it is required by the members at a general meeting. However, Financial Statements must give a true and fair review of the financial position and performance of the Association.

The Chittering Tourist Association submits their accounts to Council for review on an annual basis so they are in fact exceeding the legislative requirements. The last review was conducted by Council's Executive Manager Corporate Services in August 2016. No issues were identified.

The Association also reports on Key Performance Indicators and has recently completed an external review of their strategy for the Visitor Centre. The outcomes of that review are being implemented by the Association.

Consultation

Internal

Councillors

Executive Management Team

External

Chittering Tourist Association

Statutory Environment

State

- *Associations Incorporation Act 2015*

Policy Implications

Nil

Financial Implications

The current draft budget proposes an increase in the subsidy for the Tourism Promotions Officer from \$20,000.00 per annum to \$30,000.00 per annum. No other changes are proposed.

Strategic Implications

Local

- Strategic Community Plan 2017-2027

Strategic Priority 1: Our community

Outcome	Strategies	Key Priorities
<p>1.2 Strong sense of community</p> <p><i>Cohesive and connected communities through engagement, interaction and participation</i></p>	<ul style="list-style-type: none"> • Actively support community, volunteer groups and networks • Strengthen and grow social events and festivals • Activate our local centres and towns 	<ul style="list-style-type: none"> • Facilitate connections of community groups across the Shire • Better coordination and evaluation of existing social events and festivals • Encourage and grow markets with local produce • Foster links with local communities through established networks, working groups and tourism / business associations • Support community and volunteer groups and networks to build sustainability

Strategic Priority 4: Economic Growth

Outcome	Strategies	Key Priorities
<p>4.2 Local business growth</p>	<ul style="list-style-type: none"> • Encourage and support local businesses and new investments for the future. 	<ul style="list-style-type: none"> • Continued support for an active and engaged Chamber of Commerce • Support for local retail, local cottage industry in partnership with the Chamber of Commerce • Business mentoring and incentives in partnership with the Chamber of Commerce • Continue to advocate for improved access to the NBN and better mobile phone coverage
<p>4.3 Increased visitors</p> <p><i>Visitors are welcome to stay and recreate</i></p> <p><i>Improved environmental access as places to visit</i></p>	<ul style="list-style-type: none"> • Support and promote accommodation options • Support and grow events to attract visitation 	<ul style="list-style-type: none"> • Supported and promoted accommodation options: <ul style="list-style-type: none"> - resort style facilities - caravan parks - overnight stops - B&Bs - farm-stays • Foster and assist with the growth of annual events: Ag Show, Wear Ya Wellies, Taste of Chittering, Spring Flower Festival • Explore opportunities for combining and enhancing the attractiveness of events across the community

Outcome	Strategies	Key Priorities
	<ul style="list-style-type: none"> Facilitate, promote and support ecotourism 	<ul style="list-style-type: none"> Promotion and development of Chittering Trails Network Ongoing commitment to staff and resources in support of economic development Planning controls and projects which support diverse options for short stay accommodation

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The promotion of a vibrant and dynamic tourism sector is vital to the economy of the Chittering region and to the creation of local jobs and employment.

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 Chittering Tourist Association continues to provide a valuable and cost effective service to the community.

OFFICER RECOMMENDATION

Moved Cr Rossouw / Seconded Cr Osborn

That Council express its support for the ongoing efforts of the Chittering Tourist Association, including those volunteers who support the operation of the Visitor Information Centre, in promoting tourism within the Chittering Shire, in accordance with the strategic direction provided in the *Strategic Community Plan 2017-2027*.

AMENDMENT

Moved Cr Rossouw / Seconded Cr Osborn

That the following "Recommendation 2" be added:

- That the Chief Executive Officer draft a Memorandum of Understanding with the Chittering Tourist Association for Council consideration.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

8:38PM

SUBSTANTIVE MOTION / COUNCIL RESOLUTION 130717

Moved Cr Rossouw / Seconded Cr Osborn

- 1. That Council express its support for the ongoing efforts of the Chittering Tourist Association, including those volunteers who support the operation of the Visitor Information Centre, in promoting tourism within the Chittering Shire, in accordance with the strategic direction provided in the *Strategic Community Plan 2017-2027*.**
- 2. That the Chief Executive Officer draft a Memorandum of Understanding with the Chittering Tourist Association for Council consideration.**

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/1
8:42PM

9.4.2 Avon Regional Organisation of Councils*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	04/18/75
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Avon Regional Organisation of Councils MOU

Executive Summary

Council is requested to consider the attached Memorandum of Understanding (MOU) which was adopted and amended at an Avon Regional Organisation of Councils meeting held on 3 April 2017.

Background

The Avon Regional Organisation of Council's (AROC) includes the Shires of Chittering, Dowerin, Goomalling, Northam, Toodyay, Victoria Plains and York. The Mission Statement of the organisation is to:

"Work cooperatively for the benefit of the region and well-being of the community".

The primary decision making body of AROC is the Governance Group (Shire President and Chief Executive Officer from each local Government). The Governance Group meets every two months, with the AROC Officer's Group (CEO's) meeting in the intervening months. The Secretariat is currently provided by the Shire of Toodyay. Historically, the Shire of Chittering's involvement in AROC probably had more to do with personalities than a frank assessment of needs and communities of interest.

The AROC Governance Group makes decisions on the project / projects which the group undertakes. All projects must involve at least two member local governments. Each project has a separate form of agreement. Funding is provided through annual subscriptions or specific funding for project related activities. Council currently pays \$5,000.00 per year in membership fees.

The current AROC Action Plan (attached to the MOU – **Attachment 1**) provides for the following key issues; health and aged care, strategic waste management, councillor and staff development, regional risk, human resource management, information technology, economic development, regional governance, regional airport, regional recreation strategy and environmental health services.

In terms of formal working groups, the Waste Management Working Group meets on a regular basis, but it is evident that some members of the group do not really see it as a high priority. The meetings were initiated at the request of the Shire of Chittering as a means of sharing information and progressing matters identified as part of the Regional Waste Minimisation Strategy. However, it seems that the Group may struggle to gain traction with a number of key initiatives such as the appointment of a Waste Coordinator (to be funded by member Council's). There has been some interest in jointly tendering for waste management services.

AROC is also in the early stages of developing a Regional Recreation Strategy. The initial phase involves a data collection exercise. However, it is difficult to see how such a strategy would be of direct benefit to the Chittering Shire. In general residents of the Shire do not obtain their services from other AROC areas. Proximity to the urban north of Perth means that services (including recreational sporting pursuits) which are not provided locally are generally resourced from these areas.

More recently, the Shire of Chittering has been engaged more closely with the Shire's of Dandaragan and Gingin under the Northern Growth Alliance (NGA). As part of this engagement, the NGA is working on a comprehensive growth planning strategy for the northern growth area which encompasses the three Shires. It is also evident that residents within the three Shires may have more in common the AROC Council's. For example, residents of all three Shires source their "external" services from suburban areas to the north of Perth. With new road infrastructure coming on line, servicing of needs from the northern urban fringes will become even more attractive.

It may therefore be an opportune time to consider whether the Shire of Chittering should remain as a member of AROC. While the tourism component of AROC remains important to the Shire, Avon Tourism continues to provide this service. Should AROC decide to invest separately in Avon Tourism, there is no reason why the Shire of Chittering could not make a separate contribution to that organisation. Waste management could also be progressed on a joint basis with the NGA Council's.

Given that the MOU requires a retiring member to give at least one full financial year notice of an intention to withdraw, if Council were to make such a decision, it should probably be made sooner rather than later.

Consultation

The Chief Executive Officer has had preliminary discussion with the AROC Officer's Group regarding these matters. If Council were to decide that its future was better focussed on an alliance with the NGA Council's, it would come as no surprise.

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Membership of AROC currently costs \$5,000.00 per year. However, the cost in terms of time would be much more significant.

Strategic Implications

The Northern Growth Corridor is the focus of Council's strategic direction well into the future. It makes sense for Council to consider a closer alignment with the Local Government members of the Northern Growth Alliance (NGA). A closer alliance with the NGA Council's is entirely consistent with Council's Strategic Community Plan.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The future of the local economy is dependent on growth to our north.

Social implications

The Chittering community is more closely aligned with the NGA Council's.



Environmental implications

Not applicable

Officer Comment/Details

With the strengthening of the Northern Growth Alliance and the shared interests that Council has across a broad range of issues, it makes sense for Council to focus more on the NGA arrangements. It is considered appropriate for Council to now consider its future with regard to AROC.

9.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140717

Moved Cr Osborn / Seconded Cr Gibson

That Council resolves to:

- 1. Endorse the amended Avon Regional Organisation of Council's Memorandum of Understanding as attached to this report.**
- 2. Advise the Avon Regional Organisation of Council of its intention to withdraw from the Avon Regional Organisation of Councils at the end of this financial year.**
- 3. Continue to strengthen and build its formal relationship with the Local Government members of the Northern Growth Alliance.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

8:45PM

9.4.3 Policy Register Amendment: Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft amended Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits (track changes shown)

Executive Summary

As a result of issues regarding Excess Broadband Usage and confusion regarding the ownership of IT Equipment which has been purchased by Council for Elected Members to use in the course of Council Business, it is necessary to review Council Policy 4.3 so that these matters are made clear to both Councillors and Staff.

Background

At the Ordinary Council Meeting held on 27 June 2012 Council resolved the following:

SUBSTANTIVE MOTION / COUNCIL RESOLUTION – 200612

Moved Cr Norton / Seconded Cr Mackie

- 1. That Council include in the 2012/13 Shire budget the purchase of 7 64GB iPads for Councillor use at the total cost of \$6,300.*
- 2. That Chittering email addresses be established for all Councillors.*

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0
8.37PM

Accordingly, the Shire has purchased iPad devices for all Elected Members since June 2012 however *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits Policy* has not been updated to reflect these arrangements.

The Policy has been amended to include a new section "ICT Expenses and Equipment" which also makes reference to the allowance that Elected Members receive during their term of office.

Consultation

Internal

Executive Management Team

External

Western Australian Local Government Association
McLeods (Council's Solicitors)

Statutory Environment

State

- Local Government Act 1995, Section 5.99A

5.99A Allowances for council members in lieu of reimbursement of expenses

A local government may decide that instead of reimbursing council members under section 5.98(2) for all of a particular type of expense it will instead pay all council members—*

- (a) the annual allowance determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for that type of expense; or*
- (b) where the local government has set an allowance within the range determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B for annual allowances for that type of expense, an allowance of that amount, and only reimburse the member for expenses of that type in excess of the amount of the allowance.*

**Absolute majority required.*

Policy Implications

Local

- *Elected Members Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*

Financial Implications

When the annual budget is adopted by Council there is a condition in the budget with regard to Elected Members allowances. If an Elected Member exceeds their data usage, that Elected Member will be invoiced for the excessive usage in accordance with the revised policy.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Not applicable

Officer Comment/Details

By amending the *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits* there is greater clarity with regard to what ICT expenses and equipment Elected Members receive during their term of office.

The amended *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits* will also read alongside the new *Elected Member Policy 4.6 Electronic Agendas* (item 9.4.4 on tonight's agenda).

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr King

That Council endorses revised *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*.

PROCEDURAL MOTION

Moved Cr Gibson / Seconded Cr Angus

That item 9.4.3 be laid on the table to allow Council to workshop the item.

THE MOTION WAS PUT AND DECLARED LOST 3/4

8:50PM

Peter Stuart left the meeting at 8:57pm

9.4.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 150717

Moved Cr Gibson / Seconded Cr King

That Council endorses revised *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 4/3

9:00PM

9.4.4 Policy Register Addition: Elected Member Policy 4.7 Electronic Agendas*

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft Elected Member Policy 4.7 Electronic Agendas 2. Ordinary Council Meeting 27 June 2012 minutes – Item 9.3.4 Electronic Council Agenda

Executive Summary

Council is requested to endorse the draft Elected Member Policy 4.7 Electronic Agendas.

Background

At the Ordinary Council Meeting held on 27 June 2012 (**Attachment 2**) Council resolved the following:

SUBSTANTIVE MOTION / COUNCIL RESOLUTION – 200612

Moved Cr Norton / Seconded Cr Mackie

- 1. That Council include in the 2012/13 Shire budget the purchase of 7 64GB iPads for Councillor use at the total cost of \$6,300.*
- 2. That Chittering email addresses be established for all Councillors.*

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0
8.37PM

The justification contained in the report was based on annual printing costs for Council Agendas of \$14,000 per year (Black and White and Colour copying). On this basis, it is considerably more cost effective to use mobile computing devices such as iPad's.

Accordingly, the Shire purchased iPad devices for all Elected Member's, however a formal policy to ensure transparency and guidance was not presented to Council.

By comparison, the cost of printing and distributing one complete copy of the July 2017 Agenda is \$150 (600 pages Black and White copy). If all Councillors were to receive the July Agenda in paper format, the cost, including distribution well in excess of \$1,000.

Consultation**Internal**

Executive Management Team

External

WALGA

Chittering IT Solutions

Statutory Environment

Nil

Policy Implications

Local

- *Elected Member Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits*

Financial Implications

To purchase the iPads for each Elected Member, is in accordance with the Shires Purchasing Policy. Each Elected Member is allocated an iPad of similar size (currently 64GB) with WiFi capability. There is an allocation in the Shire's Annual Budget during each Local Government election year for the purchase of new iPads for newly elected members.

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

The Shire of Chittering recognises the benefits of digital communication and information sharing. The preferred technology for disseminating and managing Council Agenda Papers and conducting an Agenda Forum/Information Sessions is via an online format utilising Apple iPads. The Shire requires all Council Members to use the Shire approved iPad-based solution to participate in the Council Agenda Forums/Information Session processes.

The iPad device may also be used by the Council Members for:

1. communicating with residents and ratepayers;
2. lodging service requests; or
3. other work related purposes.

The iPad device is not to be used for any streaming of video and audio which is not work related.

The iPads and related software/applications will serve as the primary source of information pertaining to Council meetings and information sessions. Accordingly it is proposed that paper based agendas be no longer provided to Elected Members. If an Elected Member has a problem with their internet connection, the Administration will make appropriate arrangements to work around any such issues. If an Elected Member still requests a paper based agenda, it is proposed that they be billed as per the adopted Schedule of Fees and Charges.

The proposed policy, which has been adapted from a Policy document used by the City of South Perth, contains a number of additional provisions. Councillors should familiarise themselves with the attached draft policy.

Once this Policy is adopted by Council it will be forwarded to all Elected Members to sign and return the "Acceptance of Terms of Use of Device", which will be kept on their file for record keeping purposes.

OFFICER RECOMMENDATION

Moved Cr Gibson / Seconded Cr Rossouw

That Council endorses the draft *Elected Member Policy 4.7 Electronic Agendas* as detailed in Attachment 1.

PROCEDURAL MOTION / COUNCIL RESOLUTION 160717

Moved Cr Rossouw / Seconded Cr King

That Item 9.4.4 be laid on the table to allow Council to workshop Policy 4.7 Electronic Agendas.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2
9:03PM

9.4.5 Recruitment of Community Emergency Services Manager

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	04/18/27
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Executive Summary

Council is being requested to authorise the Chief Executive Officer to recruit to fill the Community Emergency Services Manager from the current Community Emergency Services Manager pool and seeks Council's authorisation to modify the Memorandum of Understanding such that the position is employed by the Department of Fire and Emergency Services rather than the Shire of Chittering.

Background

The Shire's Community Emergency Services Manager (CESM) Mr Jamie O'Neill submitted his resignation on 6 July 2017 to take up the role of Community Emergency Services Manager with the Shire of Mundaring. As Council is aware, the CESM position also fills the role of Chief Bushfire Control Officer within the Shire. Mr O'Neill's last working day is Friday, 28 July 2017.

The CESM has been employed under a Memorandum of Understanding (MOU) with the Department of Fire and Emergency Services since 2011. The MOU was recently extended for a further three years, generally under the same terms and conditions as those that existed previously. The split of funding for the position is 60 (DFES):40 (Chittering Shire).

To ensure the continuing success of the position it is essential that the right person is recruited who has extensive experience in Volunteer Bush Fire Brigades, Local Government, Bush Fire Preparedness, Response and Recovery, Local Government Grant Scheme. The individual must also have excellent interpersonal skills.

The Department of Fire and Emergency Service (DFES), through a recent recruitment process, has an active CESM pool. Individuals on that pool have already been through a rigorous recruitment and selection process administered by DFES. These individuals have already gone through the CESM selection process and met the criteria both in terms of formal qualifications and experience. In accordance with DFES recruitment procedures, an individual can be selected directly from the pool should a suitable candidate be available.

The advantage of recruiting direct from the CESM pool is that the position could be filled almost immediately. The alternative would be to advertise the position, resulting in a delay of up to three months and potentially carrying a vacant position for at least part of that time.

Following discussion with the District Officer North East Metropolitan (Mr Craig Garrett), it is recommended that Mr O'Neill's replacement be sourced from within the active CESM pool. A highly capable, experienced and appropriately qualified individual with experience and knowledge of the local area has been identified to fill the role.

Both the District Officer and the Shire's Chief Executive Officer have interviewed the officer and are both of the view that this individual would be an ideal fit for the organisation, would have no trouble gaining the trust and respect of the volunteers and would be more than capable of filling all the responsibilities of the position. A confidential copy of the individual's CV and selection panel report was provided for Councillors to review at the Agenda Forum.

Regarding the proposed transfer of the position under the administration of DFES, this will have no perceptible change. In particular:

- The 60:40 funding split would still remain
- The CESM would still report to the Shire of Chittering's Chief Executive Officer
- The Shire of Chittering would be invited to be on the panel for the recruitment of an officer in to the position
- As per our current arrangement, as the vehicle is owned by the Shire we would invoice for the vehicle quarterly the amount as set in the MOU.

The advantage of moving towards a CESM managed position is summarised as follows:

- The CESM officer would be paid directly by DFES and DFES would invoice the Shire of Chittering quarterly for our percentage
- The Shire of Chittering would no longer provide HR administrative service for the CESM officer and this would reduce administrative costs from our prospective for payroll processing and entitlements
- DFES would become responsible for on-costs such as long service leave, leave loading etc
- DFES would undertake training, improving the training available to the CESM as persons who are not employed through DFES do not have the same training opportunities
- DFES would provide succession planning through an existing pool of CESM candidates
- The CESM would be more likely to stay long term as training opportunities and entitlements would be held under one employer rather than the current split.

The proposed change is supported by the DFES Regional Office however it would have to be approved by the DFES Commissioner prior to any official changes being made.

Consultation

External

Department of Fire and Emergency Services

Statutory Environment

Nil

Policy Implications

As this is a jointly funded position and DFES has recruitment arrangements in place which satisfy Government requirements, there would be no need to advertise the position, provided the officer comes from the CESM Pool.

Financial Implications

Recruiting direct from the DFES CESM pool would save Council the costs associated with advertising and recruitment. Including staff time, those costs are not insignificant.

Should DFES agree to be the responsible employer of the CESM, the Shire of Chittering would also save on some of the overheads such as long service leave and entitlements, administrative time and training costs.

Strategic Implications

The CESM role is one of the most important roles in local government. The position manages emergency incidents and the risk within the Shire, in addition to the six volunteer bushfire brigades. It is in Council's interest to arrange for a replacement as soon as is practicable.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

If the position were to be administered by DFES, the Shire would not have the same obligation from an administrative perspective to manage this role as it would be predominately administered through DFES. However, all other arrangements would remain unchanged and reporting lines to the Chief Executive Officer would remain as currently documented in the MOU.

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

Due to the importance of this position, it is critical that we progress with the recruitment of this position therefore, Council is being requested to authorise the Chief Executive Officer to recruit to fill the Community Emergency Services Manager from current CESM pool. Regardless of whether the position is filled under current MOU arrangements (LG as employer) or the proposed arrangements (DFES as the employer) the CESM will still report to the Chief Executive Officer.

9.4.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 170717

Moved Cr Osborn / Seconded Cr Rossouw

That Council:

- 1. Authorise the Chief Executive Officer to recruit to fill the Community Emergency Services Manager position from the current Department of Fire and Emergency Services' Community Emergency Services Manager pool.**
- 2. Request the Department of Fire and Emergency Services to amend the current Memorandum of Understanding such that the Community Emergency Services Manager role is administered by the Department of Fire and Emergency Services rather than the Shire of Chittering.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

9:05PM

10. REPORTS OF COMMITTEES

Nil

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.1 Annual Budget 2017-2018 (Cr Don Gibson)

MOTION

Moved Cr Gibson / Seconded Cr

That Council endorses and applies Premier Mark McGowan's \$1,000 limit on public servants pay increases to all Shire of Chittering staff positions in the financial year 2017-2018.

MOTION LAPSED FORWARD OF A SECONDER

Cr Gibson provided the following comments

This is in recognition of the current downturn in employment and the economy.

Officer comments/details

The announcement by the Premier on 12 May 2017 is a media statement only and has not been passed as legislation. As it currently stands there is no freeze as legislation has not gone through and Local Governments are to consider salary increases in accordance with the current bands determined by the Salary and Allowances Tribunal.

Further, the Minister for Local Government's office has advised that the legislation on Public Sector salaries is still being drafted, so it will be some time before it reaches Parliament.

In respect to the current provisions, Local Governments are to follow the SAT determination of 11 April 2017 which is effective as at 1 July 2017

(<https://www.sat.wa.gov.au/LocalGovernmentCEOsandElectedMembers/Pages/11-April-2017---CEOs-and-Elected-Members.aspx>). In that determination the bands did not increase. So as it stands, Councils can increase salaries within the bands.

11.2 Shire Employment Contracts (Cr Aaron King)

MOTION

Moved Cr King / Seconded Cr Gibson

That the Chief Executive Officer is not authorised to set, offer or agree to any provisions for a motor vehicle in the employment contract for the recruitment of the position of Executive Manager Development Services until Council has resolved and adopted the vehicle use policy (*Policy 3.18 Use of Council Vehicles*).

Cr King provided the following comments

Nil

Officer Comments/Details

As advised at the Briefing Session on 5 July 2017 and via email on the same day, the Chief Executive Officer has made arrangements for an existing staff member to fill the position in an acting capacity for the next six months. As a result, the Notice of Motion is considered to be redundant.

AMENDMENT

Moved Cr Angus / Seconded Cr Gibson

That the words "*the position Executive Manager Development Services*" be deleted and replaced with "*any new employee where there is a private use motor vehicle allocated to the position*".

THE AMENDMENT WAS PUT AND DECLARED CARRIED 4/3
AND FORMED PART OF THE SUBSTANTIVE MOTION

9:18PM

11.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 180717

Moved Cr King / Seconded Cr Gibson

That the Chief Executive Officer is not authorised to set, offer or agree to any provisions for a motor vehicle in the employment contract for the recruitment of any new employee where there is a private use motor vehicle allocated to the position until Council has resolved and adopted the vehicle use policy (*Policy 3.18 Use of Council Vehicles*).

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 4/3

9:22PM

11.3 Develop a Policy to Establish a Formal Review Process for the Amendment/Repeal of an Existing Policy (Cr Aaron King)

MOTION

Moved Cr King / Seconded Cr Gibson

That the Chief Executive Officer works with Council to develop a policy to establish a formal review process for the amendment or repeal of an existing policy and/or creation of a new policy to be tabled at the September Ordinary Meeting of Council.

THE MOTION WAS PUT AND DECLARED LOST 3/4

9:28PM

Cr King provided the following comments

The purpose of the motion is to develop a policy to establish a formal review process/procedure for which policy amendments, repeals or creation of a new policy must undergo before being tabled at an Ordinary Council Meeting. This ensures a consistent approach is applied to all policies reviews (sic).

Ad hoc tabling of policy amendments or new policies without a proper formal review process is unacceptable in my opinion. Council must have the opportunity to input into policy development and the process needs to be standardised.

Officer Comments/Details

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

14. MEETING CLOSED TO THE PUBLIC

The meeting was closed to the general public at 9.29pm

14.1 Matters for which the meeting may be closed

PROCEDURAL MOTION / COUNCIL RESOLUTION 190717

Moved Cr Osborn / Seconded Cr Rossouw

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 7/0

9:29PM

14.1.1 CONFIDENTIAL ITEM: Purchase of Property – Lot 215 Great Northern Highway, Bindoon

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	A10447
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Locality Map 2. Certificate of Title

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:*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

The confidential part of this report contains specific information regarding a contract which the Council is yet to enter into. Negotiations with the landowner regarding this matter are confidential.

Executive Summary

Council's consideration is requested to consider the purchase of Lot 215 Great Northern Highway, Bindoon. The land in question is located immediately adjacent to the existing oval in Bindoon and would over time, allow for the expansion of recreational and other facilities in the town to cater for expected population growth. Council has been previously briefed on a number of Council owned properties which are surplus to Council's needs. It is intended that some of these properties be disposed over the next 12 months of to fully cover the cost of the proposed purchase.

Background

Lot 215 Deposited Plan 26616 Volume 2035 Folio 895 is a privately owned, 2.4 hectare parcel of Freehold Land located immediately adjacent to and north of the existing Bindoon Oval. In late 2015, the owner approached Council to ascertain if the Council might be interested in acquiring the property. A location map of the site relative to other parcels of land within the town site is attached (**Attachment 1**).

There is currently no legal access to the site except through the current owner's land, which also adjoins the site. The subject property is strategically located within the Bindoon Town Centre and offers a number of opportunities for the future development of public facilities within the town. The property is zoned Townsite R10/R30, but without legal access, it could never be used for that purpose.

Council had previously purchased a 68 hectare parcel of land at Lot 104 Gray Road, Bindoon. The thinking at the time was that the land may be suitable as an alternative site for the Bindoon Agricultural Show and Council Depot. However, the site will be impacted by the Bindoon Bypass with the proposed highway traversing through the centre of the site. In addition, the cost of relocating the Show to that site is considered prohibitive and would, in all likelihood, lead to the show becoming significantly less attractive to

both locals and visitors. The show needs to remain in the town and other events and activities fostered in and around the town for the benefit of both businesses and residents.

A formal valuation has been obtained from a Registered Valuer to ascertain a current market value for the subject property. A purchase price has been negotiated with the owner that is in line with the valuation.

Consultation

Council has been previously consulted regarding the potential purchase of this parcel and the disposal of surplus Council owned land. The owner has agreed to the purchase price, a contract of sale has been prepared and, subject to the adoption of the budget, it is proposed to proceed with the purchase.

Statutory Environment

State

- *Local Government Act 1995*

Policy Implications

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

It is intended to dispose of Council owned surplus properties over the next 12 months which will fully offset the purchase price of both this property and the proposed purchase at Lot 168 Binda Place.

Strategic Implications

Local

- *Shire of Chittering Local Planning Strategy*
Should the purchase proceed, it is proposed to make the necessary adjustments to the Local Planning Strategy such that the land in question is designated for future uses which benefit the Town Centre and the Local Community.
- *Shire of Chittering Strategic Community Plan 2012 – 2022*
Building a Sense of Community, Access to Local Services, Active Communities, Support for Local Groups, Develop Recreation Areas for Future Generations, Promote and improve the Shire's profile as a tourist destination.

Site Inspection

Site inspections have been undertaken by Shire Officers and by the Registered Valuer.

Officer Comment/Details

The purchase of this land represents a critical investment in the future of the Bindoon Town Site. The site is strategically placed within the centre of the town and offers a number of opportunities for expanding / development land for community / recreation use within the Town Centre.

14.1.2 CONFIDENTIAL ITEM: Purchase of Property – Lot 168 Binda Place, Bindoon

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	A1627
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Locality Map 2. Certificate of Title

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:*
- (a) *a matter affecting an employee or employees; and*
 - (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

The confidential part of this report contains specific information regarding a contract which the Council is yet to enter into. Negotiations with the landowner regarding this matter are confidential.

Executive Summary

Council's consideration is requested to consider the purchase of Lot 168 Binda Place, Bindoon. The land in question is home to the former "Chitterbug" business and is located immediately adjacent to the Bindoon Bakehaus. The balance of the land is used as a carpark and provides the access road from the southern part of Binda Place to Gray Road. Purchase of the land will enable Council to formalise/secure the access from Binda Place through to Gray Road and retain the public carpark on the balance of the site.

Should the purchase proceed as proposed, the intention would be to subdivide the property, formalise the access road as a road reserve and dispose of the exiting building. Council has also been previously briefed on a number of other Council owned properties which are surplus to Council's needs. It is intended that some of these properties be disposed over the next 12-24 months in order to fully cover the cost of the proposed purchase.

Background

Lot 168 Plan 15350 Volume 2012 Folio 950 is an irregular shaped, corner site of 4,743sqm, with the site incorporating a circa 1999 built retail shop with the balance of the site incorporating an open carpark and access road, which connects Binda Place to the south and Gray Road to the north. The property is situated in the Bindoon Town Centre, with direct exposure to the Great Northern Highway. A location map of the site relative to other parcels of land within the town site is attached (**Attachment 1**).

Council commenced the construction of Binda Place without considering that there was no legal access at the northern end of the project. The project was originally designed such that there was a one way traffic flow from south to north. However, the northern portion of that access was through private property (the land which is then subject of this report). Fortunately, there was sufficient time to make adjustments such that the northern part of the site could have legal access onto the Great Northern Highway.

The current owner is in a position to dispose of the property and it would be in Council's interest to take advantage of the opportunity which is presented to purchase the entire parcel of land. Preliminary discussions with the new "Chitterbug" tenant have indicated a desire to purchase this part of the property. Accordingly, the intention would be to subdivide the property and dispose of that portion which houses the building. The property has previously been the subject of an approved subdivision which has lapsed. There do not appear to be any issues with the proposed subdivision being resurrected.

A formal valuation has been obtained from a Registered Valuer to ascertain a current market value for the subject property. A purchase price has been negotiated with the owner that is in line with the valuation.

Consultation

Council has been previously consulted regarding the potential purchase of this parcel and the disposal of surplus Council owned land. The owner has agreed to the purchase price and a contract of sale is being prepared. Subject to the adoption of the budget, it is proposed to proceed with the purchase.

Statutory Environment

State

- *Local Government Act 1995*

Policy Implications

Local

- *Administration Policy 1.5 Execution of Documents*

Financial Implications

The intention is to purchase the property using funds borrowed from WA Treasury. It is intended to dispose of Council owned properties over the next 12-24 months which will fully offset the purchase price of both this property and the proposed purchase at Lot 215 Great Northern Highway.

Strategic Implications

Local

- *Shire of Chittering Local Planning Strategy*
Should the purchase proceed, it is proposed to make the necessary adjustments to the Local Planning Strategy such that the land in question is designated for future uses which benefit the Town Centre and the Local Community.
- *Shire of Chittering Strategic Community Plan 2012 – 2022*
Local and Central Activity Areas Supporting Community Needs, Access to Local and Central Services, Safe Access, Support Local Businesses.

Site Inspection

Site inspections have been undertaken by Shire Officers and by the Registered Valuer.

Officer Comment/Details

The purchase of this land represents a critical investment in the future of the Bindoon Town Site. The site is strategically placed within the centre of the town and is critical to the provision of safe access and in supporting local businesses.

14.1.3 CONFIDENTIAL ITEM: Recovery of Excess Broadband Usage Charges

Report date	19 July 2017
Applicant	Shire of Chittering
File ref	13/03/0007
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Telstra Supplied Data Usage Information 2. SAT Ruling dated 17 June 2015

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:*
- (b) *the personal affairs of any person; and*

Executive Summary

The purpose of this report is to summarise the background regarding excess mobile Broadband Charges associated with a Council broadband account linked to a mobile computing device (iPad) and to recommend actions which are intended to recover the costs associated with those excess charges and other actions to ensure the security of information which is distributed to Councillors and staff via iPad.

14.2 Public reading of resolutions that may be made public

The meeting was reopened to the public at 9.54pm and one member of the general public returned to the meeting.

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 200717

Moved Cr Osborn / Seconded Cr Gibson

That Council:

1. resolve to proceed with the purchase of Lot 215 Deposited Plan 26616 Volume 2035 Folio 895 in accordance with the terms and conditions as outlined in this report.
2. authorise the Chief Executive Officer and Shire President to sign and apply the Common Seal on any documents associated with the purchase of the subject property.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY

9:30PM

14.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 210717

Moved Cr Gibson / Seconded Cr Osborn

That Council:

1. resolve to proceed with the purchase of Lot 168 Deposited Plan 15350 Volume 2012 Folio 950 in accordance with the terms and conditions as outlined in this report.
2. authorise the Chief Executive Officer and Shire President to sign and apply the Common Seal on any documents associated with the purchase of the subject property.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY

9:31PM

14.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 220717

Moved Cr Gibson / Seconded Cr Osborn

That Council endorse the Chief Executive Officer's proposed actions in recovering the excess mobile broadband usage charges and in ensuring the security of information which is distributed to both Staff and Councillors via mobile computing devices.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/1
BY AN ABSOLUTE MAJORITY

9:54PM

15. CLOSURE

The Presiding Member declared the meeting closed at 9.56pm.



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8.30am - 4.30pm