

**MINUTES FOR  
ORDINARY MEETING OF COUNCIL**

**WEDNESDAY, 20 JULY 2016**

**Council Chambers  
6177 Great Northern Highway  
Bindoon**

**Commencement: 7.00pm  
Closure: 9.02pm**



**These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 17 August 2016.**

**SIGNED BY**

\_\_\_\_\_  
Person presiding at meeting which minutes were confirmed

**DATE**

\_\_\_\_\_

**Disclaimer**

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

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

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

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\* indicates separate attachments

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

The Presiding Member declared the meeting open at 7.00pm.

## **2. MOMENT OF SILENCE**

The Presiding Member asked all present to stand and observe a moment of silence as a mark of respect to our former Shire President Cr Steve Vallance.

## **3. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**

### **3.1 Attendance**

The following elected members were in attendance:

Cr Gordon Houston	President (Presiding Member)
Cr Peter Osborn	Deputy President
Cr Don Gibson	
Cr Aaron King	
Cr Michelle Rossouw	
Cr George Tilbury	

The following staff members were in attendance:

Alan Sheridan	Chief Executive Officer	
Jean Sutherland	Executive Manager Corporate Services	
Bronwyn Southee	Executive Manager Development Services	
Jim Garrett	Executive Manager Technical Services	
Karen Parker	Manager Human Resources	<i>entered the Chamber at 7.10pm</i>
Peter Stuart	Senior Planning Officer	
Natasha Mossman	Executive Support Officer (Minute Secretary)	

There were 50 members of the general public in attendance.

### **3.2 Apologies**

Nil

### **3.3 Approved leave of absence**

Nil

## 4. DISCLOSURE OF INTEREST

### 4.1 Cr Gordon Houston – Item 10.1.2 Proposed Microbrewery and Restaurant: Lot 27 Reserve Road, Muchea

Cr Gordon Houston declared an Impartiality interest on item 10.1.2 ‘Proposed Microbrewery and Restaurant – Lot 27 Reserve Road, Muchea’ as he prepared the environmental documentation for the development application.

### 4.2 Cr Peter Osborn – Item 10.3.3 Adoption of the 2016-2017 Budget

Cr Osborn declared a Financial interest on item 10.3.3 “Adoption of the 2016-2017 Budget” as his wife derives an income from the Chittering Tourist Association which is supported in the budget.

#### 4.1 PROCEDURAL MOTION / COUNCIL RESOLUTION 030716

Moved Cr Rossouw / Seconded Cr Gibson

That Council accepts the extent of the above declarations of interest and allows Crs Houston and Osborn to participate in voting on the two items.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

## 5. PUBLIC QUESTION TIME

### 5.1 Response to previous public questions taken on notice

#### 5.1.1 Lyn Borg, Bindoon

At the Ordinary Council Meeting held on 15 June 2016 Ms Borg was advised that once the Shire received a response with regard to ‘validation testing’ that this would be forwarded to her. The Shire forwarded the following information to Ms Borg on 17 June 2016:

- *The initial design for Bindoon was completed in 2014. The frequency that NBN was operating on at that time was 2.3GHz and a 3 panel antenna design was proposed to service approximately 370 residences.*
- *A subsequent design was completed in 2015 which operates on the 3.4GHz frequency. The site has been designed with 5 panel antennas and will now service approximately 450 residences.*
- *As part of **nbn**’s due diligence process, the number of premises proposed to be covered by the Fixed Wireless technology are calculated by Radio Frequency Engineers using established and proven state of the art software.*
- *Validation Testing mentioned in the NBN fact sheet occurs once the site is in service and the customer has placed an order with their preferred Retail Service Provider. NBN will then undertake a service validation test prior to install.*

*We confirm once again that validation testing doesn't occur until after the network is switched on. Implicit in Ms Borg's email is the suggestion that because validation testing has not been undertaken, the numbers of approximate premises to be served by the tower is uncertain and will diminish significantly. That is simply not the case.*

*The purpose of validation testing is often to confirm whether a small number (and small proportion) of premises on the periphery of the modelled coverage area will receive the signal at the required strength. The modelling of radio coverage is careful and conservative, so it is unusual for premises originally identified to be served by the facility to not then be able to receive an adequate signal. The test will sometimes allow premises to be better served by another adjacent facility in the network.*

*We appreciate Ms Borg's well-meaning advice and concern for people in Bindoon, which reflects the importance of the need to deliver improved broadband via the nbn. The site approved by the Shire of Chittering offers the best available opportunity to deliver a quality service to people in Bindoon.*

*Finally, a customer can check whether or not their residence or business is within the Fixed Wireless footprint by visiting <http://www.nbnco.com.au> and entering their physical address into the 'check your address' field.*

*We now consider this matter closed and look forward to servicing the community of Bindoon.*

## **5.2 Public question time**

### **5.2.1 Daryl du Plessis, Bindoon**

Mr du Plessis spoke to council about the public concern regarding the removal of the trees from Binda Place. There is going to be a significant period of time that there will be no shade in the area. Mr du Plessis asked who made the decision to remove the trees as the community deserves to know?

*Presiding Member advised Mr du Plessis that his question will be taken on notice.*

### **5.2.2 Christopher Waldie, Bindoon**

Mr Waldie spoke to the resolution from the Ordinary Council Meeting held on 18 May 2016 with regard to the Chittering firebreak notices. Mr Waldie was surprised that the resolution was put into power and that he is now required to install a 3m firebreak. Mr Waldie stated his confusion as to who has power to make these changes.

*Through the Chair, the Chief Executive Officer advised that the Council Resolution that Mr Waldie was referring to was to defer the implementation of the firebreaks until Council were further briefed. Council were subsequently briefed by the Shire's Community Emergency Services Manager and following this briefing Council were happy for the implementation to proceed. Council did not act contrary to Council's resolution. Council were therefore not required to vote again to implement their decision from the Ordinary Council Meeting held on 20 April 2016 (Resolution 130416; Vote 5/0). The Council Resolution from the April 2016 meeting was raised at the Ordinary Council Meeting held on 18 May 2016 (Resolution 160516; Vote 5/1) to defer until Council had a briefing with Fire Control Officers. Following the briefing Council then proceeded with Resolution 130416.*

Mr Waldie also raised the status of the Bindoon Country Club Estate which has sufficient interlacing reserves to neighbouring properties. Mr Waldie asked if this new ruling applies to Council to ensure that there is clearance around those reserves. Mr Waldie stated that this is going to be huge expense and is Council now obliged to clear their side?

*The Presiding Member advised Mr Waldie that his question would be taken on notice.*

Mr Waldie then made mention of a covenant that prohibits property owners from felling trees over 20cm radius; what can I do? Mr Waldie stated that the Shire created bridle trails which were to act as firebreaks. This new ruling is creating a problem and nightmare for residents.

*The Presiding Member advised that there were opportunities for all residents to get variations on fire breaks. There are blocks in that area where those variations can apply. Shire rangers can assess each property on their merits.*

Cr Gibson advised [through the Chair] that he asked a Fire Control Officer if this ruling was retrospective and that he was advised 'no'. This was the question that I asked during the briefing session.

*The Presiding Member advised that applying variations is the best option.*

#### **5.2.3 John Pilbeam, Bindoon**

Mr Pilbeam also made mention of the covenant on trees over 20cm in diameter. Mr Pilbeam asked if Council has made any provision for green waste from these trees. Residents cannot cut down trees and then have nowhere to put them.

*The Presiding Member advised Mr Pilbeam that his question would be taken on notice.*

Mr Pilbeam then advised the meeting that the expense to remove each tree was in the region of \$1,000; as a pensioner how is he going to afford this expense?

*The Presiding Member advised that applying variations is the best option.*

#### **5.2.4 Max Braidwood, Lower Chittering**

Mr Braidwood addressed Council with regard to the Proposed Scheme Amendment 58 Lot 8 Buckthorn Drive, Lower Chittering. Mr Braidwood advised the meeting that he had reviewed the Officer's Report and his planning consultant (Rowe Group) and we are supportive of Officer's recommendation that the system amendment be approved. I would just like to check that you are aware of the notification proposed by the Officer in relation to item 3.3 of the Scheme. The persistence of the Shire staff to progress the scheme amendment promptly is appreciated. The structure plan will be prepared for the site which responds to the characteristics of the site and presented to the Shire in due course.



**5.2.5 John Curtis, Bindoon**

Mr Curtis asked Council how long is it going take to get a vote counted on the STED program.

*Through the Chair, the Chief Executive Officer advised that the Shire was waiting on correspondence from the Water Corporation with regard to the program. The Water Corporation will be writing to residents in the next week (or so). The Chief Executive Officer advised the meeting that the Shire has been advised of the result, but exact figures were not in front of him. There was sufficient support in accordance with the Water Corporation Guidelines to support the implement of the STED scheme. At this stage none of the detail planning with regard to the scheme has been undertaken at this time.*

**5.2.6 Bill Nobes, Bindoon**

Mr Nobes made a statement that he would like the new Chief Executive Officer to call a public meeting/electors meeting so that people can introduce themselves to him, and also so that he can hear complaints from electors. Mr Nobes also made a statement about how important aged care is to him.

*Through the Chair, the Chief Executive Officer announced an electors meeting will be held towards the end of this year. The Chief Executive Officer also advised the meeting that if any electors wish to hold a special electors meeting there is a process to go through in accordance with Section 5.28 of the Local Government Act 1995.*

## **6. PRESENTATIONS / PETITIONS / DEPUTATIONS**

**6.1 Petitions**

Nil

**6.2 Presentations**

Nil

**6.3 Deputations**

**6.3.1 Item 10.1.1 "Proposed extractive industry for clay: Lot 7 (RN 75) Toy Road, Bindoon"**

Katie Winterbourne made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

Derek Gascoine made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

Alexander (Lex) Payne made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

Bruce Wharton made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

Rob Millstead made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

Aaron Lohmann (Rowe Group) made a deputation to item 10.1.1 "Proposed Extractive Industry for Clay: Lot 7 (RN 75) Toy Road, Bindoon".

*Karen Parker left the Chambers at 7.48pm and returned at 7.52pm*

**6.3.2 Item 10.1.2 "Proposed Microbrewery and Restaurant: Lot 27 Reserve Road, Muchea"**

Araluen Hagan made a deputation to item 10.1.2 "Proposed Microbrewery and Restaurant: Lot 27 Reserve Road, Muchea".

**6.3.3 Item 10.1.3 "Retrospective Transport Depot: Lot 6 (RN 290) Brand Highway, Muchea"**

Steve Allering (Allering & Associates) made a deputation on item 10.1.3 "Retrospective Transport Depot: Lot 6 (RN 290) Brand Highway, Muchea".

**7. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil

**8. CONFIRMATION OF MINUTES**

**8.1 Ordinary Council Meeting – 15 June 2016**

**8.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 040716**

**Moved Cr Tilbury / Seconded Cr Gibson**

**That the minutes of the Ordinary meeting of Council held on Wednesday, 15 June 2016 be confirmed as a true and correct record of proceedings.**

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

**9. ANNOUNCEMENT FROM THE PRESIDING MEMBER**

Nil

## 10. REPORTS

### 10.1 DEVELOPMENT SERVICES

#### 10.1.1 Proposed extractive industry for clay: Lot 7 (RN 75) Toy Road, Bindoon\*

Report date	20 July 2016
Applicant	Rowe Group
File ref	A1289; P280/15
Prepared by	Bronwyn Southee, Executive Manager Development Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"><li>1. EPA Referral Response (dated 26 April 2016)</li><li>2. Traffic Impact Statement (dated 24 July 2015)</li><li>3. Schedule of Submissions</li><li>4. Transportation Noise Assessment (dated 24 June 2016)</li><li>5. Correspondence from Solomon Brothers (dated 18 November 2015)</li><li>6. Excavation and Management Plan (dated August 2015)</li><li>7. Application for Planning Approval (dated September 2015)</li><li>8. Correspondence from Department of Water (dated 24 May 2016)</li></ol>

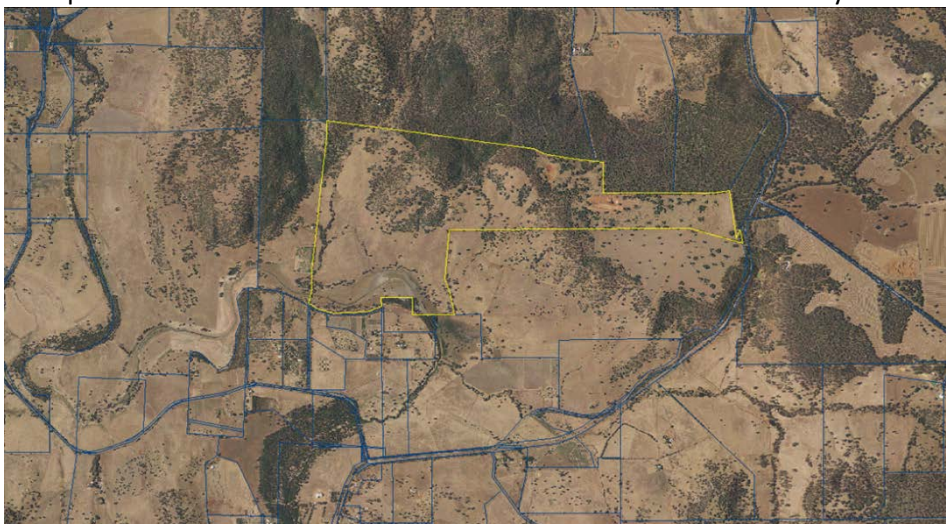
#### Executive Summary

Council is requested to consider a proposal to extract approximately nine hectares of clay and stockpile the material over four hectares on Lot 7 Toy Road, Bindoon.

The application was advertised and resulted in submissions objecting to the proposal. Council is therefore requested to consider and determine the application due to Shire Officer's not having delegated authority to determine a planning application where objections have been received.

#### Background

The property is 338.6 hectares. There are two points of access, one via Great Northern Highway, and the other, which this application is proposing access from, being Toy Road. The site is 'split' by the Bindoon Hill escarpment and contains the Brockman River in the far south near Toy Road.



The excavation area is proposed in the south western portion of the block. The applicant proposes to excavate between 50,000-100,000 tonnes of clay over a nine hectare area with four hectares of stockpiling area and two, one-hectare storage dams. The overall intention is to extract one million tonnes over a 10 to 20 year period. The area of excavation gently slopes southward to the Brockman River floodplain and is mostly cleared of remnant vegetation.

The applicant proposes up to 120 movements per day to occur over a 25 day period each year via Toy Road, with this period generally occurring in the drier months and is likely to be sporadic in nature responding to material demand. Toy Road is sealed and intersects with Bindoon-Moora Road approximately 860m from the entry to Lot 7. Bindoon-Moora Road then intersects with Great Northern Highway a further 958m east.

The depth of the proposed excavation is 10-12m and the total estimated resource is approximately one million tonnes.

### Consultation

The proposal was advertised for a 38 day period, concluding 23 October 2015, in accordance with *Clause 9.4* of the Shire's Town Planning Scheme No 6. This process included the following:

- referral letters to 33 nearby landowners;
- referral letters to relevant agencies including:
  - Main Roads WA
  - Department of Parks and Wildlife
  - Department of Environment Regulation
  - Ellen Brockman Integrated Catchment Group
  - Department of Mines and Petroleum
  - Environmental Protection Authority (not Section 38 referral)
  - Department of Fire and Emergency Services
  - Department of Agriculture and Food
  - Department of Health
  - Department of Water
  - Department of Planning
  - Department of Aboriginal Affairs;
- 2 x advertising signs located at gate entrance and Toy Road/Bindoon-Moora Road intersection;
- advertisement in the Advocate newspaper;
- advertisement in the public notices;
- advertisement on the Shire's website 'Have your say';
- advertisement in the Shire's 'Media Release' (also shared via social media); and
- copy of plans at the Shire's Administration Office.

A Section 38 Referral was sent to the Environmental Planning Authority (EPA) on 17 November 2015 which came back with the following comments:

#### Summary

*Brikmakers Pty Ltd proposes to extract clay from Lot 7 Toy Road, Bindoon, within the Shire of Chittering. Approximately 15 hectares (ha) of predominately pasture land will be disturbed for the construction of two clay excavation pits, a stockpile area, two dams and bunds. Upgrading of a causeway across the Brockman River, which traverses west to east along the southern portion of the property, together with a new crossover to Toy Road is also proposed.*

*Excavation is proposed to occur in two stages and whilst operations are expected to continue for 20 years, the proponent is initially seeking development approval for a 10 year period. The development envelope is shown in Attachment 1.*

*The proposal was advertised for public comment and the Environmental Protection Authority (EPA) notes that eight public comments were received. The submissions raised a number of issues including impacts to the Brockman River, potential for acid sulphate soils, clearing of vegetation and associated impacts to fauna, amenity and inconsistencies in the reports.*

*The EPA has considered the proposal in accordance with the requirements of the Environmental Protection Act 1986 (EP Act) and the Environmental Impact Assessment Administrative Procedures 2012. In making its decision on whether to assess the proposal, the EPA considered the 10 aspects of the significance test as set out in clause 7 of the Environmental Impact Assessment Administrative Procedures 2012:*

- 1. values, sensitivity and quality of the environment which is likely to be impacted;*
- 2. extent (intensity, duration, magnitude and geographic footprint) of the likely impacts;*
- 3. consequence of the likely impacts (or change);*
- 4. resilience of the environment to cope with the impacts or change;*
- 5. cumulative impacts with other projects;*
- 6. level of confidence in the prediction of impacts and the success of proposed mitigation;*
- 7. objects of the Act, policies, guidelines, procedures and standards against which a proposal can be assessed;*
- 8. presence of strategic planning policy framework;*
- 9. presence of other statutory decision-making processes which regulate the mitigation of the potential effects on the environment to meet the EPA's objectives and principles and EIA; and*
- 10. public concern about the likely effects of the proposal, if implemented, on the environment.*

*In considering the potential direct and indirect impacts of the proposal on the Hydrological processes and Inland water environmental quality, Flora and vegetation, Terrestrial fauna and Amenity; the EPA has had particular regard to:*

- advice from the Department of Water (DoW) that:*
- intersection of waterways/drainage and the proposed bridge over the Brockman River will be subject to a bed and banks permit;*
- a minimum 30 metre (m) setback to the fringing vegetation of the waterways and drainage lines should be applied; and*
- the WMP should be amended to the satisfaction of the DoW;*
- the impacts to flora and vegetation, which are not likely to pose a significant impact due to the development envelope occurring in an area that is predominately cleared and previously used for grazing;*
- the sites limited habitat value and small amount of clearing required, together with proponents commitment to assess tree for nesting hollows and retain where possible, prior to clearing;*
- the impacts to amenity in the form of noise, dust and visual which are not likely to pose a significant impact due to:*
  - a site specific study and modelling which determined the proposal would comply with the Environmental Protection (Noise) Regulations 1997 (Noise Regulations) at the nearest noise sensitive receivers;*
  - proponent's commitments and operational procedures to implement the assumptions in the noise study;*
  - proponent's commitments to management activities as proposed in the Dust Management Plan; and*
  - the proponents assessment of visual amenity and management commitment to reduce visual impacts;*
- the presence of other statutory processes, including requirements for permit(s) from DoW (Rights in Water Irrigation Act 1914) and DER (EP Act Part V clearing) and consideration of the Application for Planning Approval, by the Shire of Chittering.*

*In summary, although the proposal raises a number of environmental issues, the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant formal assessment. The EPA is of the view that the potential impacts of the proposal can be adequately managed by the proponent's mitigation and management measures.*

*It is also noted that other statutory processes can be used to regulate and implement mitigation and management measures including the requirement to have approval to:*

- clear native vegetation through a Part V Division 2 Clearing;*



- requirement for bed and bank permit from the Department of Water; and
- consideration of the Planning Application by the Shire of Chittering.

### **1. Environmental Factors**

The EPA has identified the following preliminary environmental factors relevant to this proposal:

- (a) Hydrological processes and inland waters environmental quality;
- (b) Flora and vegetation;
- (c) Terrestrial fauna; and
- (d) Amenity and Human health.

There were no factors, including the interaction between the environmental factors, that were determined to have significant environmental impacts that would require further formal assessment under Part IV of the EP Act. The EPA considers that the mitigation of the potential effects on the environment can be regulated by other statutory decision-making processes and through the implementation of proponent commitments and best practice measures in accordance with this advice.

### **2. Relevant Policy and Guidance**

The EPA has given consideration to the following relevant published EPA policies and guidelines, noting that other published policies and guidelines pertaining to this proposal were considered but not determined to be relevant:

#### **a. Hydrological processes and Inland waters environmental quality**

- Position Statement 4 – Environmental Protection of Wetlands, November 2004, Environmental Protection Authority Western Australia (PS 4).
- Guidance Statement 10 – Level of Assessment for Proposals affecting natural areas within the System 6 region and Swan Coastal Plain portion of the System 1 region, June 2006, Environmental Protection Authority of Western Australia (GS 10).

#### **b. Flora and vegetation**

- Position Statement 2 – Environmental Protection of Native Vegetation in Western Australia, December 2000, Environmental Protection Authority Western Australia (PS 2)
- Position Statement 3 – Terrestrial Biological Surveys as an Element of Biodiversity Protection, March 2002, Environmental Protection Authority Western Australia (PS 3).
- Guidance Statement 10 – Level of Assessment for Proposals affecting natural areas within the System 6 region and Swan Coastal Plain portion of the System 1 region, June 2006, Environmental Protection Authority Western Australia (GS 10)

#### **c. Terrestrial fauna**

- Position Statement 3 – Terrestrial Biological Surveys as an Element of Biodiversity Protection, March 2002, Environmental Protection Authority Western Australia (PS 3).

#### **d. Amenity and Human health**

- Guidance Statement No. 3 – Separation Distances between Industrial and Sensitive Land Uses, June 2005, Environmental Protection Authority Western Australia (GS 3).
- Environmental Assessment Guideline 13 – Consideration of environmental impacts from noise, September 2014, Environmental Protection Authority Western Australia (EAG 13)
- Guidance Statement 33 – Environmental Guidance for Planning and Development, May 2008, Environmental Protection Authority of Western Australia (GS 33).

### **3. Advice and Recommendations regarding Environmental Issues**

#### **a. Hydrological processes and Inland waters environmental quality**

The EPA's objective for these factors are:

- To maintain the hydrological regimes of groundwater and surface water so that existing and potential uses, including ecosystem maintenance, are protected.
- To maintain the quality of groundwater and surface water, sediment and biota so that the environmental values, both ecological and social, are protected.

The project area is located approximately 175m at the closest point to the Brockman River, a Conservation Category Wetland. It is adjacent to one drainage line and will intercept two other drainage lines, that all flow to the Brockman River. The amended the proposal does not divert the drainage lines into dams and

*the EPA expects that the Excavation and Management Plan and Water Management Plan (WMP) will be amended accordingly.*

*A permit will be required for the proposed bridge crossing over the Brockman River.*

*The EPA expects that a standard minimum 20m setback of the dams from the fringing vegetation of the waterways be applied consistent with the State Planning Policy 2.9 Water Resources (WAPC, 2006).*

*The EPA notes that according to the Excavation and Management Plan, which was part of the proposal referred, none of the at risk acid sulphate soil (ASS) conditions exist at the site or near the excavations. Brikmakers regularly samples clays and stored water as part of its normal operations for production quality control and environmental monitoring policy.*

#### Summary

*Having regard to the:-*

- location of the proposed adjacent to the Brockman River CCW;*
- advice from DoW regarding requirements for the permit(s) for diversion of any surface water drainage lines and the crossover of the Brockman River , setbacks to drainage lines and additional requirements needed in the WMP; and*
- the actions and commitments made by the proponent in the referral documentation (subject to amendments),*

*the EPA considers that the proposal can meet the EPA's objectives for Hydrological processes and Inland waters environmental quality and that the likely environmental effects of the proposal are not so significant as to warrant formal assessment, provided:-*

- a minimum 30m setback of the dams from the fringing vegetation of the drainage line is provided; and*
- the proposal is implemented in accordance with the Water Management Plan, subject to modification to the satisfaction of the DoW.*

#### **b. Flora and vegetation**

*The EPA's objective for this factor is to maintain representation, diversity, viability and ecological function at the species, population and community level.*

*The proposal are is mostly cleared and according to the referral documentation, removal of only scattered Eucalyptus rudis and Corymbia calophylla will be required. The Department of Environmental Regulation (DER) have advised that the clearing can be appropriately managed by DER through the clearing permit provisions of the EP Act.*

*According to the proponent's referral documentation, in addition to planting on the temporary visual and noise screening bunds, some additional plantings of native trees will be retained in tree belts with the majority of the site being returned to pasture.*

#### Summary

*Having regard to the:*

- lack of vegetation structure and small amount of clearing required; and*
- proponent's commitment to undertake revegetation at closure with pasture and native vegetation,*

*the EPA considers that the proposal can meet the EPA's objectives for Flora and vegetation and that the likely environmental effects of the proposal are not so significant as to warrant formal assessment provided that the proposal is implemented in accordance with the referral documentation. It is noted that the clearing can be regulated through other statutory processes including under Part V (Clearing) of the EP Act.*

#### **c. Terrestrial fauna**

*The EPA's objective is to maintain representation, diversity, viability and ecological function at the species, population and assemblage level.*

*The EPA considers the site to have limited habitat value and notes that implementation of the proposal is expected to result in the removal of scattered paddock trees.*

*According to the risk assessment within the proponents Excavation and Management Plan, based on an initial observation of the trees to be removed, none were likely to contain hollows suitable for Black Cockatoos. Trees will be assessed again and if nesting hollows are found, management will aim to retain the tree and/or provide nesting boxes.*

#### Summary

Having regard to the:

- the small amount of clearing required; and
- proponent's commitment to undertake a more thorough investigation for trees with hollows and retain any, where possible,

the EPA considers that the proposal can meet the EPA's objectives for Terrestrial Fauna and that the likely environmental effects of the proposal are not so significant as to warrant formal assessment provided that the proposal is implemented in accordance with the referral documentation. Further, it is noted that impacts to threatened fauna can be considered through other statutory processes including under Part V (Clearing) of the EP Act.

#### **d. Amenity and Human Health (noise, dust and visual)**

The EPA's objective for these factors are:

- To ensure that impacts to amenity are reduced as low as reasonably practical.
- To ensure that human health is not adversely affected.

The nearest sensitive receptor is located 450m west; with 5 more located approximately 750m to the south and north, of the proposed excavation area. The EPA notes the buffer is marginally less than the minimum buffer distance indicated for clay extraction or processing in GS 3. The EPA also notes this proposal is for extraction only and does not include a processing component.

#### Noise

The proponent has undertaken a site specific study for noise. The EPA considers the site specific study provided the most appropriate guide to determining the separation distance that should be maintained between the proposal and sensitive land uses. The study determined that the proposal complies with the Environmental Protection (Noise) Regulations 1997 (Noise Regulations) at the nearest noise sensitive receivers, on the basis that:-

- noise suppression kits are fitted to the dozer;
- 6.0m high earth bund constructed on the west and south boundary of the loading area;
- 5.0m earth bund constructed north of the dam for Stage 1 and 7.5m for Stage 2; and
- trucks travel 25km/h while on the access road.

#### Dust

The proponent has prepared a Dust Management Plan which includes a risk assessment and commits to minimising dust through site design including planting screening tree belts and operational management actions.

Whilst the management measures proposed will reduce dust, sensitive receptors are located closer than the minimum, and within the range, of the generic separation distance indicated in the EPA's GS3.

In the absence of a site specific study to support a reduced separation distance but recognising the proposal is for extraction only, the EPA considers that additional measures should be implemented to reduce the risk of nearby sensitive receptors being affected.

#### Visual

The EPA notes the proponent has undertaken a basic visual impact assessment and has made a number of commitments in the Excavation and Management Plan including staging of the excavation area and rehabilitation to reduce visual impacts.

#### Summary

Having regard to the:

- noise assessment which confirms the proposal would comply with Noise Regulations;
- proponent's management and operational commitments in the Dust Management Plan; and
- the use of bunds and vegetation and other management commitments to reduce visual impacts;

the EPA considers that the proposal can meet the EPA's objectives for Amenity and that the likely environmental effects of the proposal are not so significant as to warrant further formal assessment provided that the proposal is implemented in accordance with the referral documentation and that impacts to amenity are considered by the Shire of Chittering as part of its assessment of the Application for Planning Approval.



*If approved by the Shire of Chittering, conditions requiring additional dust management actions should be included to reduce the risk of nearby sensitive receptors being affected.*

Within the advertising period a total of eight agency submissions and 14 public submissions were received. Fourteen (14) submissions objected to the proposal. A Schedule of Submissions is attached to this report (see Attachment 3).

### **Statutory Environment**

Local: Shire of Chittering Town Planning Scheme No 6

Lot 7 Toy Road is zoned '**Agricultural Resource**'. The objectives of this zone are:

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

The property is located within the 'Landscape Protection' Special Control Area (SCA). The intent of this Special Control Area is to preserve productive agricultural land and protect the environmental and landscape values. The requirements of the Special Control Area help to achieve this through appropriate siting and minimising the extent of clearing.

The proposal is defined as an 'extractive industry' and is an 'A' use which means it is not permitted unless the local government has exercised its discretion and undertaken consultation in accordance with *Clause 9.4* of the Scheme.

The Scheme provides support for basic raw materials in appropriate locations. The subject proposal is located off Toy Road at the western portion of the subject site. The application proposes to extract clay from a nine hectare area and stockpile over a four hectare area. Taking into consideration the management plans that were submitted with this application along with the overall lot size being 338.6 hectares, it is considered that this proposed extraction is not inappropriate for this site.

State: Planning and Development (Local Planning Schemes) Regulations 2015 – 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;*
- (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;*
- (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;*
- (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;*
- (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;*
- (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;*
- (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;*
- (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;*
- (r) *the suitability of the land for the development taking into account the possible 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;*
- (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;*
- (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;*
- (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;*
- (w) *the history of the site where the development is to be located;*
- (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;*
- (zb) *any other planning consideration the local government considers appropriate.*

Based on the assessment of the proposal and the comments raised in submissions it is considered the following points are most relevant to this application;

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (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;*
- (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; identified in this Scheme for the reserve;*
- (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;*
- (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;*
- (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;*
- (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;*
- (r) *the suitability of the land for the development taking into account the possible 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, maneuvering and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (w) *the history of the site where the development is to be located;*
- (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;*
- (zb) *any other planning consideration the local government considers appropriate.*

These matters will be discussed in the Officers Comments section of the report.

**Local: Shire of Chittering Extractive Industries Local Law 2014**

The Local Law sets out requirements for an operator to obtain and hold a license to extract basic raw materials. A license application is considered following Planning Approval; however specific requirements/limitations of the Local Law apply to the assessment of a proposal. These include minimum separation distances between excavations and other land uses, notably, excavation is not allowed within "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 nearest sensitive receptor is approximately 450m to the west of the pit and is occupied by the land owner who consents to the application. All other sensitive receptors are at least 750m from the pit and it is considered that as the operations are limited and do not involve crushing the management plans suffice to manage possible implications.

**Policy Implications**

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

The EPA Guidance Statement details the recommended setback of industries from sensitive land uses such as residences. The Guidance Statement provides the following relevant considerations for extractive industries:

Industry	Description of industry	DoE Licence or Registration category (*)	Key Government agencies for advice or approvals	Code of Practice (CoP) / environmental requirements	Impacts					Buffer distance in metres and qualifying notes
					Gaseous	Noise	Dust	Odour	Risk	
<b>Extractive industries – hard rock, Darling Scarp</b>	quarrying (including blasting), crushing and screening	√ (5, 12, 70)	DoIR, WRC	CoP - 1990, revised in 1995		√	√		√	1000

Where the generic buffer distance cannot be achieved, the Guidance Statement provides that “a scientific study based on site and industry specific information must be presented to demonstrate that a lesser distance will not result in unacceptable impacts”. The applicant has provided several documents to address in consideration of this, discussed further below.

State: SPP2.4 Basic Raw Materials

Lot 7 is not identified as a priority resource location under SPP2.4.

State: SPP2.5 Land Use Planning in Rural Areas

Draft SPP 2.5 supports rural zones being highly flexible with the ability to cater for a range of land uses relating to primary production this proposal is considered ancillary to the predominant agricultural use of the property.

Local: Local Planning Policy No 10 Basic Raw Materials and Extractive Industries

The objectives of this policy are:

- To facilitate extraction of the Shire’s basic raw materials using best available practice
- To provide guidance for the preparation of applications for extractive industry proposals and an indication of conditions likely to be applied to approved proposals
- To ensure that the use and development of land for the extraction of basic raw materials does not adversely affect the environment or amenity in the locality of the operation during or after extraction
- To maintain the rural character of the Shire and minimize the loss of prime agricultural land.

The LPP 10 includes the following notable provisions in relation to basic raw materials extraction:

5.4 Preferred Development

a) Council prefers extractive industries that:

- are located south of the Bindoon Townsite
- do not involve prime agricultural land
- cater for basic raw material needs within the Shire of Chittering
- are situated within areas identified in the WAPC’s State Planning Policy No. 10 Basic Raw Materials
- are more than 1000m from the nearest house
- do not require the management of acid sulphate soils
- have direct access to Brand or Great Northern Highway

b) Subject to a) above, Council will not approve extractive industries that:

- are situated in a visually significant location, such as on a ridge or along an unscreened section of regional or tourist road
- involve major disturbance of high value remnant bushland or natural areas, following detailed environmental assessment
- remove material below the winter groundwater table
- are located on any lot where dieback is present
- are situated within 500m of the nearest house
- are located in the Chittering Valley or require access from Chittering, Chittering Valley, Julimar, Blue Plains or Maddern (North) Roads.

In relation to the extractive industry on Lot 7 Toy Road, the proposal meets some of the preferred development points above and has provided acceptable solutions to those that it does not meet. In relation to *point 5.4a(i)*, whilst the policy stipulates preferred extraction within the south of the Shire the policy also identifies the limitation of clay resource within the south and the expectation is that clay extraction will shift focus to the north of Bindoon, therefore this application is consistent with this policy statement.

The application complies with *points (ii), (iii) and (vi) of part a)*. 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. Approval of the current proposal would not undermine state planning principles balancing resource protection and agricultural lands retention. In relation to excavations occurring within 1,000m of nearby dwellings, it is noted that the applicant has provided noise modelling and a dust management plan concluding that impacts on nearby dwellings will be within acceptable levels. The subject site does have limited access of Great Northern Highway for its existing gravel pit; however, due to the topography of the site, the western section cannot be accessed by the Great Northern Highway access point.

### **Financial Implications**

Nil

### **Strategic Implications**

Local: Shire of Chittering Local Planning Strategy 2001-2015

Lot 7 Toy Road is not identified in the basic raw material extraction area within the strategy; however it is consistent with the strategy objectives for this area which stipulate this area is intended for agricultural and associated uses.

### **Site Inspection**

The Shire's Executive Manager Technical Services and the Executive Manager Development Services met the landowner and proposed quarry operator on site to discuss the proposal in detail. The inspection gave rise to a better understanding of the proposal, the circumstances of the site, and the relative location of surrounding properties and buildings. The applicant was made aware that discretion

### **Triple Bottom Line Assessment**

#### Economic implications

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

#### Social implications

There have been a number of submissions that have raised concerns in relation to amenity impact and property devaluation as a result of this proposal. From a localised point of view particularly for the residents of Toy Road, there will be impact from this proposal as whilst the clay pit is operating there will be a number of trucks traversing Toy Road which previously hadn't been. However from a holistic approach there will be a localised clay resource which wasn't previously provided. This creates employment and economy for the residents of the Shire of Chittering.

#### Environmental implications

There was a large concern around the proposed site being utilised for clay extraction due to its proximity to sensitive water catchments, possibility of acid sulphate soils (ASS) risk and clearing requirements. The applicant has addressed these issues in its management plans. In addition to this, the Shire submitted a S38 referral to the EPA on behalf of concerned residents which after assessment through the relevant environmental agencies responded with the following;

*'...although the proposal raises a number of environmental issues, the EPA considers that the likely environmental effects of the proposal are not so significant as to warrant a formal assessment. The EPA is of*

*the view that the potential impacts of the proposal can be adequately managed by the proponent's mitigation and management measures.'*

On this basis, it is considered that the application does not pose any significant environmental impact that cannot be measured through the proposed management plans.

#### **Comment**

The application generally meets the requirements of the relevant legislation and policies, these along with submissions will be discussed in turn.

#### **Town Planning Scheme**

Generally the proposal meets the objectives of 10.2 as detailed below.

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

Town Planning Scheme 6 stipulates that extractive industries can be considered on Agricultural Resource sites on the basis that they are ancillary to the primary agricultural use of the site. The subject site is 338.6 hectares with a current gravel pit operating over a 7 hectare area, this proposal combines a 9 hectare extraction area, 4 hectares of stockpiling and 2 hectares of retention basins, therefore the predominant use of the site which is used for stock and other agricultural uses is still consistent with the objectives of the scheme.

**(b) any approved State planning policy;**

SPP2.4 Basic Raw Materials does not identify this site as a priority resource, however, this does not mean the proposal should not be considered through local policy framework. SPP2.5 Land Use planning in Rural Area supports rural zones being highly flexible with the ability to cater for a range of land uses relating to primary production this proposal is considered ancillary to the predominant agricultural use of the property.

**(d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);**

Due to a number of environmental concerns raised by community members, this application was subject to a section 38 referral to the EPA. The EPA confirmed that there are no significant environmental threats that cannot be managed through the management plans which make part of this application. On this basis, should Council grant approval, it is recommended that a condition be imposed stating all development is to be in accordance with approved development and management plans.

**(g) any local planning policy for the Scheme area;**

As mentioned above, Local Planning Policy 10 was considered when assessing this application. Whilst this application doesn't comply with all aspects of the policy it is considered that management measures have been proposed to address any inconsistency with this policy.

**(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;**

Extractive industries are often located on agricultural properties to allow farmers a secondary form of income to general agricultural practice. In the case of this site, it is considered the extraction area is



setback a reasonable area from surrounding properties to not have a significant visual impact on the surrounding visual amenity or streetscape. It is recommended that should council support this application a condition be imposed requiring all stockpile areas to be screened from view of Toy Road.

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

This application has received a number of submissions regarding the possible environmental impacts from this proposal. These concerns have largely been addressed by the EPA, whom has determined the proposal is satisfactory subject to appropriate conditions. Therefore it is considered that these can be accurately addressed through the attached management plans that form part of the application and appropriate conditions of approval relating to environmental conservation.

- (ii) the character of the locality;**

The general locality within the Toy Road surrounds is a quiet, rural based living area. The proposed clay extraction and associated activities will impact the amenity of the locality in terms of noise and aesthetics during the days of operation. However the proposal will not impact the character of the amenity as the pit will be set back adequately from Toy Road, and will be rehabilitated upon completion. Therefore the associated aesthetic and noise impacts are temporary only. For this reason, the application is not considered to cause sufficient merit to warrant refusal.

- (iii) social impacts of the development;**

There are no social impacts from this proposal.

- (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;**

There were concerns raised regarding the proximity of the proposed extraction area and the crossing required to the Brockman River. The application details that there will be no direct runoff into the Brockman River, rather all will be diverted into proposed retention basins. There is a proposed new crossover over the Brockman River which is designed to ensure least impact on the river.

The application was referred to the relevant agencies which, whilst raising comments, support the management plans proposed.

- (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;**

Vegetation screening and revegetation are proposed as part of this application. There is also existing screening vegetation located along the parameter of the site.

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

The two major risks relating to land suitability are bushfire and land degradation. As the proposal is not proposing any habitable use or structures for habitation the subject site is not considered a vulnerable site and therefore the information regarding bushfire risk suffices for this application. Land degradation, the land is considered safe as it will be managed through the rehabilitation and requirement of keeping the topsoil removed to be used as part of rehabilitation.

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

Dust and vehicle safety are the key considerations relating to this requirement. The application details that the clay will be extracted and stockpiled, and that dust on these piles will be stabilised through planting of vegetation on the topsoil, there is an existing greenbelt of trees which will capture majority of the dust and the setbacks are at least 450m from the closest residence where the dust buffer requirement is 300m. The applicant has submitted a traffic impact assessment which confirmed due to the low usage of the road, Toy Road can be utilised in accordance with this proposal and still remains safe to the public.

**(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;**

The application is proposing a new crossover access point approximately 100m east of the existing crossover on Toy Road to avoid trucks entering and exiting the site on the corner. In addition to this, all loading of vehicles will be undertaken on site; all trucks would enter and exit the site in a forward gear. It is considered this proposal is adequate in accordance with the above.

In addition to the above, the application details the proposed vehicles are 27.5m in length which means they are classified as a 'restricted access vehicle' (RAV) and are required to travel on a RAV 2 network. As Toy Road is currently designated as a local road with no RAV rating, Toy Road is required to be designated as a RAV 2 route. This requires the approval of both the Local Government and Main Roads WA.

**(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;**

Toy Road is typically a low use local road, servicing surrounding agricultural resource properties. The proposal will significantly increase heavy vehicle movements on the 25-30 days of operation. The applicant has provided a traffic impact assessment detailing that the additional heavy vehicle movements won't detrimentally impact the quality of Toy Road or safety of the users. Toy Road is an open speed road which was relayed back to the applicant as they had made the assumption that the speed limit was 60kph, the applicant confirmed with the traffic specialist and provided the following further comment.

In terms of the trucks, these are unlikely to attain a speed of 60kph given the short stretch of Toy Road. Cars might achieve 110kph but this would seem very unlikely given the short stretch of road. Based on the above it is considered that the inputs of the assessment are reasonable.

Should Council approve this application, it should be subject to compliance with the Traffic Impact Assessment and advance warning for affected lots when the operations will be occurring.

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

A gravel extractive industry has been previously approved and is operating on the central eastern portion of this site.

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

The proposal is considered to have minimal impact on the community as a whole as the subject property is located within close proximity of a major road (Great Northern Highway). This means that heavy transport vehicles will not be required to traverse through local streets or residential neighbourhoods other than Tea Tree Road.



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

All submissions have been discussed in the attached Schedule of Submissions and further in Officer's Comments below. In summary, generally the comments received raised concerns regarding detrimental impact on the environment and surrounding amenity. In response, the possible environmental impacts of this proposal have been addressed through the Section 38 EPA referral which stipulated that the attached management plans which make part of this application adequately address environmental concerns. As for the impact on the local amenity, while some definite impacts are evident, they are contained to a short 25-30 day period which is controlled and addressed through a number of management plans and conditions (should council support this application), therefore while there will be an impact, it is not sufficiently significant enough, or unmanageable, to a degree where impact on the local amenity would be ruined and a reason for refusal.

Local Planning Policy No 10 – Basic Raw Materials and Extractive Industries

As discussed above, it is considered that this proposal generally meets the objectives of *LPP10*. Where variations to the policy are proposed, such as the buffer distance requirement of 500m, Council's discretion is required.

In this instance, the landowner is the occupier of the residence within the buffer area, and therefore the impact is minimal. Accordingly this proposal suffices in accordance with *LPP10*.

Local Law relating to Extractive Industries

The Local Law mainly deals with the operational matters of an extractive industry and sets out licensing requirements for operators following planning approval being granted for the extractive industry use. The requirements of the Local Law are considered for a planning application to ensure the proposal, if approved, could meet the requirements for an extractive industry license. This proposal is considered to be able to meet the requirements of the Local Law.

Dust Management

There have been a number of complaints historically of dust impact from the gravel quarry currently operating on site. The dust management plan proposed is considered to be reasonable to manage dust impact, however, it is considered that due to the historical issues with dust on this site as well as the possibility of increased dust impact from this proposal, that should council grant planning approval for this proposal a condition be imposed requiring dust monitoring of the site and results of this be provided to the Shire on an annual basis or as requested.

Traffic/Access

The applicant proposes the use of Toy Road for access and egress. An existing rural crossover is situated approximately 770m from the intersection of Toy Road with Bindoon Moora Road. There is a new crossover proposed approximately 100m across from the existing crossover to service the proposed extractive industry. Should Council grant approval for this application, it is recommended that a condition be imposed requiring the crossover be installed to an industrial standard to ensure that trucks do not impact the road when entering and exiting the site. The section of Toy Road that services this site is sealed. The applicant submitted a Traffic Impact Assessment which stipulates that the proposed increase in heavy vehicle movements will not cause a safety risk to local road users.

The Shire's Technical Services Department raised a number of concerns with the proposed access including the safety of the intersection at Bindoon Moora Road and the types of vehicles truck and trailer combination being used. Toy Road is not on the RAV Network. Therefore the applicant must obtain approval to increase the rating of the road.

Other concerns also include the steep gradient of Toy Road leading into the Bindoon Moora Road intersection. There is concern around the sound impact on surrounding landowners from the heavy laden vehicles traversing up and down Toy Road. Based on this, the applicant was requested to provide further information specifying impacts on neighbouring properties. The findings provided demonstrate the estimated impacts on the nearest sensitive receptors were below the industry accepted standard. However, the report concludes that there may be a significant disruption to local residents from this proposal on the 25-30 days of operation. The applicant therefore is to demonstrate safety and upgrade Toy Road to ameliorate such impacts on the locality.

#### Buffer

As mentioned earlier the applicant proposes a buffer of 450m from the nearest dwelling. The applicant has submitted information demonstrating the impacts of dust and noise to be mitigated through appropriate management and implementation of bunding and landscaping. In closer review of the buffer requirements, the Shire's Local Law strictly requires a minimum 500m buffer which can only be reduced with the written approval of the landowner and Council. As the occupier of the residence located 450m from the proposed extraction is the owner of this site and has signed the application, it is considered that the approval has been granted for the purpose of this application and the buffer variation.

#### Stormwater Management

The applicant is proposing two major retention basins both are one hectare in size. There are two minor watercourses on the site, running south to the west of the proposed clay pit and stockpile area. The watercourse is proposed to be protected from the extraction activities by setbacks and small diversion lines directing runoff into the retention basins to ensure no erosion of waterways.

In addition to this, a water monitoring program is proposed with water samples collected in autumn and spring from courses where excess water may be captured. There will be a fully upgraded and constructed crossover the Brockman River which has been designed to minimise any impact from floods. The Department of Water has advised that the crossing over the Brockman River will need to be upgraded. This makes part of the proposal.

The Ellen Brockman Integrated Catchment Group have raised a number of comments and concerns in relation to possible impacts this proposal may have on this sensitive water body. It is considered the proposed measures listed above will help to mitigate these concerns.

#### Submissions

- Ownership

One of the concerns raised in submissions and in addition to this has been raised a number of times throughout the assessment of this application relates to the ownership rights of the land. Based on the concerns raised, the Shire requested that the applicant supply the Shire with legal confirmation that Mr Dwyer is the sole landowner for the purposes of the Planning and Development Act 2005. This correspondence is attached for reference. In addition to this the Shire also sought separate legal advice which is summarised below;

*I confirm my verbal advice that in our opinion the better view is that Mr Payne's estate in certain mines and minerals on Lot 7 will not result in him being an owner of Lot 7 for the purposes of the Planning and Development Act 2005. That is because to be an owner for the purposes of the Act, Mr Payne must be an owner of 'land'. In our view, the fact that Mr Payne's right to certain mines and minerals may constitute a 'hereditament', does lead to a conclusion that he is an owner of land. That is despite the fact that the definition of land in the Act includes a 'hereditament'.*

*As noted by Justice Pritchard in Payne v Dwyer [2013] WASC 271, a conclusion that a 'hereditament' constitutes land for the purposes of the definition of land in the Act would require each of things mentioned in the definition of land to independently constitute land. If that were correct, then not only would a*

*hereditament constitute land but any house or building on the land would of itself constitute land. As Justice Pritchard noted at paragraph 58 of her decision, such an interpretation is not free from difficulty. For example, a building or other structure erected on land is unlikely to have been intended to constitute land independently of the land itself. Rather, a building or structure erected on land is likely to be considered part of the land as a whole.*

*Accordingly, the better construction in our view is that the definition of land in the Act is inclusive such that land is defined to incorporate the land and all things on or attached to the land as well as any interests, tenements or hereditaments in the land. Those elements combined constitute the 'land' and cannot, in our view, be separated so that each individual element constitutes land in and of itself.*

*In view of the above, I confirm my verbal advice that the better argument, in our opinion, is that Mr Payne's estate in certain mines and minerals on Lot 7 do not make him an owner of Lot 7 for the purposes of the Planning and Development Act as he is unlikely to be considered to be an owner of 'land' as defined by the Act. That being so, it is appropriate for the Shire to rely upon the certificates of title which expressly state that Mr Dwyer is the sole registered proprietor of Lot 7 and, therefore, the owner of the land.*

The application for Planning Approval must be signed by the landowners of the site as stipulated in Schedule 7 of *Town Planning Scheme No 6* which is governed by its parent act - *Planning and Development Act 2005*. The Certificates of Title (CT) for Lot 7 Toy Road, Volume:388, Folio:18A and Volume: 445, Folio:17A, specify the sole registered proprietor of the land as Jonathon James Dwyer. CT Volume:2230, Folio:363 specifies Alexander Leslie Payne and Razor Holdings Pty Ltd as the registered proprietors of an estate in certain mines and mineral on Lot 7.

- Mineral vs Basic Raw Material

Whilst it is understood that Mr Payne has mineral rights ownership of a portion of the land, the proposed land use is for basic raw material extraction as defined in State Planning Policy 2.4 as follows:

Basic raw materials refers to sand (including silica sand), clay, hard rock, limestone (including metallurgical limestone) and gravel and other construction and road building materials. These materials are produced relatively cheaply, with the major cost being the transport to the construction site. A ready supply of basic raw materials close to established and developing parts of the metropolitan region is, therefore, essential in keeping down the costs of land development and contributing to affordable housing.

Classification of minerals specifically relates to the *Mining Act 1978*, and is defined as follows:

*minerals means naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land, but does not include —*

- (a) soil; or
- (b) a substance the recovery of which is governed by the *Petroleum and Geothermal Energy Resources Act 1967* or the *Petroleum (Submerged Lands) Act 1982*; or
- (ba) without limiting paragraph (b), geothermal energy resources as defined in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1); or
- (c) a meteorite as defined in the *Museum Act 1969*; or
- (d) any of the following substances if it occurs on private land —
  - (i) limestone, rock or gravel; or
  - (ii) shale, other than oil shale; or
  - (iii) sand, other than mineral sand, silica sand or garnet sand; or
  - (iv) clay, other than kaolin, bentonite, attapulgite or montmorillonite;

A mineral has a set composition and formula; where as a basic raw material is a combination of minerals within it that doesn't need to be processed for the purpose of extracting that material for purpose. The proposed clay to be extracted is a weathered schist which does not contain the likes of *kaolin, bentonite, attapulgite* or *montmorillonite* as stipulated above. Therefore, there is no mineral extraction for the purposes of the *Mining Act 1978* and does not need to consent to this planning application.

- Impact on Amenity

A critical concern raised is the possible impact on the surrounding amenity particularly relating to the significant increase of heavy vehicles using Toy Road on the identified days of operation. There is no doubt that the heavy vehicles will create noise and disruption, however, the consideration is around whether the proposed operations of 120 vehicle movements over 25-30 days a year for 2-4 months per annum will cause an unreasonable impact on the local amenity. Additional information was supplied by the applicant which stipulated the following (complete report is attached):

*The results of this assessment show that during times when trucks are carting materials from the Site, The associated external noise levels are significantly below the day period Target criterion contained within the State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning and below the maximum noise levels that are commonly used to assess noise impacts from transportation sources. Having regard to the calculated noise levels and those trucks will only be carting materials for 25 days a year, it is considered unlikely that truck movement will generate a significant noise impact.*

This additional information was in turn discussed internally.

The critical consideration in all of this is the identified impacts proposed to be accurately managed. Supporting documentation in the form of management plans and noise assessments do confirm that possible impacts have been considered and addressed. In addition to this, the Officer considers it reasonable should Council grant this application approval, it should be granted temporary approval for the period of five (5) years so the impacts on surrounding land owners can be monitored and the following conditions be imposed:

- 1.1 *To reduce the impacts of heavy vehicle traffic upon Toy Road, a fair warning of three days' notice of heavy vehicles entering and exiting the site will be required. This may take the form of signs that are appropriately located at the entry points of Toy Road, and the site;*
- 1.2 *Geo surveys are to be undertaken on properties located on or adjacent to Toy Road that are affected by heavy vehicle movements to the satisfaction of the Shire;*
- 1.3 *A quality survey of Toy Road is required prior to operations commencing to determine dilapidation of surface & subbase.*

#### Recommendation

In light of the above it is recommended that Council grant temporary approval for the period of 5 years for the Extractive Industry (clay) at Lot 7 Toy Road, Bindoon subject to standard and appropriate conditions.

#### **10.1.1 OFFICER RECOMMENDATION**

That Council grant Planning Approval for the Extractive Industry (clay) at Lot 7 Toy Road, Bindoon subject to the following conditions:

1. The terms of this approval shall be for the period from the date of issue until 30 June 2021, at which time all excavation and distribution activities must cease and the site be rehabilitated in accordance with the approved plans.
2. Prior to the commencement of any works, a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering for rehabilitation in accordance with the amount stipulated in Council's adopted *Schedule of Fees and Charges*.
3. Prior to the commencement of any works, the applicant shall submit to the Chief Executive Officer 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 he/she and/or the excavating contractor and/or transportation contractor hold sufficient public liability insurance for any claim against them.

4. Prior to the commencement of any works, a Dieback Management Plan shall be submitted to the satisfaction of the Chief Executive Officer, and operations shall be carried out in accordance with the provisions of the approved Management Plan.
5. Prior to the commencement of any works on each stage, a Soil and Water Monitoring Program, including methodology, periodic sampling and analysis by an independent laboratory, shall be submitted and approved by the Chief Executive Officer in consultation with the Department of Environment and Regulation, incorporating:
  - a. Monitoring of removed material, irrespective of whether the excavation area is within a location identified as 'high risk' of containing acid sulphate soil material or there is an approved ASSMP; and
  - b. Monitoring of water quality retained within on site excavations.
6. Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process.
7. To reduce the impacts of heavy vehicle traffic upon Toy Road, a fair warning of three days' notice of heavy vehicles entering and exiting the site will be required. This may take the form of signs that are appropriately located at the entry points of Toy Road, and the site.
8. A dilapidation survey is to be undertaken on properties located on or adjacent to Toy Road that are affected by heavy vehicle movements to the satisfaction of the Shire.
9. Prior to the commencement of operations, a full structural assessment and inspection of the Toy Road road-pavement be carried out in accordance with Austroads *Guide to Pavement Technology Part 5: Pavement Evaluation and Treatment Design, 2011*. The report is to identify:
  - a. That the road is capable of carrying the additional heavy vehicle movements.
  - b. Areas of the road that are required to be upgraded to carry the additional heavy vehicle movements.

The assessment and inspection is to be documented and provided to the Shire prior to undertaking the works.
10. Provide a contribution to the Shire of \$0.50c per tonne excavated from the extractive industry application to the Shire for the maintenance of Toy Road.
11. A Road Safety Audit is required based on the intended 120 vehicle movements per day.
12. The proponent shall upgrade the existing intersection of Toy Road and Bindoon Moora Road to conform to Main Roads WA standards and requirements to suit the type of vehicle proposed.
13. The proponent must submit an Application for Low Complexity Works along with design drawings and a Traffic Management Plan to MRWA for approval of the intersection upgrade prior to commencement of any works.
14. All stormwater generated on site shall be retained on site and no discharge of pit-water shall occur.
15. 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.
16. Internal access road shall be constructed and maintained to a standard that minimises dust emission from machinery and traffic, to the satisfaction of the Shire.
17. 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. (EPA)
18. The development shall comply with the provisions of *Shire of Chittering Town Planning Scheme No 6* (as amended), *Extractive Industries Local Law 2014*, *Health Act 1911*, Building Code of Australia and any other relevant Acts, Regulations, Local Laws and Council Policies, except where varied by this approval.
19. 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.
20. The applicant is to apply to the Shire of Chittering, to add Toy Road to the RAV Network to allow for the use of heavy vehicles prior to the commencement of operations and to carry out necessary



- upgrade works in accordance with the provisions of Condition 10.
21. No bulk fuel is to be stored onsite.
  22. The hours of operation shall be limited to:
    - a. Monday to Saturday 0700 to 1800 hours; and
    - b. Sundays and Public Holidays are not permitted.Any variation of these times requires written approval from Chief Executive Officer.
  23. The quarry is restricted to a maximum of 25 days operation per annum.
  24. 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
  25. 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;
      - i. within 20 metres of any land affected by a registered grant of easement;
      - ii. within 40 metres of any designated water course;
      - iii. within 450 metres of any house;
      - iv. below the level of winter groundwater table;
      - v. within 50 metres of any road or road reserve; and
      - vi. outside of the approved excavation areas shown on Figure 3 Proposed Extraction Area in accordance with the submitted and approved plans.
  26. Areas of remnant vegetation are to be fenced off to the satisfaction of the Chief Executive Officer and Chittering Landcare.
  27. Stockpile areas are to be screened from view from Toy Road.
  28. Heavy vehicle movements are restricted to a maximum of 120 movements (in and out) per day in accordance with the Traffic Assessment Report.
  29. The applicant is to construct and maintain the crossover to Toy Road to the satisfaction of the Chief Executive Officer.
  30. A Rehabilitation or Land Management Plan (also referred to as a Close-Out Plan) shall be submitted and approved by the Chief Executive Officer prior to the cessation of excavation works on each pit, incorporating:
    - a. statement of end use;
    - b. final contouring plan, rehabilitation and land management;
    - c. demarcation of surface water catchments; excavation pit hydrology and water balance;
    - d. revegetation and landscaping; and
    - e. on-going monitoring requirements.
  31. Upon decommissioning of each pit, rehabilitation shall take place in accordance with the approved plan using the stockpiled topsoil and replanting of appropriate local native and/or pasture species as recommended by the Chief Executive Officer.
  32. Rehabilitation of each pit shall include surface water 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.
  33. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases.
  34. Any amendments or variations to the rehabilitation or land management plan associated with the excavation shall be approved in writing by the Chief Executive Officer within three months of the commencement of operations.
  35. An annual report shall be submitted to the Chief Executive Officer that includes:
    - a. the progress of excavation;
    - b. depth to groundwater from each pit floor;
    - c. monitoring program results and findings;
    - d. progress of rehabilitation;

- e. contingency actions and outcomes; and
- f. community complaints and responses.

#### Advice Notes

1. The Shire recommends the applicant to liaise with the Department of Environmental Regulation in relation to compliance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
2. The applicant is to at all times be compliant with the requirements of the *Environmental Protection (Noise) Regulations 1997*.
3. The approval or consent of Alexander Leslie Payne and Razor Holdings Pty Ltd may be required if the extraction of materials includes the extraction of minerals the subject of the mines and minerals comprised in Certificate of Title Volume 2230 Folio 363 (formerly Certificate of Title Volume 445 Folio 15A).
4. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
5. In relation to condition 10, the assessment and inspection is to be carried out by a suitably qualified professional. All associated costs are to be borne by the applicant. This does not withstand or override the requirement to upgrade Toy Road to a RAV rating.

#### **10.1.1 NEW MOTION / COUNCIL RESOLUTION 050716**

##### **Moved Cr Osborn / seconded Cr Gibson**

1. That Council set aside the Officer Recommendation.
2. That Council refuse the application for Planning Approval for the Extractive Industry (clay) at Lot 7 (RN 75) Toy Road for the following reasons:
  - a. The applicant has failed to provide sufficient information regarding the suitability of Toy Road as RAV Route as:
    - i. part of the current alignment traverses private property; and
    - ii. there are issues associated with sight distances at the crest of the hill and access to the property which have not been adequately addressed.The applicant has failed to provide sufficient information to enable Council to make an informed decision regarding these matters.
  - b. The application does not sufficiently address the impact of noise. The acoustics modelling has been based on a vehicle travelling at 60kph and the model assumes higher speeds generate higher traffic noise. In this particular instance however, haul vehicles will be travelling at very low speeds in a low gear, possibly with the assistance of engine braking systems and presumably generating significant engine noise. It is unclear whether:
    - i. the consultant was aware of the steep grades on Toy Road and the potential impact on noise from very slow haul vehicles; and
    - ii. whether the model is capable of replicating what might actually occur at the site.The applicant has failed to provide sufficient information to enable Council to make an informed decision regarding these matters.
  - c. The application fails to provide evidence as to the non-existence of Acid Sulphate Soils. The applicant's excavation and management plan indicated that Brikmakers has conducted an extensive drill based exploration program - samples are collected from each metre of depth and all samples are analysed for a number of parameters including total carbon, sulphur and soluble salts. However, the applicant has been unable to provide evidence that this has in fact occurred.

- d. The application does not sufficiently address the general amenity of the rural locality, in particular the existing amenity of those residential properties sharing Toy Road and the rural / small lot farming characteristics of the area which will be significantly compromised by the extraction process.
- e. The application does not comply with clause 10.2 (aa) of *Town Planning Scheme No 6*, whereby significant concern has been raised by the community most affected by this proposal in relation to detrimental affectation existing and future desired amenity.
- f. The application does not comply with the prescribed buffer distance as per *Local Planning Policy No 10 – Basic Raw Materials and Extractive Industries*. Specifically, one of the residences is located within 450m of the proposed excavation area and the land owners' approval has not been obtained.

**Advice note:**

This application has been accepted and determined on the basis of legal and professional opinion provided to the Shire, particularly in relation to matters associated with property ownership rights.

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

**Cr Osborn provided the following reasons**

*The road is not suitable as a RAV route and the applicant has failed to provide sufficient information for Council to make an informed decision. The impact of noise has not been suitably addressed. The applicant has failed to provide evidence as to the non-existence of Acid Sulphate Soil. The applicant also does not address the general amenity of the rural locality, particularly to the existing residential properties that share Toy Road. Also, the applicant does not comply with the Shire's Town Planning Scheme No 6, Clause 10.2(aa) and the Shire's Local Planning Policy No 10 – Basic Raw Materials and Extractive Industries.*



**10.1.2 Proposed Microbrewery and Restaurant: Lot 27 Reserve Road, Muchea\***

<b>Report date</b>	20 July 2016
<b>Applicant</b>	C and A Hagan
<b>File ref</b>	A10265; P051/16
<b>Prepared by</b>	Stephanie Gladman, Planning Officer
<b>Supervised by</b>	Bronwyn Southee, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Locality Plan</li><li>2. Proposed Plans</li><li>3. Reports Accompanying Application</li><li>4. Schedule of Submissions</li><li>5. Images from Site Visit</li></ol>

**Executive Summary**

Council's consideration and determination is requested in relation to a proposed Microbrewery/Restaurant at Lot 27 Reserve Road, Muchea.



The application is being referred to Council as the proposed uses requires consideration in accordance with the Shire's *Town Planning Scheme No 6*, in addition to concerns raised during the advertising period from nearby residents.

**Background**

Lot 27 Reserve Road is zoned 'Agricultural Resource' in the Shire's *Town Planning Scheme No 6* (TPS6). Located on the north eastern corner of Reserve Road and Rocky Creek Rise, the lot currently consists of a single house located towards the middle of the property and is generally surrounded by a large portion of remnant vegetation within its 10 hectare site area. Surrounding properties are zoned 'Rural Residential' to the south, and 'Agricultural Resource' to the north and west. The properties to the immediate south have historically been used as for those wanting a larger rural residential property. The rural residential properties utilise Rocky Creek Rise to gain access to Reserve Road in order to access Great Northern Highway.

Access to the site is direct from Reserve Road, which at present is sealed from the intersection of Great Northern Highway to Rocky Creek Rise. North of Rocky Creek Rise, Reserve Road is at present unsealed and of a gravel surface. The location of the proposed microbrewery/restaurant point of access and egress is located within an unsealed section of Reserve Road; however the crossover and car park will be required to be sealed.

The applicants endeavour to incorporate an array of environmentally sensitive design features, with an ethos on sustainability. The built form is modern in its design with large glass windows and balcony for patrons to take in the tranquillity and views of this rural area. Materials proposed include rendered straw bales and CM4 Concrete blocks incorporating an industrial type look with a more traditional material to soften the overall appearance of the structure, to ensure a welcoming venue.

The proposed microbrewery and restaurant will be contained wholly within the one building, with a total floor area of 724m<sup>2</sup> including kitchen, restaurant/bar area and brewery. The proposed brewery and restaurant will initially employ up to five staff, with a customer capacity of up to 250 patrons at any one time once fully operational (in addition to employees).

A hardstand parking area containing 34 parking bays in addition to one disabled bay and bus parking bays is provided onsite adjacent the brewery area alongside the northern side boundary of the property.

Deliveries of products pertaining to the brewery are according to the applicant, at up to once per week. Brewing is likely to occur daily and is generally not open to the public without prior invitation. The proposed /restaurant portion is envisaged to cater for customers between Thursday – Saturday 10am to 6pm. On Sundays the restaurant is to operate between 8am – 6pm and also on Public Holidays. No alcohol will be served prior to 10am. A range of foods will be available for patrons including breakfast on Sunday through to a range of sit-down foods.

### Consultation

Consultation and advertising of the application was undertaken in accordance with *Section 9.4 of TPS6*. This included a sign placed on the property, letters sent to neighbours and a notice placed on the Shire's online 'Have your say' page and also on the Social Media account. Letters were also sent to the following referral agencies (amongst others):

- Department of Racing, Gaming and Liquor;
- Department of Parks and Wildlife; and
- Department Fire and Emergency Services.

In the event the planning application is approved, the applicant will be required to submit an application for a liquor license to the Department of Racing, Gaming and Liquor. The Department's comment at this stage of the application process is not binding to Council's determination.

During the advertising period, a total of 14 submissions were received. Some raised concerns regarding bushfire, access and anti-social behaviour.

### Statutory Environment

Local: Shire of Chittering Town Planning Scheme No 6

Lot 27 is zoned 'Agricultural Resource' under *TPS No 6*. 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 proposed development application, in its current form meets one of the objectives of the zoning in terms of encouraging tourism facilities, where appropriate.

Under the provisions of *TPS No. 6*, a Winery/Brewery means:

*premises used for the production and/or sale to the public of fermented viticultural or horticultural produce.*

While the proposed development and subsequent usage intends to ferment and brew a horticultural product, none of the produce will be grown or produced in raw form at this location. Notwithstanding, the brewery is considered to satisfy this definition as it is a premises used for the production and sale of a fermented horticultural product. A winery/brewery is defined as a 'D' use in the Agricultural Resource zone which means that the use is not permitted unless the local government has exercised its discretion by granting Planning Approval.

A Restaurant in accordance with *TPS No. 6* means:

*premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988.*

A restaurant is considered an 'A' use in the Agricultural Resource zone which means that:

*the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval after giving special notice in accordance with clause 9.4.*

Lot 27 is also located within the Military Considerations Special Control Area, which requires due regard to be taken in terms of whether the proposal constitutes a hazard or interference to aircraft flying in the area.

A license is required under the *Health (Public Buildings) Regulations 1992* to operate as a public building.

### **Policy Implications**

Local: *Local Planning Policy No. 18 – Setbacks*  
*Local Planning Policy No. 13 – Carparking*

The proposed microbrewery/restaurant development is setback 30m from the front and side boundaries and far exceeds the 30m setback from the rear boundary. These setbacks are therefore in accordance with the setback requirements for properties zoned 'Agricultural Resource'.

Provisions of the Shire's *Local Planning Policy No. 13 – Carparking* does not explicitly state a required number of car parks pertaining to a brewery, however a reception centre/restaurant is. A reception centre/restaurant is required to have one bay per employee plus per every four seats. The applicants in their proposal have outlined 64 seats in the restaurant area with a total of five employees. This equates to a required 21 parking bays.

### **Financial Implications**

Nil

### **Strategic Implications**

The development of the proposed microbrewery/restaurant may provide a number of benefits to residents of the Shire and the Shire itself from a strategic perspective. The area north of Lot 27 is identified for future intensification of development (Residential R2) with the proposed microbrewery/restaurant potentially acting as a central hub for social activities. The local brewery aspect may also boost tourism based travel and if marketed strongly could potentially link in with Swan Valley based tourism.

### Site Inspection

A site inspection of Lot 27 was undertaken on 7 July 2016. The location for the proposed microbrewery and restaurant is accessed via the unsealed section of Reserve Road with the existing crossover unconstructed. The area where the proposed microbrewery/restaurant is to be located takes in the undulating view to the south of the Shire with Perth's skyline able to be seen in the distance.

The property is largely uncleared, although vegetation generally consists of scrubby bush with a few dead mature trees present with the soils consisting of a sandy nature.

Many of the surrounding properties are uncleared and set back a relatively large distance from the road.

### Triple Bottom Line Assessment

#### Economic implications

The economic implications of this proposal are considered beneficial specifically from a tourism perspective, particularly if the visitors explored the Shire of Chittering further than just the Microbrewery and Restaurant. If this was to occur, the economic benefits are more wide reaching for the Shire and region also. It may also provide an impetus to revive other 'tourist trails' previously established within the Shire (and now largely defunct due to the entities either no longer operating or are at a significantly reduced capacity) and also encourage other entrepreneurs within the Shire with food/beverage based activities such as those which occur in the states south west.

Furthermore, the land around Reserve Road supports a variety of land use approvals in recent times including a residential subdivision and an extractive industry approval. The multitude of land uses in this area strongly correlates with *State Planning Policy 2.5 – Land Use Planning in Rural Areas* (SPP 2.5) where the objectives of the zone are encouraged to be highly flexible with the ability to cater for a range of land uses relating to primary production, as well as diversification, including small scale tourism. The proposal accords with the regional and economic development aspects of SPP 2.5.

If the development were to be approved, it may provide a centralised hub to build social capital and networks for those moving into the area due to the residential subdivision being developed. The proximity of the proposal to this residential subdivision may have the ability to provide opportunities for job creation in addition to a central social venue for new residents, something which has not been developed within the Shire previously in proximity to large residential subdivisions.

#### Social implications

Whilst there are some concerns regarding anti-social behaviour regarding the microbrewery component of the application, there are a number of examples throughout the states where these types of development have successfully integrated into the rural landscape, particularly in the south of the state and also the Swan Valley.

Notwithstanding, matters relating to anti-social behaviour is a matter to be considered by the Department of Racing, Gaming and Liquor. Council is unable to consider a use on this basis. This fact is supported by a number of SAT determinations (mostly relating to large liquor stores) which give clear guidance to the matters which are to be considered by the Local Government.

The development of this site for a microbrewery/restaurant may provide a social hub for residents in the new estate to gather and engage, in addition to residents in the Shire. At present, there are few developments such as this within the Shire which caters for this market. Furthermore, it may also provide an opportunity to link with the tourist trails associated and activities in the Swan Valley.

### Environmental implications

The proposed microbrewery/restaurant is to be located on a fully vegetated block. The applicants propose to clear around 9000m<sup>2</sup> of the vegetation surrounding the location for the development to minimise fuel loading and risk implications pertaining to bushfire, although the site will ostensibly remain vegetated.

The Department of Parks and Wildlife have ascertained that there may be impact on rare and declared flora in the area proposed for clearing for the Development Application. As such, a Flora Study should be undertaken to the satisfaction of the Department of Parks and Wildlife.

### **Comment**

#### Consultation

Consultation was undertaken in accordance with *Section 9.4*, with a total of 14 submissions received. A total of eight referral agencies responded, with them outlining their support subject to conditions. A total of six submissions were received from the public, with one objection and five supporting the application.

The submission objecting to the application, raised concerns pertaining to anti-social behaviour and bushfire risk. These concerns have been addressed in the Schedule of Submissions and also through conditions, if the application were to be approved.

#### Statutory

Whilst the property is zoned, 'Agricultural Resource' the likelihood of farming this parcel of land is minimal due to its size and the amount of remnant vegetation covering the property. Notwithstanding, one of the key objectives of the zone is to support tourist based facilities where appropriate.

The proposal is located in an area which is close to an area within the Shire to be extensively developed for future residential proposes.

#### Policy

The application is compliant with the provisions of the Shire's *Local Planning Policy No. 18 - Setbacks*. In terms of the Shire's *Local Planning Policy No. 13 – Carparking*, the policy does not stipulate the required number of carparks pertaining to a brewery, however a reception centre/restaurant is.

A reception centre/restaurant is required to have one bay per employee plus per every four seats. The applicants in their proposal have outlined 64 seats in the restaurant area with a total of five employees. This equates to a required 21 parking bays. The applicant has a proposed 34 bays in addition to one disabled bay and two bus parking bays.

#### Conclusion

The proposed 'Microbrewery and Restaurant' to be located at Lot 27 Reserve Road has the potential to provide an opportunity to provide some economic stimulus within the Shire in addition to localised employment. The micro brewing industry has significantly expanded, with some media outlets describing the trend as earning greater return than regular mainstream breweries, while often featuring in tourism based magazines, programmes and guides.

Whilst the property is zoned 'Agricultural Resource' and the intention of this zone is to be for agricultural uses, essentially the likelihood of the property being able to be farmed for agricultural pursuits due to the vegetated nature of the site is minimal. The diversification of uses in agricultural resource zones is reiterated by the Western Australian Planning Commission's (WAPC) *State Planning Policy 2.5 – Land Use Planning in Rural Areas* (SPP 2.5) which supports rural zones being highly flexible with the ability to cater for



a range of land uses relating to primary production, as well as diversification, including small scale tourism. The proposal does therefore provide an opportunity for diversification of the agricultural resource zone. Furthermore, the proposal accords with the regional and economic development aspects of SPP 2.5. There are a variety of examples of the diversification of uses in the agricultural rezoned (or similar) in the Swan Valley (City of Swan) and in the Augusta–Margaret River Shire with similar combination of land uses as proposed in the application subject of this report.

The concerns raised in the advertising period have been comprehensively addressed by the applicant whom have demonstrated mechanisms to mitigate fire risk and the risk to life as such which the requirement, if approved, to be implemented into perpetuity.

From a policy perspective, the subject site has been identified as a vulnerable site in accordance with SPP3.7. This means that:

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

Whilst it is acknowledged that the area is bushfire prone the applicant will undertake clearing to minimise the potential impact of this occurring as a result of people gathering at this venue. The applicant proposes areas of sealed surfacing which mitigates the likelihood of bushfire risk in addition to reticulated areas. They have also undertaken a Bushfire Attack Level assessment and as such will be required to have their building built to a standard that complies with the assessment, while in addition to providing a comprehensive emergency management plan. A large area surrounding the structure in addition to areas for parking will also be required to be cleared, which further mitigate the risk associated.

Furthermore, improvements to the surface on Reserve Road may be addressed through the conditions (if approved). Additionally, the intersection of Reserve Road and Great Northern Highway has been identified for upgraded by Main Roads Western Australia in the near future.

In light of the above it is recommended that Council support this application, subject to conditions as detailed below.

#### **10.1.2 OFFICER RECOMMENDATION**

Moved Cr Osborn / Seconded Cr Tilbury

That Council grants planning approval for the proposed Microbrewery and Restaurant at Lot 27 Reserve Road, Muchea, along with the attached plans dated 13 July 2016 and 11 May 2016 subject to the following conditions:

1. All development is to be undertaken in accordance with the approved plans.
2. All stormwater runoff is to be managed and retained onsite.
3. Car-parking to be sealed and line marked to the satisfaction of the Shire;
4. Roofing is to be a pre-painted product such as Colorbond;
5. Bushfire management for this development application is to be undertaken and maintained in accordance with the recommendations of the Bushfire Management Plan and maintained into perpetuity.
6. All signage is to be lodged as a separate development applications in accordance with the Shire's Local Law relating to signage.
7. A rubbish storage area is to be provided and screened from public view to the satisfaction of the

Shire prior to initial occupation.

8. Restaurant Use:
  - a. Maximum of 250 patrons to be on site at any one time;
  - b. Hours of Operation are restricted to:
    - i. Thursday to Saturday (inclusive): 10am – 6pm; and
    - ii. Sunday's and Public Holidays: 8am – 6pm.
9. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the Shire:
  - a. The building and associated parking areas are to be made to comply with the disability act/regulations in relation to the accessibility as shown on the building applications plans;
  - b. A landscaping plan is to be submitted to the satisfaction of the Shire, consisting of the following:
    - i. Maintenance of the existing bushland surrounding the proposed development; and
    - ii. Areas surrounding the building and carpark, with particular attention to the area fronting Reserve Road.
  - c. A flora and fauna study is to be undertaken in accordance with the Department of Parks and Wildlife's advice.
10. Prior to the issue of an occupancy permit, the following measures are to be undertaken:
  - a. Parking area to be sealed and line marked in accordance with the approved plans;
  - b. Crossover/s to Lot 27 Reserve Road are to be upgraded to an industrial standard prior to operation;
  - c. Reserve Road upgrade from northern property boundary to intersection of Rocky Creek Rise to a sealed standard to the satisfaction of the Chief Executive Officer;
  - d. Landscaping to be installed and completed in accordance with the approved plan submitted in accordance with Condition No. 9b.; and
  - e. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development.

#### Advice Notes

1. The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*.
2. This development constitutes a "Food Business" as per Section 107 of the *Food Act 2008* and therefore shall comply with the provisions of the Food Act 2008, the *Food Regulations 2009* and the Food Safety Standards.
3. This development constitutes a "Public Building" as per Section 173 of the *Health Act 1911* and therefore shall comply with the provisions of the Health Act 1911 and the *Health (Public Building) Regulations 1992*.
4. The proposal will need to comply with all aspects of the Building Code of Australia including fire rating, fire separation, provision of hydrants, hose reels, access ramps and disabled facilities, emergency lighting and signage.
5. The Shire recommends using native plants in the landscaped areas surrounding the development.
6. This approval does not constitute approval to sell liquor. A license must be applied for and granted by the Department of Racing Gaming and Liquor.
7. This approval is not an approval for a building permit.
8. Potable water quality must be of the standard as specified under the *Australian Drinking Water Guidelines 2011*.
9. The wastewater treatment system and disposal area is to be sized for a maximum accommodation number of 250 people. Therefore, the Public Building Maximum Accommodation Certificate will be

restricted to 250 people unless other limitations apply.

10. The proponent needs to confirm acceptability of the proposed disposal of winery wastes and processed water with reference to the *Effluent Management Guidelines for Australian Wineries and Distilleries 1998* published by the National Water Quality Management Strategy. Works Approval from the Department of Environment Regulation is required if total wastewater produced is 20,000lt/day or more.
11. All food related aspects to comply with the provisions of the *Food Act 2008* and related codes, regulations and guidelines.
12. All public access areas (function rooms etc.) are to comply with the provisions of the *Health Act 1911*, related regulations and guidelines and in particular Part VI – Public Buildings.
13. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

#### AMENDMENT

Moved Cr Gibson / Seconded Cr King

That Council:

1. remove Condition 3 and Condition 10c from the Officer Recommendation.
2. amend Condition 8b to read:
  - "b. Hours of Operation are restricted to:
    - i. Thursday to Saturday (inclusive): 10am – 10pm; and
    - ii. Sunday's and Public Holidays: 8am – 10pm."
3. amend Condition 10a to read:
  - "a. Parking area to be in accordance with the approved plans;"

THE AMENDMENTS WERE PUT AND DECLARED CARRIED 6/0  
AND FORMED PART OF THE SUBSTANTIVE MOTION

#### 10.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060716

Moved Cr Osborn / Seconded Cr Tilbury

That Council grants planning approval for the proposed Microbrewery and Restaurant at Lot 27 Reserve Road, Muchea, along with the attached plans dated 13 July 2016 and 11 May 2016 subject to the following conditions:

1. All development is to be undertaken in accordance with the approved plans.
2. All stormwater runoff is to be managed and retained onsite.
3. Roofing is to be a pre-painted product such as Colorbond;
4. Bushfire management for this development application is to be undertaken and maintained in accordance with the recommendations of the Bushfire Management Plan and maintained into perpetuity.
5. All signage is to be lodged as a separate development applications in accordance with the Shire's Local Law relating to signage.
6. A rubbish storage area is to be provided and screened from public view to the satisfaction of the Shire prior to initial occupation.
7. Restaurant Use:
  - a. Maximum of 250 patrons to be on site at any one time;



- b. Hours of Operation are restricted to:
  - i. Thursday to Saturday (inclusive): 10am – 10pm; and
  - ii. Sunday's and Public Holidays: 8am – 10pm.
8. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the Shire:
  - a. The building and associated parking areas are to be made to comply with the disability act/regulations in relation to the accessibility as shown on the building applications plans;
  - b. A landscaping plan is to be submitted to the satisfaction of the Shire, consisting of the following:
    - i. Maintenance of the existing bushland surrounding the proposed development; and
    - ii. Areas surrounding the building and carpark, with particular attention to the area fronting Reserve Road.
  - c. A flora and fauna study is to be undertaken in accordance with the Department of Parks and Wildlife's advice.
9. Prior to the issue of an occupancy permit, the following measures are to be undertaken:
  - a. Parking area to be in accordance with the approved plans;
  - b. Crossover/s to Lot 27 Reserve Road are to be upgraded to an industrial standard prior to operation;
  - c. Landscaping to be installed and completed in accordance with the approved plan submitted in accordance with Condition No. 9b.; and
  - d. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting development.

#### Advice Notes

1. The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*.
2. This development constitutes a "Food Business" as per Section 107 of the *Food Act 2008* and therefore shall comply with the provisions of the Food Act 2008, the *Food Regulations 2009* and the Food Safety Standards.
3. This development constitutes a "Public Building" as per Section 173 of the *Health Act 1911* and therefore shall comply with the provisions of the Health Act 1911 and the *Health (Public Building) Regulations 1992*.
4. The proposal will need to comply with all aspects of the Building Code of Australia including fire rating, fire separation, provision of hydrants, hose reels, access ramps and disabled facilities, emergency lighting and signage.
5. The Shire recommends using native plants in the landscaped areas surrounding the development.
6. This approval does not constitute approval to sell liquor. A license must be applied for and granted by the Department of Racing Gaming and Liquor.
7. This approval is not an approval for a building permit.
8. Potable water quality must be of the standard as specified under the *Australian Drinking Water Guidelines 2011*.
9. The wastewater treatment system and disposal area is to be sized for a maximum accommodation number of 250 people. Therefore, the Public Building Maximum Accommodation Certificate will be restricted to 250 people unless other limitations apply.
10. The proponent needs to confirm acceptability of the proposed disposal of winery wastes and processed water with reference to the *Effluent Management Guidelines for Australian Wineries and Distilleries 1998* published by the National Water Quality Management Strategy. Works

Approval from the Department of Environment Regulation is required if total wastewater produced is 20,000lt/day or more.

11. All food related aspects to comply with the provisions of the *Food Act 2008* and related codes, regulations and guidelines.
12. All public access areas (function rooms etc.) are to comply with the provisions of the *Health Act 1911*, related regulations and guidelines and in particular Part VI – Public Buildings.
13. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

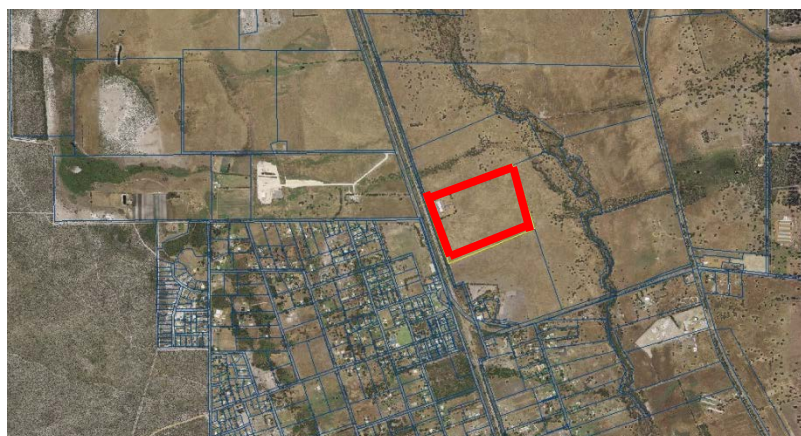
THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0

### 10.1.3 Retrospective Transport Depot: Lot 6 (RN 290) Brand Highway, Muchea\*

<b>Report date</b>	20 July 2016
<b>Applicant</b>	Allerding and Associates
<b>File ref</b>	A3028; P037/16
<b>Prepared by</b>	Stephanie Gladman, Planning Officer
<b>Supervised by</b>	Bronwyn Southee, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Locality Plan</li> <li>2. Application report with plans</li> <li>3. Stormwater Management Plan</li> <li>4. Hay Pressing Approval – 2000</li> <li>5. Transport Depot Approval – 2012</li> <li>6. Rezoning Enquiry – 1996</li> <li>7. Schedule of Submissions</li> <li>8. Images from site visit</li> <li>9. Extract from Shire of Chittering Local Planning Strategy 2001 – 2015</li> <li>10. Additional information Transport Depot Use and Hydrocarbon Management</li> </ol>

#### Executive Summary

Council's consideration and determination is requested for a retrospective planning approval application for a 'Transport Depot' on the north east corner of Lot 6 (RN 290) Brand Highway, Muchea. The applicant has also requested approval for an extended 1ha of gravelled hardstand adjacent the retrospective area for use as a 'Transport Depot'.



#### Background

Lot 6 (RN 290) is located 800m north of the Muchea townsite and consists of 39.1ha of land (refer Attachment 1). The property is zoned 'Agricultural Resource' in the Shire's *Town Planning Scheme No. 6*. It is also located within the 'Water Prone' Special Control Area and is in relatively close proximity to the Ellen Brook and its floodplain.

Access to the site is gained via Brand Highway and requires crossing of the Brookfield Group Rail Line.

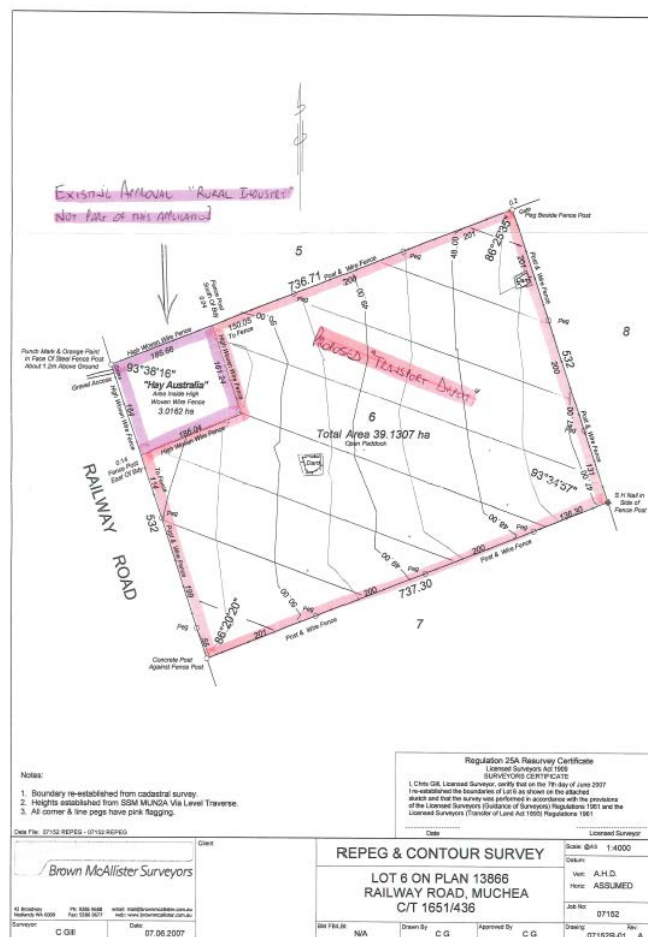
The owners of the property currently undertake operations on the site specifically relating to the parking of cranes used in the construction and mining industries.

The existing area is currently utilised for the retrospective transport depot land use and is around 3ha. This area consists of a gravel hardstand area which includes built development such as office, storage building, dome shelter and various designated parking areas for the cranes and associated machinery. In addition to the retrospective land use approval for the 3ha transport depot, the applicant proposing an additional 1ha of gravel hardstand area directly south of the existing area (refer Attachments 2 and 3).

In brief, the portion of the property currently being used for the unauthorised transport depot had received approval for the operation of a 'Hay Pressing' plant (issued June 2000) (refer Attachment 4 Council resolution for 'Hay Pressing') and was used for this purpose until a fire destroyed the business in 2012.

Whilst the land use for the 'Hay Pressing' remained over a small portion of the land (see image below), the owners of the land in 2012 applied to the Shire for 'Change of Use' over a large portion of the property for 'Transport Depot', which was approved by Council at its July 2012 Ordinary Council Meeting (OCM) subject to conditions. This development was not acted upon and subsequently expired (2014) (refer Attachment 4 Council resolution for Transport Depot).

Although a development application was lodged and Planning Approval granted for a Transport Depot at the site on the larger portion of the site, the land which was leased to Hay Australia as indicated below was excluded from the 'Transport Depot' application and subsequent approval which is where the retrospective transport depot presently occupies.



Also in 2012, the outbuilding used for the 'Hay Pressing' was destroyed by fire.

In November 2012, the Shire issued a Building Permit for the demolition of a shed. A number of works are understood to have taken place thereafter in addition to the unauthorised change of use to a 'Transport Depot' in the area which had previously been approved for the 'Hay Pressing' use.

These works and use came to the attention of Shire Officers' who contacted the site manager from Lampson (the new tenants) in May 2015, whilst the original owner was still in proprietorship this property.

In October 2015, the property was sold to Lampson. Further emails and discussion took place between Shire Officers' and Lampson regarding the unauthorised development and land use on the site. Following this, Lampson engaged Allering and Associates (the applicant) to prepare a retrospective planning application specifically relating to the land use approval for a 'Transport Depot'.

Interestingly, as far back as 1996 when the property was being used for granite production (and at that time considered a 'non-conforming use'), the owners approached the Shire to undertake a rezoning to a more appropriate zoning associated with the granite processing land use, which was then being undertaken. This approach to rezone was not supported in principal by Council as they determined that *'the creation of an industrial area adjacent to Muchea townsite site is not acceptable. There was concern over the presentation of an industrial area along Brand Highway detracting from the overall ambience of the locality'* (refer Attachment 6).

Council's consideration is therefore requested in relation to the retrospective approval for the use of transport depot over a 3ha portion of the land (previously not approved for this land use) in addition to a new application to extend the transport depot land use an additional 1ha directly adjacent to the retrospective area.

The applicant has provided a comparative analysis of the previous application (approved in 2012 for a transport depot use comprising 26ha) with the current retrospective application for 3ha (refer to Attachment No. 10). It should be noted that the 3ha in which the retrospective application is under consideration for, was not part of the 26ha originally approved and actually had approval for a hay pressing land use. The table below highlights the basis of the comparison found in the attachment.

Table 1: Development Comparison Table		
	2012 Approval	Current Proposal
Hardstand Area	26ha (approx)	3ha (existing)
Overall Hardstand Area	29ha (approx) – inclusive of 3ha site already occupied in north-west of site.	3ha (existing)
Retained Pasture/Landscaped Area	10ha of a total of 39ha.	36ha of a total of 39ha.
Hardstand Material	Concrete/Paved	Concrete/Gravel
No. of Buildings Proposed	3 (truck/maintenance workshop, warehouse, and administration office)	1 (removable dome shade) – all other buildings are existing.
Site Access	Via existing driveway from Brand Highway in north-west of site with the construction of additional sealed access roads around the existing operation in north-west of site.	Via existing driveway from Brand Highway in north-west of site.
Proximity to Ellen Brook Reserve	350m	900m

It should also be noted that the former landowner/applicant never went ahead with the approval, therefore the approval is no longer valid on this site.

### Consultation

As a 'Transport Depot' is an 'A' use under the Shire's *Town Planning Scheme No. 6*, the application was required to be advertised in accordance with Section 9.4 of the Scheme between 17 March 2016 and 1 April 2016. This process included:

- Sign placed on property advising of development application;
- Letters sent to nearby landowners;
- Letters sent relevant agencies;
- Advertising in the local paper; and
- Advertising on the Shire's website.

The Shire received a total of four submissions during the advertising period. The Schedule of Submissions has been included with this report (refer Attachment 7).

### Statutory Environment

Local: *Shire of Chittering Town Planning Scheme No. 6 (TPS6)*

The subject property is zoned 'Agricultural Resource'. The objectives of this zone are:

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

The property is also contained within the 'Water Prone' Special Control Area (SCA) in the Shire's Town Planning Scheme. As outlined under the 'Relevant Considerations' (Section 6.3.4) of the Special Control Area, in considering applications for Planning Approval, the Local Government shall have regard to:

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

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

*'premises used or intended for use for the parking or garaging*

- two or more motorised commercial vehicles with or without any number of non-motorised commercial vehicles; or*
- two or more non-motorised commercial vehicles with or without any number of motorised commercial vehicles;*

*and the use includes the maintenance and repair of vehicles so parked or garaged on the land but not of other vehicles'.*

A Transport Depot is classified as an 'A' use under *TPS6*, which means that the use is not permitted unless Council has exercised its discretion by granting Planning Approval after advertising. .

*Clause 10.2* of the Scheme sets out matters in which Local Government shall consider in determining planning applications.



## Policy Implications

### Guidance Statement No 3 – Separation Distances between Industrial and Sensitive Land Uses (Environmental Protection Authority)

The requirements of this guidance statement stipulates the need for transport depots to be located a minimum 200m from 'sensitive' land uses such as dwellings etc. Lot 6 is surrounded by grazing land and is in excess of 200m from the nearest sensitive land use, with the Brand Highway and Brookfield Group Train Line, providing a significant buffer between the retrospective transport depot and the proposed 1ha transport depot and the residential dwellings located within the Muchea townsite area.

### State Planning Policy 3.7 Planning in Bushfire Prone Areas

Lot 6 is identified in the Department of Fire and Emergency mapping identifying land considered to be 'Bushfire Prone' as indicated below.



The applicant has undertaken a BAL assessment, which has ascertained that a portion of this site is potentially of high risk, however whilst this contains a structure it is used for the storage of equipment and machinery therefore there is minimal risk to life and safety. Saying this, should the application be granted approval, the building would require a building approval for unauthorised works which, due to its commercial nature, has fire-fighting and protection measures required to be installed as part of the building for public safety.

### State Planning Policy No. 2.5 Land Use Planning in Rural Areas (2012)

In assessing this application, the provisions of this policy have been taken into consideration. The policy ascertains that 'decisions will be guided by the need to provide economic opportunities for rural communities and to protect the State's primary production and natural resource assets'. Whilst this is acknowledged, the policy also states that 'differing needs of the various regions are recognised and regional variations may be considered where they meet the stated objectives of this policy, are evidence-based and are supported in strategies and schemes'.

Notwithstanding, the whilst the proposal may provide an economic opportunity, the variation and inconsistency with identification of a small parcel of this land for hay pressing type land uses as opposed to more industrial based uses such as a transport depot is detailed in the Strategy (Attachment No. 9) must be seriously entertained.

Local Planning Policy No. 18 – Setbacks (LPP18)

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

- Front – 100m (Highway)
- Side – 30m
- Rear – 30m

The applicant has outlined that the existing office building and covered car parking structure is setback from Brand Highway by approximately 90m. The existing tool shed to the north of the large shed is setback from the northern side boundary by 20m, while the main part of the large shed is setback approximately 30m from the northern boundary.

The applicant has requested in relation to the retrospective approval for the transport depot to consider the small variations in the setbacks of the existing built structures associated with the land use.

The location of the office building does not detrimentally impact on Brand Highway by way of its design or impacts associated with noise and vibration resulting from heavy transport traffic. The office building therefore does not form a reason for refusal.

**Financial Implications**

Nil

**Strategic Implications**Shire of Chittering Local Planning Strategy 2001-2015

Lot 6 Brand Highway is located in the 'Ellen Brook Palusplain' identified in the Strategy. The aims of this area applicable to the proposal are:

*6.4.2 Aims*

- *To retain the productive land for broad acre farming but accommodate conversion to intensive horticulture where the landform, soils and water supplies permit;*
- *To retain the productive land for broad acre farming but support limited horticulture where the soils and water supplies permit;*
- *To encourage the change in agricultural practices to reduce phosphates and nitrate fertiliser applications;*
- *To include the recommendations of the Ellen Brook Integrated Catchment Plan as to land uses and nutrient control by encouraging improved land management practices;*
- *To prohibit any non-agricultural development which may contribute to pollution of the surface water or sub-surface water regimes*
- *To apply the recommendations for the Ellen Brook Catchment Management Plan to achieve the objectives and liaise with relevant agencies for any applications for development or change of land use.*

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

*8.8 Agricultural Resource Area**8.8.1 Description/Location*

*The majority of the agricultural land falls into this category with the more productive areas being in the eastern and northern parts of the shire. Land to the west, mainly on the Dandaragan Plateau and Ellen Brook palusplain are less productive where there are the deeper leachable sands. On the lower plains, waterlogging constricts the full capacity of the land for pasture.*

*The heavier soils are associated with the better class of grazing, cropping and horticulture activities.*

*Lack of water prevents the better land for more intensive and profitable agriculture. When irrigable water becomes available, the land has a high capacity to convert to intensive agriculture.*

The aims applicable to the proposal are:

8.8.2 *Aims*

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

In terms of identification for industrial type land uses (i.e. such as a transport depot to this scale would be considered), the property is not identified within the Strategy for this type of use (refer Attachment 9). The strategy does identify this location as a 'hay processing plant' in the industrial nodes section of the report, however the transport depot land use is considerably different to that of a hay processing plant in terms of environmental, traffic and agricultural impacts.

The further development of this site as a transport depot land use is considered to be an industrial type land use. Such as land use may be considered as 'ad hoc' to the areas specifically identified in the Strategy for agricultural uses. Industrial type uses more associated with a transport depot is therefore in conflict with the strategic objectives of the Agricultural Resource zone.

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

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

**Muchea Employment Node**

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

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

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

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

**Site Inspection**

A site inspection was undertaken by Shire Officers who met with Site Manager to explain the application and background of the site (refer Attachment 8).

Upon entering the site, via Brand Highway the existing land uses and structures contained onsite are well screened by established vegetation between the road and the train line. Generally, visibility of the current land use being undertaken by the owners is only from when the cranes are fully erect and with the tops of the cranes able to be seen from the road (both Brand and Great Northern Highway). The inspection of the site indicated that the property is well managed and tidy with various designated areas for vehicles, employees etc.

The undeveloped portion of the site (not being currently used by the applicant) is relatively flat and cleared of remnant vegetation.

### **Triple Bottom Line Assessment**

#### Economic implications

In relation to the economic implications associated with this application, in terms of directly impacting Council it is minimal. Road access is gained from a road managed by Main Roads Western Australia.

The land use does however provide localised employment, the benefits of which trickle down into the local community.

On the other hand sites that are used without approval are directly competing and taking business from approved uses within the Shire.

#### Social implications

The proposed development from a social perspective may provide benefits in terms of providing localised employment. The land is also screened by vegetation and located a significant distance away from the residential area of Muchea, which minimises any potential conflicts pertaining to vehicle movements, noise, amenity which in the past has resulted in issues between transport depot operators/businesses and the community etc.

There have in the past been times when previous land uses (such as the hay pressing) had created issues with complaints from residents regarding noise etc made to the Shire despite its relatively isolated position from residential and sensitive land uses.

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

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

#### Environmental implications

The retrospective operation of the transport depot without the appropriate measures in place may have resulted in some impact upon the natural environment. The addressing of this matter is critical due to the property being contained within an identified water prone area in TPS6 and within the Ellen Brook Palusplain in the Strategy.

Leakage of fuels and hydrocarbons from maintenance works has the potential to leach into the nearby Ellen Brockman River if there are no approved mechanisms such as hydrocarbon traps if not adequately planned and developed for.

The property has been cleared historically for the likely purpose of grazing.

Comment was sought from Chittering Landcare (refer Attachment 7 Schedule of Submissions), whom subsequently identified concerns relating to potential hydrocarbon spillages and the existing and ongoing management of hydrocarbons onsite due to the proximity to the Ellen Brook floodplain associated with the use as a transport depot.

Further detail pertaining to the area's geotechnical qualities is identified as missing from the information provided to understand the permeability and lateral movement of water from the bio-retention basins proposed. Furthermore with no formal design information provided on the retention areas which is critical to ascertain their ability to cope with rainwater events and prevent hydrocarbons further entering the Ellen Brook catchment.

Additionally a comparison between known groundwater monitoring bores in the area is not indicated, nor is there detail pertaining to the applicant establishing a monitoring bore to ascertain the levels of hydrocarbons, depth of water tables and nutrients to ensure that no ongoing negative impacts will result in impacting the Ellen Brook flood plain if the application were to be approved.

Poor environmental management practices have the ability to greatly impact the health of the flood plain both in the immediate vicinity and further downstream.

The applicant has provided additional details pertaining to hydrocarbon management in relation to the development application. This has ascertained additional management practices and solutions to address the concerns raised by the officers, which if approved could be implemented.

### **Comment**

#### **Consultation**

As mentioned the proposal was advertised to surrounding landowners and referral agencies in accordance with *Section 9.4* of the Scheme. A total of four submissions were received. One submission was received from a member of the public, with the remaining three from local and government referral agencies.

Main Roads WA supported the proposal subject to a number of conditions placed on the application (if it were to be approved) such as the total vehicle movements not exceeding 10 per day and the crossover on Lot 3 being upgraded. Main Roads WA commented that no additional access will be approved.

As access to the site is required to cross the Brookfield Railway, the application was referred to them. In their response, they had no objection to the application subject to a number of conditions being applied, if approved.

#### **Statutory Provisions**

The application has been dealt with in accordance with the requirements of the Scheme for an 'A' use. The proposal was advertised as per *Clause 9.4* of the Scheme to provide the opportunity for relevant agencies and residents to make comments on the proposal. Following advertising the application is now presented to Council for determination.



Section 10.2, 'Matters to be considered by local government' ascertains a range of matters which the local government is to take into consideration when assessing and ultimately making a decision on Development Applications. From a statutory prospective, the application contravenes Section 10.2 of the Scheme, particularly in relation to items j, m, o and p, as detailed below.

***(j) the compatibility of a use or development within its setting taking into consideration any Special Control Area.***

Whilst the applicant has taken some consideration that the land is contained within the Water Prone SCA with the provision of the Stormwater Management Plan, the level of detail regarding management of hydrocarbons has not been adequately addressed. The applicant is required to demonstrate beyond reasonable doubt that the SCA will not be significantly affected by the proposal. However this has not been produced. Nor has input in regards to the ongoing monitoring of groundwater quality been taken into consideration. Furthermore, the permeability of the unsealed hardstand may result in the incursion of hydrocarbons entering freely into the Ellen Brook flood plain. This applies to the unauthorised use to date and future management of this site.

***(m) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;***

As above.

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

Whilst the property is well setback from Brand Highway, due to the Brookfield railway and some 800m from the Muchea townsite, the impact on the amenity of the area through the industrialisation of the lot is a considerable point of consideration.

As far back as 1996, Shire records indicate that Council had concerns regarding the impact on amenity that a rezoning could potentially have on the nearby townsite particularly in relation to the amenity of the area as identified in Attachment 6.

Council has previously refused applications for transport depots due to its impact on the amenity of rural areas. Furthermore the Shire is regularly engaged with the community regarding compliance issues from transport depots pertaining to noise, dust and the impact upon the amenity of the rural areas when numerous heavy vehicles are parked and are considered by some as 'industrialising' a rural area, with the placement more suited to appropriately zoned land.

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

Whilst the majority of surrounding land uses are of an agricultural nature or buffered through Public Open Space (i.e. Sandown Park) from the residential area of Muchea townsite, the industrial nature of the retrospective and proposed transport depot and the types of vehicles which are stored there do not correlate between land uses nor with the objectives of the zone.

The nature of the transport depot, the bulk and scale of the vehicles utilising the space is more in-line with that found in an industrial type zoned land, which the Muchea Employment Node is identified for.

The isolated nature of the proposed transport depot surrounded by grazing land, could be considered as ribbon development and ultimately ad hoc to meeting with the objectives of the scheme and zone which is largely undeveloped.



### Strategic

- Local

The Strategy establishes the fragility of the Ellen Brook Palusplain and the need to protect it from further nutrient export and other impacts from development. It is clear the aims and objectives of the Ellen Brook Palusplain area and Agricultural Resource zoned areas are to maintain productive land, preclude non-agricultural development which would impact on the productive land or waterways and preserve the landscape qualities of the land. The aims are to (amongst others):

- (i) *To protect and improve the natural environment, including the landscape quality of the land*
- (ii) *To prevent the loss of productive land to non agricultural purposes*

The proposed retrospective approval for the transport depot in addition to the proposed extension could be considered being inconsistent the aims of this section of the Strategy.

Whilst the document does identify the land for industrial purposes, specifically 'hay production' (a use in line with Agricultural Resource zoning), non-industrial type land uses such as general or light industry which is identified in the Muchea Employment Node area and likely to more compatible zoning for a transport depot land use.

The application for the retrospective approval of the transport depot in addition to the proposed extension could be considered as more in-line with 'industrial type' purposes of a light or general industry zoning category due to the type of vehicles associated with the transport depot being associated with more industrial type land uses and not those associated with utilisation in Agricultural Resource zoned pursuits and as such is not identified in the Shire's Local Planning Strategy for 'Light Industry', which is a document critical in implementing the developmental objectives of the Shire.

Whilst the property is in close proximity to land identified for industrial type uses in the 'future' there is a significant buffer between the property itself and the strategically identified parcels of land. The further intensification of industrial type development on this lot could then be considered inconsistent with the Local Planning Strategy and result in ad hoc development, where the Shire has in the Strategy, outlined areas where they wish to have industrial type land uses developed.

- State

From a State strategic perspective, the industrial type land is identified in the State document referred to as the Muchea Employment Node. Whilst Lot 6 is located adjacent, it is not within the Node itself with a buffer of land between them. The location of Lot 6 in the future will also be impacted by the Northlink project, which further isolates the industrial type use from those identified within the Node and also the Strategy. In addition to this, the *Muchea Employment Node Structure Plan (MENSP)* has been designed to include all industrial development within its 1,100ha area, by allowing uses to sprawl outside of the *MENSP* area the Shire might be establishing an inappropriate precedent for approving land uses outside of the designated appropriate areas.

Overall the retrospective application in addition to the proposed extension of the 'transport depot' could be considered as inconsistent with these documents.

### Policy

Whilst the retrospective application for the transport depot and also proposed extension to the transport depot area are in excess of 200m from the nearest 'sensitive' land use, the use could be considered as ad hoc with the appropriateness in its ability to meet the objectives of the Agricultural Resource zone.

### Access

Access is provided to the site via Brand Highway, managed by Main Roads Western Australia. The crossover to the property is of a gravel material and requires vehicles (both heavy and light) to cross the Brookfield Group's Railway line. The applicant has taken into consideration the number of vehicle movements in its Traffic Management Plan, which estimates traffic movements from staff vehicle as 10 per day. Main Roads in their advice outlined a number of conditions which would be required to be adhered to if the application were to be approved.

Brookfield Group, whom operate the railway in which the applicant is required to cross to access the site, made comment upon the need for the applicant to comply with specific conditions (if approved). These included the need for the applicant to:

- Enter into a Commercial Level Crossing Licence and an Interface Agreement. This is in accordance with the *Rail Safety National Law 2015* and the fact that the crossing will require ongoing maintenance which Lampson are required to fund.
- Ensure that no vehicles in excess of 28m in length are to cross the crossing as there is insufficient standing room on the west side of the crossing to accommodate larger vehicles. The planning submission and traffic management plan specify vehicles no larger than 28m in length; however the business must comply with this; and
- The applicant operate at all times in accordance with traffic management plan submitted states that all road traffic will stop at the stop sign, there is no higher control we could fit to an installation such as this as the traffic number simply do not justify the upgrade to active protection.

### **Conclusion**

This retrospective application for the transport depot in addition to the proposed extension of this area poses to Council a range of matters for its consideration, which the applicant have been working extensively to address with the Shire.

Whilst the transport depot is located away from sensitive land uses, which minimises the potential for conflict between the applicants business undertaking and residents, the 'use' of the portion of the land for a transport depot is in conflict with the objectives of the 'Agricultural Resource' zone, with the type of vehicles being 'stored' on the site (cranes) are more associated with more industrial type activities and land uses such as those pertaining to mining.

This parcel of land has historically been constrained as far back as 1996, when the previous landowners approached Council to rezone the land to something more appropriately aligned with industrial, however this was not supported by Council due to concerns with the impact on amenity amongst other reasons (see Attachment 6.)

More recent land use approvals such as Hay Production is one more associated to an activity carried out and more compatible with the objectives of the existing zone of the land. Whereas the transport depot land use, particularly with the cranes does not.

The previous land use, in Hay Production is unlikely to have had the same effect as a transport depot due to the seasonality of production and the lack of heavy vehicles required to sit for extended periods of time whilst not in use, unlike that of the applicant's proposal. Where, with the downturn in mining and largescale building construction jobs, the machinery may remain idle for a significant period of time with the potential for leakage of fuels etc due to the reduced capacity for usage.

In light of the above, the application is recommended to be refused. Furthermore, it is recommended that Council order to the removal of the unauthorised vehicles and plant off the site within 21 days of this determination.

#### 10.1.3 OFFICER RECOMMENDATION

1. That Council refuse the application for the retrospective Transport Depot (3ha) and proposed Transport Depot on Lot 6 (RN 290) Brand Highway, Muchea and the associated plans dated for the following reasons:
  - a. The retrospective land use and proposed transport depot and type of vehicles utilising the site do not meet the objectives of the property's 'Agricultural Resource' zone under the provisions of the *Shire of Chittering Town Planning Scheme No 6*.
  - b. The proposal does not meet the objectives of the Agricultural Resource zone in the following ways:
    - i. heavy vehicles more associated with industrial and metropolitan development are parked on unsealed hardstand areas potentially resulting in the degradation of land and also impact on the Ellen Brockman floodplain area; and
    - ii. over industrialisation of agricultural land.
  - c. Approval of such would set an undesirable precedent to retrospectively support the unauthorised transport depots in inappropriate locations such as Agricultural Resource land rather than industrial zoned sites.
  - d. It is considered the previous approval for a transport depot on this site does not justify approval of a new application for this site.
  - e. The retrospective approval and the proposed addition to the transport depot is more suited for the Muchea Employment Node which has been strategically identified and planned for industrial land uses such as transport depots.
  - f. The proposal is inconsistent with the Shire's Local Planning Strategy, particularly in relation to Section 7 'Geographical Plains' 'ELLEN BROOK PALLUS PLAIN' which aims detail -
    - i. *"To prohibit any non-agricultural development which may contribute to pollution of the surface water or sub-surface water regimes."*
2. Direct the Landowner to remove all unauthorised vehicles and plant off the site within 21 days of this determination notice.

#### Advice Note

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

#### 10.1.3 NEW MOTION / COUNCIL RESOLUTION 070716

Moved Cr Tilbury / Seconded Cr Gibson

That the Officer Recommendation be laid on the table to allow for Council to inspect the site.

THE MOTION WAS PUT AND DECLARED CARRIED 5/1

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

Report date	20 July 2016
Applicant	Whelans Town Planning
File ref	18/02/31; A3114
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> <li>Scheme Amendment document includes, but not limited to: <ul style="list-style-type: none"> <li>Scheme Amendment Report dated February 2016</li> <li>Scheme Amendment Map</li> <li>Servicing Report</li> <li>Stormwater Management Strategy</li> <li>Traffic Assessment</li> </ul> </li> <li>Schedule of Submissions</li> </ol>

#### Executive Summary

Council is requested to consider a proposed Scheme Amendment to rezone Lot M1606 (RN 3599) Great Northern Highway, Muchea (“subject land”), from ‘Agricultural Resource’ to ‘Light Industrial’. The purpose of the amendment is to allow dry and low water uses consistent with the vision for the locality. This amendment is therefore assessed as a ‘standard’ amendment for the purposes of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The adoption of a Scheme Amendment to rezone is required to be undertaken by Council as the Shire Officers do not have delegated authority.

Locality Plan: Lot M1606 Great Northern Highway, Muchea



#### Background

The subject proposed Scheme Amendment was adopted by Council for advertising purposes at its Ordinary Meeting of 16 March 2016. Lot M1606 Great Northern Highway, Muchea measures 8,000sqm in total area and is zoned ‘Agricultural Resource’ under the Shire’s *Town Planning Scheme No 6 (TPS6)*. The site is currently used for Single House and ‘Transport Depot’ – the latter being a non-conforming use under *TPS6* – and is located within the ‘Military Considerations’ and ‘Water Prone’ Special Control Areas.

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

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

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

The following permissible uses associated with Light Industry are considered compatible and consistent with the above requirements of the MENSP:

**Table 1: Potential uses under 'Light Industrial' zoning**

Animal Establishment	Farm Supply Centre	Motor Vehicle, Boat and Caravan – Sales	Salvage Yard
Builders Storage Yard	Fuel Depot	Open Air Display	Service Station
Carpark	Industry – Light	Public Utility	Shop
Civic Use	Industry – Rural	Reception Centre	Showroom
Community Purpose	Industry – Service	Recreation – Private	Storage
Exhibition Centre	Motor Vehicle Repair	Restricted Business	Telecommunications Infrastructure
Factory Unit Building	Motor Vehicle Wrecking	Road House	

Main Roads WA have confirmed that a majority of the permissible uses may be incompatible in the short term due to significant restrictions relating to accessibility. Put simply, access and egress is severely limited at both the Great Northern Highway and Brand Highway frontages, which can interrupt the safe and fluent usage of the highways. Notwithstanding, this portion of Brand Highway is proposed to be declassified and made a no-through-road in 2019. The purpose of the change to Brand Highway is to allow for the construction of the Perth-Darwin Highway. The result is that the zoning change and subsequent land uses will therefore not be compromised by accessibility in the long term.



### Statutory Environment

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

The 'Scheme Amendment' for the rezoning of the site is considered to be standard under the planning Regulations.

The potential uses, stated within Table 1 above are considered to be low water consumption uses, in line with the *Muchea Employment Node – Structure Plan* (MENSP) and lot accessibility restrictions.

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

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

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

Approval for this amendment does not immediately or automatically guarantee redevelopment of the site. Redevelopment is likely to occur in the midterm, and provides opportunities for Council to explore improved outcomes in terms of access, infrastructure and built form. The property's specific location is a visual focal point providing high commercial exposure.

### Policy Implications

Local: Local Planning Policy No.2 - Muchea Village acknowledges the existing site improvements as industrial in nature, and accepts the future land uses are preferred as industrial. Therefore the proposed Scheme Amendment is consistent with the local planning policy framework.

### Financial Implications

Nil

### Strategic Implications

The Shire of Chittering's Local Planning Strategy 2001-2015 (LPS) Clause 9.2 Muchea, states the vision for the development of the area. The LPS has strict limitations on the future subdivision of the area particularly the Town Site where development shall be restricted to low density development until such time as essential services such as adequate water and sewerage connections are provided. Clause 9.10 Muchea states that rezoning of the Muchea area should aim at creating light industrial areas to provide services and places of employment to the local community.

The rezoning will be comply with both Clauses 9.2 and 9.10 as it will not allow for further subdivision of the lot and will add light industrial development to the Shire which currently has a short-fall in industrial land.

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

### Site Inspection

Site inspection undertaken: Yes

Existing access and egress is located to a single crossover to Great Northern Highway. The access is able to be used by all vehicles; however larger vehicles such as road trains are significantly burdened by the location of the crossover. Main Roads WA has stated they will not support any future development using the existing crossover.



### **Triple Bottom Line Assessment**

#### Economic implications

The proposed rezoning to 'Light Industrial' has the potential to broaden the employment opportunities of the community within an area identified for industrial development consistent with the local and state strategic vision for this area. The proposal can potentially increase activity at an important intersection and within a property which is currently limited in use due to its lack of size and zoning.

#### Social implications

It is considered that this proposal will have positive social implications within the Muchea area which has been identified for Light Industrial Uses. This proposed land use would supply industrial zoned land needed for industrial uses and employment which the Shire of Chittering currently lacks.

#### Environmental implications

There are no known significant environmental implications associated with this proposal. The site is already developed and almost totally clear of vegetation. The site does not have any future subdivision potential. The proponent has submitted an addendum report, dealing with environmental consequences.

Special consideration shall be given when managing the future wastewater treatment of the site, options such as septic tanks and leach drains are not considered viable options.

If the ultimate land use is to involve fuel, oil and grease or storage of chemicals, etc., additional requirements shall be put in place to manage these contaminants in addition to consultation with other agencies at the development application stage.

### **Comment**

#### Local Planning Scheme

The site is capable of being developed in accordance with the Scheme objectives and provisions for the Light Industry zone. Additional measures to the gazetted *Schedule 15* within *TPS6* are proposed and include access and egress requirements, along with a landscaping requirement and permissible uses.

As the Schedule was not included within the original advertised submission, the additional measures are required to form part of the resolution, should Council adopt this amendment.

#### Access

As referred to above, this site currently has significant access and egress difficulties due to its location of having access to either Great Northern highway or Brand Highway. Currently access availability and design is at the sole discretion of Main Roads WA, and as such have advised that, as of current day situation, uses dependent on large vehicles such as double, triple and quad road trains will unlikely be supported by the Authority. Accordingly, until such time as modifications are made to Brand Highway, which include declassification and removal of through-access, available permissible uses are limited.

### **Conclusion**

The application for a Scheme Amendment in this instance is acceptable primarily for the reason that the subject property is best suited for light industrial uses. The historic land use of transport depot aligns to light industrial, whereas agricultural based uses are limited due to the lot size, orientation and accessibility. Being located within the Muchea Employment Node, and abutting two national highways, the proposal in fact aligns with Council's strategic direction of creating an employment hub, per *Local Planning Policy No.2*.

The proponent in their revised planning report has satisfactorily addressed any outstanding issues relating to the rezoning and pertaining to any future redevelopment.

Accordingly, the application for the Scheme Amendment to rezone the site to 'Light Industrial' is recommended for support by Council for the following reasons:

- (i) The rezoning will help address a shortfall of 'Light Industrial' land within the Shire of Chittering;
- (ii) The zoning is in line with the Shire's Strategy regarding the long term plans for the area of Muchea;
- (iii) No objections were received from the community; and
- (iv) Rezoning provides an opportunity to improve the land, resulting in attractive built form outcomes and environmental improvements.

#### 10.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 080716

Moved Cr Rossouw / Seconded Cr Gibson

That Council:

1. Pursuant to *Section 75 of the Planning and Development Act 2005* Council recommends that Amendment No 60 to *Town Planning Scheme No 6* be approved subject to the following modifications:
2. Insertion of a new entry into Schedule 15 Muchea Employment Node Special Control Area that reads:

No.	Description of land	Conditions
2	Referred to as Muchea Industrial Precinct 3 West Lot M1606 Great Northern Highway	<p>In addition to those standards applied to No.1 of Schedule 15, the following additional standards apply to No.2:</p> <p><b>4.5 Access and Egress</b> Notwithstanding the provisions of Schedule 2 – Zoning Table, access and egress where required from a major regional road must comply with Main Roads standards and requirements.</p> <p>Where lots are unable to comply with such standards, at the time of development, land uses shall be generally limited to the following:</p> <p>The following land uses are treated as 'P' use:</p> <ul style="list-style-type: none"> <li>• Storage</li> <li>• Warehouse</li> <li>• Landscape Supplies</li> <li>• Lunch Bar</li> <li>• Motor Vehicle Repair</li> <li>• Motor Vehicle, Boat and Caravan Sales</li> <li>• Open Air Display</li> </ul> <p>Properties with more than one road frontage shall have 'Showroom' as an additional 'P' use.</p> <p>All other 'P' uses listed in Table 2 in the 'Light Industrial' zone are treated as 'D' uses under the scheme.</p> <p>Uses listed as 'D' and 'A' in Table 2 in the 'Light Industrial' zone are unchanged.</p>

			<p><b>4.6 Landscaping</b></p> <p>In connection with any application for approval to commence development in any industrial zone, the Council shall require that such landscaping be provided as the Council sees fit in the interest of amenity and orderly and proper planning. Any landscaping required shall be provided in accordance with the provisions set out hereunder:</p> <ul style="list-style-type: none"> <li>a) The required landscaping shall cover a minimum of 10% of the total site area in a form approved by the Council. Such landscaping should include a landscaped area of not less than 3 metres wide adjoining all street boundaries;</li> <li>b) Any landscaped area shall be separated from an adjacent vehicular area by a wall or kerb at least 150mm higher than the adjacent vehicular area or in some other manner be protected from vehicular damage; and</li> <li>c) Landscaped areas required by this policy shall be planted in accordance with an approved plan, and within 30 days of practical completion of the development, or any relevant part thereof, as determined by the Council or at such later time as may be agreed in writing by the Council.</li> </ul>
3.	<p>Authorises affixing the Common Seal to <i>Town Planning Scheme No.6 Amendment No 58</i> documents, and that the Amendment be referred to the Western Australian Planning Commission and Minister for Planning and Disability Services for consideration of final approval.</p> <p style="text-align: right;"><b>THE MOTION WAS PUT AND DECLARED CARRIED 6/0</b></p>		

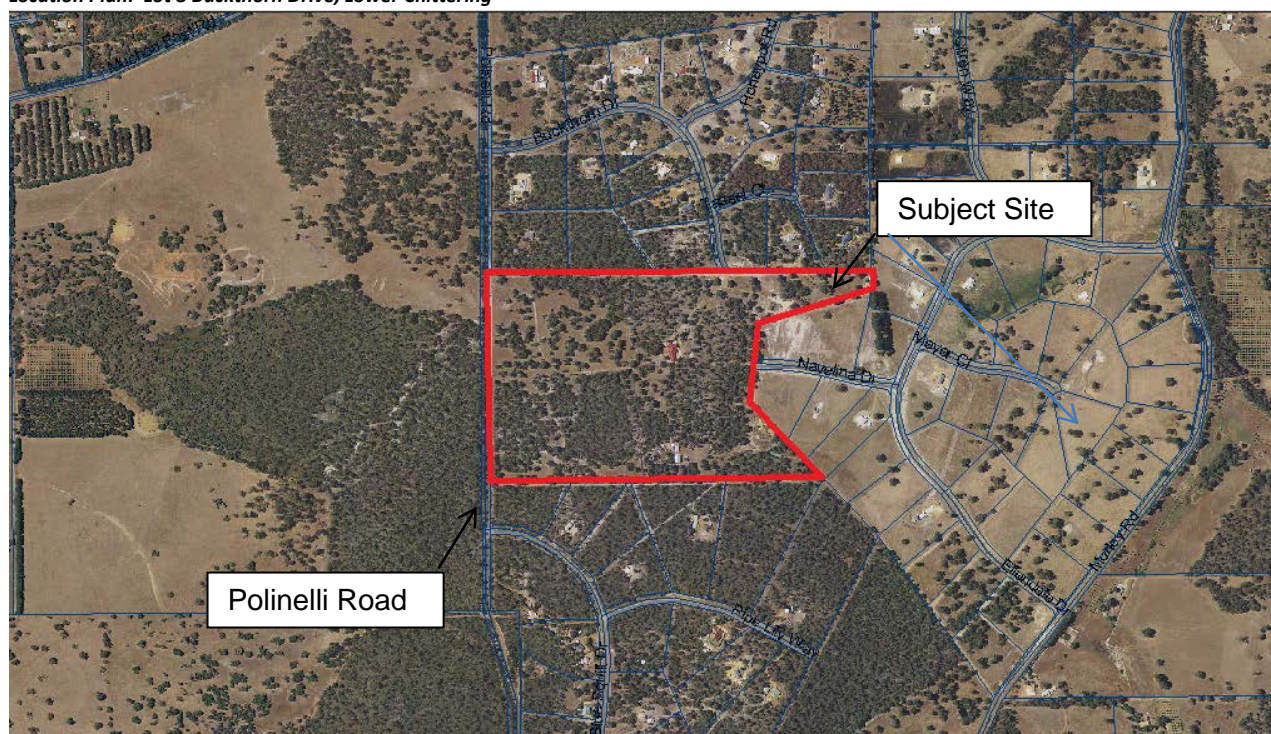
**10.1.5 Proposed Scheme Amendment No. 58: Rezone from 'Agricultural Resource' to 'Rural Residential' - Lot 8 Buckthorn Drive, Lower Chittering\***

<b>Report date</b>	20 July 2016
<b>Applicant</b>	Rowe Group
<b>File ref</b>	A3038; 18/02/29
<b>Prepared by</b>	Peter Stuart, Senior Planning Officer
<b>Supervised by</b>	Bronwyn Southee, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Scheme Amendment document includes, but not limited to: <ul style="list-style-type: none"> <li>• Scheme Amendment Report</li> <li>• Scheme Amendment Map</li> <li>• Indicative Subdivision Plan</li> <li>• Bushfire Management Plan</li> </ul> </li> <li>2. Schedule of Submissions</li> </ol>

**Executive Summary**

Council is requested to consider a proposed Scheme Amendment to rezone Lot 8 Buckthorn Drive, Lower Chittering (the "subject land"), from 'Agricultural Resource' to 'Rural Residential'. The amendment intends to allow for future subdivision of lots in excess of 1ha in accordance with the provisions of *Local Planning Strategy 2001-2015*. This amendment therefore is assessed as a "standard" amendment for the purposes of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The initiation of a Scheme Amendment to rezone is required to be undertaken by Council as the Shire Officers do not have delegated authority.

**Location Plan: Lot 8 Buckthorn Drive, Lower Chittering**





## Background

The proposed Scheme Amendment was initiated by Council for advertising purposes at its Ordinary Meeting of 17 February 2016. The subject land is located in Lower Chittering, approximately 45km north-east of Perth and 30km from Bindoon town-site. The site has direct frontage to Polinelli Road on its eastern boundary and connection to Buckthorn Drive along its northern boundary. The site is surrounded by existing rural residential development to the north, east and south.

The subject land is 39.9849ha in area. It is currently improved with a single dwelling and three associated outbuildings. There is remnant vegetation throughout the site, identified in the Shire's *Local Biodiversity Strategy* as a Local Natural Area ("LNA").

If adopted, the Scheme Amendment will rezone the subject site from 'Agricultural Resource' to 'Rural Residential', allowing for future subdivision of lots in excess of 1ha in accordance with the provisions of *Local Planning Strategy 2001-2015*. An Indicative Subdivision Plan is included in the amendment documents, demonstrating a yield of 12 lots ranging in size from 2.6ha to 4.0ha. Note that the Indicative Subdivision Plan is included for informational purposes only and the ultimate pattern of any subdivision may vary. At this stage, Council is required only to resolve whether to proceed with the Scheme Amendment that will achieve rezoning of the site.

## Consultation

Consultation for the Scheme Amendment was carried out in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*. In total, four consultant submissions and two submissions from members of the community were received. These comments are tabled along with the proponent's response in attachment 2.

## Statutory Environment

State: *Planning and Development Act 2005*

*Planning and Development (Local Planning Scheme) Regulations 2015*

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. The proposed amendment is considered to be a "standard" amendment as it meets the following criteria:

- (b) *an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission.*

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

The *Local Planning Strategy 2001-2015* (the "LPS") places the subject site within the Rural Living/Rural Residential Precincts. The aims for this precinct include providing a safe and pleasant rural living environment and providing a range of lot sizes. Development of the site in accordance with Rural Residential standards is consistent with these objectives.

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

The subject land is currently 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 Residential' zone are:

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

Ultimate development of the site, should it be rezoned, is capable of consistency with these objectives. The site is bound on three sides by existing/approved rural residential development and the proposed zone would be harmonious with the rural character of the area. The quality of existing vegetation and other environmental values will be assessed prior to subdivision and subdivision design can respond to protecting these. There is sufficient land available to subdivide a range of lots over 1ha and a suitable road network.

As the applicant is required to consult with national environmental bodies such as the Commonwealth Environmental Protection Agency, this application is not required to be held pending the recommendation of said bodies, rather it can be upheld through the enacting of *Schedule 16 within Town Planning Scheme No.6*, for which subheadings can be created.

### **Policy Implications**

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

The subject site is a designated bushfire prone area on the Map of Bushfire Prone Areas. A Fire Statement submitted with the amendment documentation provides an initial assessment of likely bushfire issues for the site, and notes that *"The vegetation located on and adjacent to the site is expected to be a moderate or extreme bushfire hazard and following detailed site investigation is likely to be confirmed as bushfire prone (p 3)."*

SPP3.7 provides a range of requirements for planning processes where a moderate BHL applies, as follows:

- 6.3 Any strategic planning proposal to which policy measure 6.2 applies is to be accompanied by the following information prepared in accordance with the Guidelines:
- a)
    - (i) *the results of a BHL assessment determining the applicable hazard level(s) across the subject land, in accordance with the methodology set out in the Guidelines. BHL assessments should be prepared by an accredited Bushfire Planning Practitioner; or*
    - (ii) *where the lot layout of the proposal is known, a BAL Contour Map to determine the indicative acceptable BAL ratings across the subject site, in accordance with the Guidelines. The BAL Contour Map should be prepared by an accredited Bushfire Planning Practitioner; and*
  - b) *the identification of any bushfire hazard issues arising from the relevant assessment; and*
  - c) *clear demonstration that compliance with the bushfire protection criteria in the Guidelines can be achieved in subsequent planning stages.*

*This information can be provided in the form of a Bushfire Management Plan or an amended Bushfire Management Plan where one has been previously endorsed.*

The submitted Bushfire Management Plan is considered to sufficiently address the key considerations as listed above. The Community Emergency Services Manager has indicated that an additional water tank will be required for emergency services. This can be addressed at any stage during the structure plan or subdivision process.



State: State Planning Policy 2.5: Land Use Planning in Rural Areas (SPP2.5)

The objectives of SPP2.5 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 is not considered to conflict with these measures, and can be upheld through the recommended *Schedule 16 Structure Plan*.

### Financial Implications

Nil

### Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001-2015

The subject land is identified for 'Rural Residential' development on the Local Planning Strategy map. It is also marked as a "Priority Development Area". The site is located within a corridor of existing/approved rural residential development and rezoning would be a logical consolidation of the prevailing development pattern. Subdivision – facilitated through rezoning – would also create an opportunity to improve local road connections, particularly in regard to bushfire planning requirements. These are both key considerations in the "Strategies for Progressive Development" outlined in the *Local Planning Strategy*. In view of these considerations and the surrounding land uses, rezoning of the subject site at this stage is not likely to prejudice the current review of the *Local Planning Strategy*, or be inconsistent with future settlement goals.

Local: Shire of Chittering Local Biodiversity Strategy 2010

There is some existing vegetation on site. The *Local Biodiversity Strategy* identifies the site as a "Local Natural Area" but not a "High Conservation Value Area". The Strategy identifies "Mogumber" vegetation complex within the subject site, which is marked for retention targets. Accordingly, further environmental studies will be required to fully assess the environmental assets of the site and make provision for protection and conservation where appropriate.

### Site Inspection

Site inspection undertaken: Yes

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. Stormwater disposal remains an obvious outstanding issue, however is one that can be addressed at the masterplan stage.

There is some indication of Indigenous heritage on the site. The western portion of the site is identified as being an "Other Heritage Places" site. The Aboriginal Heritage Inquiry System indicates that the name of the site is "Ellen Brook: Upper Swan" and has an ID number 3525.

However, as the portion of lot is noted as only an "Other Heritage Places" site, this means that information has been received in relation to the place, but an assessment has not yet been completed to determine if it meets *Section 5* of the *Aboriginal Heritage Act 1972*.

After such assessment, the site then may or may not be included as a "Registered Site".

Given the above, the applicant will be required to undertake further investigation during the preparation of a Structure Plan to determine the significance of any Indigenous heritage at the site.

### **Triple Bottom Line Assessment**

#### Economic implications

The creation of additional lots in the Lower Chittering area will consolidate the existing rural residential pattern of development, creating potential small business opportunities, increasing infrastructure efficiencies, and creating additional rateable properties to the Shire.

Due to the natural gradient, the location of surrounding properties and the existing roadside drainage services available, stormwater drainage requires addressing. While the conclusions made in the applicant's report does not sufficiently justify how stormwater runoff into adjoining properties is able to be addressed, methods and actions to be undertaken are best reviewed at the structure plan stage.

Additionally, there are question regarding how the water tanks proposed be filled. The applicant's report appears to assume by harvesting rainwater only. Additional research will be required to be undertaken to ascertain whether there will be sufficient rainfall to consistently maintain a 120,000 litre tank, and whether bore water is available.

#### Social implications

Rural residential development of the site will consolidate the local settlement pattern and community.

#### Environmental implications

The applicant has made preliminary desktop investigations of environmental considerations, summarised within their Scheme Amendment report. It will be necessary for environmental assets to be assessed prior to any development, and for subdivision pattern to conserve these assets. These matters will be addressed through the structure planning process.

### **Comment**

#### Local Planning Strategy 2001-2015

The *Local Planning Strategy* identifies the site for Rural Residential development and as a Priority Development Area. Rezoning of the site to be more consistent with surrounding areas will consolidate the existing pattern of development and align with the objectives of the *Local Planning Strategy*.

The proposed rezoning is not considered likely to prejudice future planning goals being developed through the review of the *Local Planning Strategy*. The site is located within an established area of rural residential development and will lend to this character.

#### Local Planning Scheme

The site is capable of being developed in accordance with the Scheme objectives and provisions for the Rural Residential zone.

#### Structure Plan

A Structure Plan will be required prior to subdivision/development of the site. The Structure Plan will provide the foundation for flora and fauna protection, bushfire management, local road network, servicing requirements, and acceptable building envelopes and character.

#### Access

Future development of the site will provide opportunity to connect Buckthorn Drive and Navelina Drive, improving the local road network within this rural residential area. The site also has frontage to Polinelli Road, creating opportunity for further connectivity and safe vehicle access during bushfires.

### 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's CESM would undertake a more detailed assessment of the BMP at subdivision stage.

### **Conclusion**

The proposed rezoning is consistent with the *Local Planning Strategy* and will facilitate consolidation of the existing pattern of rural residential development in the area. Therefore the proposed Scheme Amendment for rezoning of Lot 8 Buckthorn Drive, Lower Chittering, from 'Agricultural Resource' to 'Rural Residential' is recommended to be approved.

#### **10.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 090716**

Moved Cr Gibson / Seconded Cr Osborn

That Council:

1. Pursuant to *Section 75 of the Planning and Development Act 2005* Council recommends that Amendment No 58 to *Town Planning Scheme No 6* be approved subject to the following modifications:

- a. Insertion of a new schedule, Schedule 16 Rural Residential, into the Scheme;
- b. Insertion of a new entry into Schedule 16 Rural Residential that reads:

No.	Description of land	Conditions
1	8(100) Buckthorn Drive	<ol style="list-style-type: none"> <li>1. Prior to subdivision and development a structure plan shall be prepared in accordance with Part 4 of the deemed provisions and in addition to the requirements of Clause 16 addresses the following:</li> <li>2. <u>Structure Plan</u> <ol style="list-style-type: none"> <li>2.1 Structure Plan Preparation A Structure Plan shall be prepared in accordance with the provisions of <i>clause 5.19</i> of the Scheme over the entire area, or over any portion of the area.</li> <li>An approved Structure Plan together with all approved amendments shall apply in relation to the land within the area of the Structure Plan Without limiting the generality of the foregoing, within the zones designated in the Structure Plan the use classes referred to in the Zoning Table shall have the same permissibility spread as set out in that table.</li> <li>2.2 Environmental Management Plans The following Environmental Management Plans shall be prepared and used to inform the design and proposed subdivision and development within the Structure Plan area.</li> <li>They shall be submitted as an additional detail of a Structure Plan unless otherwise determined by the Local Authority.</li> </ol> </li> </ol>

			<p><b>2.2.1 Local Water Management Strategy</b></p> <p>The developer shall submit to the Local Authority a Local Water Management Strategy (LWMS) for approval as an additional detail of a Structure Plan pursuant to <i>clause 5.19</i> in order to ensure that surface and ground waters are managed with the aim of maintaining the natural water balance. The Local Authority must notify and consult with the authority responsible for water and the environment on the proposed strategy in advertising the Local Structure Plan(s) pursuant to <i>clause 5.19</i>.</p> <p>The LWMS shall be prepared in accordance with Better Urban Water Management or its successor document. The Structure Plan design shall respond to the LWMS required by 2.2.1 and shall be implemented to the satisfaction of the Local Authority, having regard to any advice from the Department of Water.</p> <p><b>2.2.2 Environmental Assessment and Management Strategy</b></p> <p>The developer shall submit to the Local Authority an Environmental Assessment and Management Strategy for approval as an additional detail of a Local Structure Plan pursuant to <i>clause 5.19</i> in order to ensure the local structure plan provides a comprehensive and coordinated response to all environmental features within the Structure Plan area.</p> <p>The Environmental Assessment and Management Strategy is to include the following:</p> <ul style="list-style-type: none"> <li>• Identification of significant environmental features within the local structure plan area including flora, vegetation, fauna, wetlands and waterways;</li> <li>• Identification of appropriate management strategies, consistent with industry best practice, to ensure that the local structure plan responds appropriately to these environmental features. Appropriate management strategies might include identification of buffers / setbacks, potential areas of revegetation / rehabilitation, public open space and fauna relocation; and</li> <li>• Consideration of Acid Sulphate Soils (if present) and</li> <li>• Identification of the likely requirement for ASS management during future planning stages.</li> <li>• Identification of, and the means for retention and protection of, key cockatoo habitat trees / locations.</li> <li>• Identification of measures to retain the rural character of views of the Structure Plan area from roads within, adjoining, or in the vicinity of the Structure Plan area, by providing details of vegetation screen planting, as well as the details for the siting and design of structure</li> </ul>
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			<p>and major earthworks within the Structure Plan area.</p> <p>The Local Authority must consult with the relevant environmental agencies regarding the proposed strategy in advertising the Local Structure Plan pursuant to <i>clause 5.19</i>.</p> <p>The Environmental Assessment and Management Strategy shall be consistent with the EPA's current <i>Guidance Statement No.33 Environmental Guidance for Planning and Development</i>, or any successor Guidance Statement.</p> <p>The Environmental Assessment and Management Strategy required by 2.2.2 shall be implemented to the satisfaction of the Local Authority on the advice of the applicable environmental agencies.</p> <p><b>3. Subdivision</b></p> <p><b>3.1 Management Plans</b></p> <p><b>3.1.1 Flora, Vegetation, Wetland and Waterway Management Plans</b></p> <p>Where a proposed subdivision includes significant vegetation, wetlands and / or waterways as identified in the Environmental Assessment and Management Strategy, the developer shall submit to the Local Authority Management Plan(s) for approval as a condition of subdivision approval in order for existing flora, vegetation, wetlands, waterways and their buffers to be implemented as part of development in accordance with the management strategies / plans.</p> <p>The Management Plan(s) shall be consistent with the EPA's current Guidance Statement No.33 Environmental Guidance for Planning and Development.</p> <p>The Management Plan(s) outlined above shall be implemented to the satisfaction of the Local Authority on advice from the appropriate environmental agencies.</p> <p><b>3.1.2 Acid Sulphate Soils (ASS) Site Assessment Management Plan</b></p> <p>The developer shall submit to the Local Authority an ASS Site Assessment and Management Plan for approval as condition of subdivision approval in accordance with the WAPC's <i>Planning Bulletin No.64</i> or its successor.</p> <p>The ASS Site Assessment and Management Plan shall include, but is not limited to the following:</p> <ul style="list-style-type: none"> <li>• Detailed field assessment of ASS in proposed disturbance areas;</li> <li>• The preparation of ASS management plans in accordance with the DEC's current guidelines; and</li> </ul>
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			<ul style="list-style-type: none"> <li>Preparation of a monitoring program for groundwater discharge areas as part of the Urban Water Management Plan.</li> </ul> <p>The ASS Site Assessment and Management Plan shall be implemented to the satisfaction of the Local Authority on the advice of the appropriate environmental agencies.</p> <p><b>3.1.3 Urban Water Management Plan</b> The developer shall submit to the Local Authority an Urban Water Management Plan (UWMP), which is consistent with the LWMS for approval as a condition of subdivision approval.</p> <p>The UWMP required by 3.1.3 shall be implemented to the satisfaction of the Local Authority, on advice from the Department of Water.</p> <p><b>3.2 Geotechnical Report</b> The developer shall submit to the Local Authority, as a condition of subdivision approval, a Geotechnical Report, certifying that the land is capable of supporting the development proposed.</p> <p><b>3.3 Water Supply and Wastewater Disposal</b> Water supply and wastewater systems shall be designed and implemented in accordance with environmental and water management strategies such that groundwater and environmental resources are maintained or improved.</p>
2.	<p>Authorises affixing the Common Seal to <i>Town Planning Scheme No.6 Amendment No 58</i> documents, and that the Amendment be referred to the Western Australian Planning Commission and Minister for Planning and Disability Services for consideration of final approval.</p> <p style="text-align: right;">THE MOTION WAS PUT AND DECLARED CARRIED 4/2</p>		



### 10.1.6 Section 70A Notification Authorisation: Two lot survey strata-subdivision of Lot 423 Morley Road, Lower Chittering\*

<b>Report date</b>	20 July 2016
<b>Applicant</b>	Shire of Chittering
<b>File ref</b>	18/03/118; WAPC Ref 191-16
<b>Prepared by</b>	Stephanie Gladman, Planning Officer
<b>Supervised by</b>	Bronwyn Southee, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	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 423 Morley Road, Lower Chittering. The applicant has approval for the survey strata subdivision of Lot 423 Morley Road into two, one ha lots.



#### Background

On 24 May 2016, the Shire was notified that the subdivision of Lot 423 Morley Road had been approved (subject to conditions) by the Western Australian Planning Commission.

Conditions No 2 and 3 of the subdivision approval requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), to be placed on the Certificate of Titles for the proposed lots. The purpose of the Section 70A Notification is to advise the future landowners that 'a mains potable water supply is not available to the lot/s' and 'a reticulated sewerage service is not available to this lot'.

#### Consultation

Not applicable

#### Statutory Environment

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

**Policy Implications**

Local: 1.5 Execution of Documents

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

In order to satisfy Conditions No 2 and 3 of the subdivision approval, the applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (refer 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.

**10.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 100716**

**Moved Cr Osborn / Seconded Cr King**

**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 423 Morley Road, Lower Chittering (now Lots 1 and 2 Morley Road, on:**

- 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/s*' and '*a reticulated sewerage service is not available to this lot*' on Lots 1 and 2 Morley Road, Lower Chittering on Deposited Plan 74784.**
- 2. Any other relevant documents pertaining to subdivision WAPC 191-16.**

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

**10.1.7 Masterplan for the Superlight Aircraft Club of Western Australia\***

<b>Report date</b>	20 July 2016
<b>Applicant</b>	Superlight Aircraft Club of Western Australia
<b>File ref</b>	A11658; P065/16
<b>Prepared by</b>	Stephanie Gladman, Planning Officer
<b>Supervised by</b>	Bronwyn Southee, Executive Manager Development Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Locality Plan 2. Masterplan by Applicant

**Executive Summary**

Council's consideration is requested to formalise the existing and ongoing land use of Lot 1009 Bindoon – Dewar's Pool Road by the Superlight Aircraft Club of Western Australia (SLACWA) for the purposes of an airstrip and approval of existing and future hangar's associated with the land use. This section of land was formerly a part of the Catholic Agricultural College's landholding but has now been subdivided and in the ownership of the SLACWA. The property has been historically used as an airstrip as early as the 1940's. The applicant now wishes to formalise the use of this parcel of land for the intended purpose at present and into the future.

**Background**

Lot 1009 Bindoon - Dewar's Pool Road, Bindoon consists of around 52 ha and is located 10km north of the Bindoon Townsite via Great Northern Highway, as the crow flies.

The property is zoned Agricultural Resource and is within the 'Landscape Protection Special Control Area'.

This parcel of land was previously a part of the landholdings belonging to the Catholic Agricultural College, with the applicant utilising the airstrip for a number of years. A search of the Shire's Municipal Inventory, under the landholdings of the Catholic Agricultural College indicates that an airstrip was being utilised as early as the 1940's this area has recently been granted a separate title and is now owned by SLACWA.

Existing infrastructure on the site is an airstrip measuring 1,400m in length, setback 124m from Bindoon – Dewar's Pool Road. In addition to the airstrip there are 31 hangars of various sizes; some of which do not have formalised planning approval. These are located presently within an enclave of remnant vegetation on this portion of the property.

Surrounding land uses are predominantly farming including the grazing of sheep, cattle and crops.

The SLACWA does not operate on a weekday due to restrictions from the Royal Australian Air Force and is only available for members to utilise. This is a recreational club only, with no commercial flights operating from the airstrip.

The applicant's members intend in the future to undertake the construction of an additional 23 allotments measuring 20m x 20m to be used for the development of hangars for the utilisation of their members (at their cost), however, the design layout of the pads would be in accordance with the Masterplan.

Council's consideration of this application is requested in order to formalise the ongoing land use associated with the activities currently undertaken and formalise planning approval for all the existing structures (outbuildings) and ensure Council's support for the future overall development of the site.

### Consultation

No consultation was undertaken. The activities undertaken on the property have been continuously occurring for a number of years and this application is to simply formalise and regulate development on site. The Masterplan does not permit any single development, rather it is a guide to development.

### Statutory Environment

Lot 1009 is zoned 'Agricultural Resource' under the provisions of *TPS No. 6*. The objectives of the zone are as follows:

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

The formalisation of the use of the existing activities undertaken on the lot would be best defined in the use table as 'Airfield' under *TPS6*. Airfield means:

*premise used in connection with the operation of aircraft, including occasional and seasonal use of temporary facilities for the purposes associated with agriculture.*

Airfield is an 'A' use under *TPS6* which means that 'that the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval after giving special notice in accordance with clause 9.4'.

The historic use of this parcel of land as an airfield and the fact that the intended use will not materially change, therefore it is considered that the requirement of advertising to be onerous and unnecessary.

### Policy Implications

Local: Local Planning Policy No. 18 – Setbacks

The proposed allotments are setback from the front boundary in accordance with *Local Planning Policy No. 18 – Setbacks*. The setbacks to the side and rear vary from those set out in the Local Planning Policy and therefore the Masterplan, if approved, overrides these provisions. The variation to setbacks will not result in any adverse impacts to neighbouring properties as they are used for cropping purposes.

### Financial Implications

Nil

### **Strategic Implications**

From a strategic perspective, the formalisation of this land use does not have any implications associated with the application particularly in relation to properties surrounding it. The land use (airfield) has been occurring historically on this portion of the Catholic Agricultural College since approximately World War Two. This portion has now been sold to the SLACWA and as such will operate in that capacity in the future if the masterplan is approved.

Landholdings around this area are not identified in the Local Planning Strategy for further developmental intensification such as rural residential etc, so any conflicts between the existing land use and others is mitigated.

It could however be considered strategically as formalising the land use over the whole site provides a positive strategic outcome for the sites existing and future use, which may have been considered as ad hoc. Notwithstanding, the endorsement of the masterplan would ensure a consistent approach to development of this site now and into the future.

### **Site Inspection**

No

### **Triple Bottom Line Assessment**

#### Economic implications

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

Any economic benefits will be as a directed towards local businesses within the Bindoon township with members and visitors spending money during their time utilising the airstrip. As it is on private property, owned by the organisation no maintenance by the Shire is required.

#### Social implications

There are no known significant social implications associated with this proposal. The existing airstrip has operated in its current capacity for a number of years and is located at a distance from many sensitive land uses such as rural residential estates.

This site provides a service to recreational light aircraft users, in an area which is heavily restricted by the Royal Australian Air Force in the Perth area. As such, the recreational users are restricted to the operation of their aircraft. As the airfield is just inside restricted airspace R155 (RAAF training airspace) which is normally active Monday to Thursday from 8am until 5pm, and Fridays from 8am until 3pm, pilots from the club cannot operate in this airspace during the week during those hours.

Some pilots may have high enough qualifications to obtain a clearance from the RAAF to vacate Bindoon via Toodyay, or return, but cannot stay within the area. These restrictions basically make it too hard for us to fly mid-week, so we operate on weekends only, and public holidays when the RAAF is not active.

#### Environmental implications

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

The land is already cleared of any native vegetation, with the area surrounding the airstrip utilised for cropping and animal grazing purposes.

### Comment

The intended formalisation of the activities undertaken on this parcel of land provides club members with certainty of Council's ongoing support of their existing and future activities, which has previously never been regulated.

The activities undertaken (both the existing and ongoing) should not detrimentally pose any negative impacts upon the existing and surrounding land uses.

In regards to the use meeting the objectives of the zone, whilst not specifically aligned with farming practices the land surrounding the site is utilised for Agricultural production, with the area surrounding the airstrip regularly planted with crops. The ongoing use of this property should not affect the ability of surrounding landowners to utilise their properties

#### **10.1.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 110716**

**Moved Cr Gibson / Seconded Cr Osborn**

**That Council grants planning approval for the proposed Masterplan for the Superlight Aircraft Club of Western Australia at Lot 1009 Bindoon–Dewar's Pool Road, Bindoon subject to the following conditions:**

- 1. Council grant formalised planning approval for the ongoing use of this portion of land for an 'Airstrip' in addition to the existing hangars located on the property.**
- 2. Subject to the approval of the masterplan; the proponents undertake the activities in accordance with the following:**
  - a. All development and layout of hangar lots to be undertaken in accordance with the approved plans; and**
  - b. Establish and maintain the 'green zone' as indicated on the approved Master Plan with native vegetation and maintain to perpetuity.**

#### **Advice Note**

- 1. Noise levels will have to comply with the *Environmental Protection (Noise Regulations) 1997*.**
- 2. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.**

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



### 10.1.8 Additional Dog Application: Lot 148 (RN 328) Powderbark Road, Lower Chittering

Report date	20 July 2016
Applicant	B Green
File ref	A8074
Prepared by	Matthew Johns, Ranger
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

#### Executive Summary

Council is requested to consider an application for a third dog at Lot 148 (RN 328) Powderbark Road, Lower Chittering as Officers do not have a delegation where an objection has been received.

#### Background

The applicant currently owns two dogs registered within the Shire of Chittering, being a sterilised Shih Tzu cross breed and a sterilised Labrador breed dog.

The applicant has made a Section 26 application to add a Shih Tzu cross breed dog to their household.

The property is on 2.6 hectares zoned "Rural Residential".

The front boundary fence (adjacent to the road) consists of dog mesh whilst the remaining fence is star pickets with ringlock and wire strand, attached to a height of 1.2 metres. A dog electric containment line has been installed around the front portion of the property.

The dogs came to the Shire of Chittering Rangers attention through a complaint, which is detailed further in the officer's comments section of this report.

#### Consultation

The Shire Ranger sent letters to six (6) adjacent and adjoining land owners giving them the opportunity to comment on the additional dog application.

Three (3) submissions were received where one (1) objected to the application and two (2) supported the application:

	Summary of respondents comments	Officers comment
Respondent 1	Objected – The constant barking is annoying also dogs that continuously escape the property.	In regards to the wandering only one (1) known offence for one (1) of the dogs. There has been no barking dog diary submitted in regards to the barking dog complaint.
Respondent 2	Supported – Given the information on the application I find no significant reasoning why this application should be an issue on such large properties I am therefore happy to support this application.	Noted.
Respondent 3	Supported – At this stage the dog has a home & if dog is not to stay it won't have a home and could be put to sleep. This is not what should happen to animals that have a home.	Noted.

## Statutory Environment

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

- (1) A local government may, by a local law under this Act—
    - (a) limit the number of dogs that have reached 3 months of age that can be kept in or at premises in the local government's district; or
    - (b) limit the number of dogs of a breed specified in the local law that can be kept in or at premises in the local government's district.
  - (2) A local law mentioned in subsection (1)—
    - (a) may limit the number of dogs that can be kept in or at premises to 2, 3, 4, 5 or 6 only; and
    - (b) cannot prevent the keeping in or at premises of one or 2 dogs that have reached 3 months of age and any pup of either of those dogs under that age; and
    - (c) cannot apply to dogs kept at premises that are licensed under section 27 as an approved kennel establishment; and
    - (d) cannot apply to dangerous dogs (declared) or dangerous dogs (restricted breed).
  - (3) Where by a local law under this Act a local government has placed a limit on the keeping of dogs in any specified area but the local government is satisfied in relation to any particular premises that the provisions of this Act relating to approved kennel establishments need not be applied in the circumstances, the local government may grant an exemption in respect of those premises but any such exemption—
    - (a) may be made subject to conditions, including a condition that it applies only to the dogs specified in the exemption; and
    - (b) cannot authorise the keeping in or at those premises of—
      - (i) more than 6 dogs that have reached 3 months of age; or
      - (ii) a dog under that age unless it is a pup of a dog whose keeping is authorised by the exemption;

and

    - (c) may be revoked or varied at any time.
  - (4) A person must not keep in or at any premises, not being licensed under section 27 as an approved kennel establishment—
    - (a) in the case of dogs that have reached 3 months of age, other than dangerous dogs (declared) or dangerous dogs (restricted breed), more than the number of dogs than the limit imposed under—
      - (i) a local law mentioned in subsection (1); or
      - (ii) an exemption granted under subsection (3);

or

    - (b) more than—
      - (i) 2 dangerous dogs (declared); or
      - (ii) 2 dangerous dogs (restricted breed); or
      - (iii) one of each of those kinds of dangerous dogs,

that have reached 3 months of age; or

    - (c) any pup, of a dangerous dog (restricted breed), that is under 3 months of age.
- Penalty:
- (a) for an offence relating to a dangerous dog—
    - (i) a fine of \$10,000, but the minimum penalty is a fine of \$500;
    - (ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$500;
  - (b) for an offence relating to a dog other than a dangerous dog—
    - (i) a fine of \$5,000;
    - (ii) for each separate and further offence committed by the person under the Interpretation Act 1984 section 71, a fine of \$100.
- (5) Any person who is aggrieved—
    - (a) by the conditions imposed in relation to any exemption under subsection (3); or
    - (b) by the refusal of a local government to grant such an exemption, or by the revocation of an exemption,

may apply to the State Administrative Tribunal for a review of the decision.
  - (6) An application under subsection (5) cannot be made later than the expiry of a period of 28 days after the day on which a notice of the decision is served on the person affected by that decision.

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**

Local: Shire of Chittering Multiple Dog Policy 10.7

*Policy: 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.

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

Site inspection undertaken: Yes

A site inspection was completed on 31 May 2016 at 4pm.

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

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

In determining the application the following processes were undertaken:

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

In regards to the objection from the neighbour of the dogs wandering, the Labrador breed dog "Tula" was found wandering after a complaint was made. The Ranger then found that the dog owner had 3 dogs on the property. A verbal caution was issued for the alleged offence of "rural area offences" and recorded against the registration of Labrador breed dog "Tula".

The applicant has advised numerous places in the fence had been fixed, the Shih Tzu cross-breed dog "Nala" and Shih Tzu breed dog "Gizmo" have a boundary collar and applicant advises she would be buying a boundary collar for Labrador breed dog "Tula".

In regards to the objection from the neighbour of the dogs barking, a complaint was made during the application process, the Ranger was unable to confirm which dog the complainant was making a complaint about as it was one (1) of the Shih Tzu cross-breed dogs. After consultation between both parties the Ranger was advised that the applicant would also get a third bark collar for Shih Tzu cross-breed dog "Gizmo", as the applicant already has two (2) bark collars. The objecting neighbour was happy with the outcome and the job was closed. After receiving the opportunity to comment objection, the Ranger spoke to the complainant and advised a barking dog diary would need to be completed for the complaint.

The granting of approval by council for extra dogs is a privilege which should not be taken for granted.

The issues raised by the neighbour's objections related to the dogs wandering and barking dog complaint, only one (1) offence for the dog "Tula" wandering has been recorded, there has been no barking dog diary submitted in regards to the barking complaint.

It is recommended that consideration be given to approve this application.

#### 10.1.8 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120716

Moved Cr Rossouw / Seconded Cr Gibson

That Council approve the application by Bridget Green for the Additional Dog at Lot 148, (RN 328) Powderbark Road, Lower Chittering subject to the following conditions:

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

Breed	Name
Shi Tzu Cross-breed	Gizmo
Labrador	Tula
Shi Tzu Cross-breed	Nala

3. Should one of the current registered dogs under this application become deceased, the applicant(s) cannot replace it with another dog without first reapplying and receiving approval from the Shire of Chittering for an extra dog.
4. The applicant(s) must notify the Shire of Chittering if they move from the area or if there are any changes to the number of dogs listed above.

5. The three (3) dogs must be registered at all times.
6. If at any time these requirements have been breached, Ranger Services may terminate the application, and the dog (Shih Tzu Cross-breed 'Nala') is to be removed from the premises within seven (7) days.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

## 10.2 TECHNICAL SERVICES

Nil

## 10.3 CORPORATE SERVICES

### 10.3.1 Financial statements for the period ending 30 June 2016\*

Report Date	20 July 2016
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Financial Statements for period ending 30 June 2016
Attachments	1. Statement of Financial Activity for period ending 30 June 2016 Bank reconciliation for period ending 30 June 2016 List of accounts paid for June 2016

#### Executive Summary

Council is requested to endorse the Statement of Financial Activity for the period ending 30 June 2016, financial statements, bank reconciliation and list of accounts paid for the period ending 30 June 2016.

#### Background

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

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

The statement of financial activity for the period ending 30 June 2016, financial statements, bank reconciliation and list of accounts paid for the period ending 30 June 2016 are hereby presented for Council's information.

#### Consultation

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

#### Statutory Environment

State: *Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996*



**Policy Implications**

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

It is to be noted that these financial statements are not the final statements for the 2015-2016 financial year as further adjustments will be required for yearend accruals.

**10.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130716**

Moved Cr Tilbury / Seconded Cr King

That Council:

1. endorse the list of payments:
  - a. PR3733, PR3734, PR3739, PR3741
  - b. EFT 12746 - EFT 12873
  - c. Municipal Fund Cheques 14088 – 14097
  - d. Direct Debits and Transfers as listed
  - e. Trust Fund Cheques 524 - 528Totalling \$1,066,542.41 for the period ending 30 June 2016.
2. receive the bank reconciliation for the period ending 30 June 2016.
3. receive the financial statements for the period ending 30 June 2016.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

### 10.3.2 Asset Write offs

Report date	20 July 2016
Applicant	Shire of Chittering
File ref	04/01/0002
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

#### Executive Summary

Council is requested to write off assets which could not be located or are not under the ownership of the Shire or have been accounted for in another class of asset.

#### Background

As per the *Local Government (Financial Management) Regulations 1996 – Section 17A Fair Value*, the Shire of Chittering's Plant and Equipment assets were required to be revalued as at 30 June 2016. An analysis was conducted in March 2016 of all of the Plant and Equipment assets on the Shire of Chittering Asset Register. This revaluation has resulted in four (4) items that are required to be written off.

#### Consultation

Chief Executive Officer

#### Statutory Environment

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

#### Policy Implications

Nil

#### Financial Implications

Changes in the Asset values will be reflected in the 2015-2016 Annual Financial Report.

#### Strategic Implications

Nil

#### Site Inspection

Not applicable

#### Triple Bottom Line Assessment

##### Economic implications

There are no known economic implications associated with this proposal

##### Social implications

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

### Comment

During the analysis of the Asset register several items that were listed were not able to be located by Officer's and if they were located they were not under the ownership of the Shire or had been accounted for in another class of asset.

Asset #	Asset Name	Date of Addition	Opening Value	Deprec	WDV as at 30/6/16
PLE210	Fire Hydrants (4)	13.02.08	6,900.00	2,011.33	4,888.67
PLE531	Water Tank	26.06.2002	1,200.00	229.76	970.24
PLE532	Water Tank	16.10.2002	1,200.00	114.84	1,085.16
PLE933	Control Box – Lower Chittering Pump	30.11.2010	3,000.00	2885.79	114.21
<b>TOTAL</b>			<b>12,300.00</b>	<b>5,241.72</b>	<b>7,058.28</b>

PLE210 was an asset relating to the installation of fire hydrants at four (4) locations in the Shire. This transaction should not have been capitalised at the time, as the infrastructure belongs to the Water Corporation.

PLE531 and PLE532 cannot be located and very little information can be found on the Asset Register transactions from 2002. All water tanks that Council own have been accounted for.

PLE933 has been included under the asset class of Infrastructure Parks and Ovals and by including it under Plant and Equipment is overstating Council's assets by this value.

### 10.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140716

Moved Cr King / Seconded Cr Rossouw

That Council writes off Plant and Equipment assets to the written down value of \$7,058.28 as listed below:

1. PLE210 – Fire Hydrants – WDV\$ 4,888.67
2. PLE531 – Water Tank – WDV \$970.24
3. PLE532 – Water Tank – WDV \$1,085.16
4. PLE933 – Control Box – WDV \$114.21

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

### 10.3.3 Adoption of the 2016-2017 Budget\*

Report date	20 July 2016
Applicant	Shire of Chittering
File ref	12/07/3
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	<b>Absolute Majority</b>
Documents tabled	Nil
Attachments	1. 2016-2017 Draft Budget

#### Executive Summary

Council is requested to adopt the 2016-2017 Draft Budget as presented.

#### Background

Local Governments must prepare annual budgets in the format prescribed in the *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996*.

The Shire of Chittering commenced the 2016-2017 budget process in March 2016. At this time members of the public were invited to seek sponsorship and submit requests for works and services to be considered during the budget deliberations.

Council Officers were also requested to make submissions and recommendations for budget inclusions. This was to ensure that not only the standard functions of Council, but also other projects identified within strategic planning documents, would be appropriately included in the budget for Council consideration.

#### Consultation

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

The following consultation occurred with Councillors and the Executive Management Team:

1. 2 April 2016 – Review of Sport and Recreation Plan
2. 10 May 2016 – Review of Community Development Plan, Economic Development Strategy and Youth Plan
3. 18 May 2016 – Review of Plant Replacement Schedule and Fees and Charges
4. 24 May 2016 – Review of planned Capital Work Projects and rate modelling discussions
5. 1 June 2016 – Review of building maintenance plan and first draft budget workshop
6. 15 June 2016 – Review of second draft budget
7. 6 July 2016 – Review of third draft budget

#### Statutory Environment

State: *Local Government Act 1995*

*Local Government (Financial Management) Regulations 1996* (as amended)

**Policy Implications**

Nil

**Financial Implications**

This agenda item provides for the adoption of the budget and the imposition of rates and fees and charges for the 2016-2017 financial year.

**Strategic Implications**

Nil

**Site Inspection**

Not applicable

**Triple Bottom Line Assessment**

Economic implications

The draft 2016-2017 budget has been developed based on sound financial management and accountability principles and is considered to deliver a sustainable economic outcome for the Council and the community.

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**

Budget

The 2016-2017 budget seeks to provide a useful management tool with additional diagnostic reporting tools for the benefit of management and elected members to ensure compliance with Australian Accounting Standards, the *Local Government Act 1995* and associated regulations.

The draft budget has been prepared with a 1.5% increase to the overall rate revenue that could have been collected through rates based on the 15-16 valuations. This increase does not take into account the additional growth in assessment numbers from the previous year.

This does not mean that individual ratepayers will pay a uniform 1.5% increase. Individual changes in valuation mean that some properties will have a larger increase, while some will have received a lower increase or even a decrease. Modelling results have showed that the average individual increase is between 1.64% - 1.77%.

In 2015-2016, Council granted a concession to those properties that were affected by the change in rating method (UV to GRV) where no property rates increased more than \$300 from the previous year. This concession is not being granted this year and will have an effect on some ratepayers who will see an outlay of more than the average increase.

Employee costs have been reduced and are equivalent to the costs back in the 2014-2015 financial year. This is due to the loss of approximately 1.5 FTE.

A consultant has been engaged to investigate fleet management and ascertain optimum changeover times for all plant and equipment including light vehicles. Until these findings have been received no major plant purchases are planned for this financial year apart from one mower that is scheduled for replacement. A transfer to reserve has been included in the budget to fund future purchases.

There has been a large increase in the amount of funds transferred to reserves this year. These transfers will assist in funding the STED program in the Bindoon townsite, the conversion of the Bindoon Landfill Site to a transfer station, future plant replacement and future recreation facilities.

Funding continues to be allocated for Community sponsorship and community grants. Along with funding for youth events and programs and events such as the popular "Wear Ya Wellies" and "Taste of Chittering".

Highlights of the budget include:

**Schedule 4 - Governance**

- Completion of the Community Survey
- Review of the Strategic Community Plan
- Engagement of a Consultant to provide valuations of all Council owned land and building assets. This is an audit requirement
- Engagement of a Consultant to investigate fleet management practices and ascertain optimum changeover times for all plant and equipment including light vehicles
- Review of Asset Management Plans and Long Term Financial Plan in line with the Integrated Reporting Framework.
- Transfer of funds to and from the Employee Entitlements Reserve to fund long service leave

**Schedule 5 – Law Order Public Safety**

- Inclusion of a fully funded Bushfire Planning Risk Co-ordinator position for 12 months

**Schedule 7 – Health**

- Sale of Vehicle surplus to requirements
- Transfer to Public Buildings and Amenities reserve for any future works at the Health Centre
- Transfer to Ambulance Replacement Reserve to assist local St John group to purchase a new ambulance when required

**Schedule 8 – Education and Welfare**

- Funding for Education Scholarships
- Funding for Seniors Events
- Funding for Youth Services (Youth Event, Youth Development Program, School Holiday Activities, Youth Sponsorship and Youth Chaplaincy)
- Funding for Events (Wear Ya Wellies, Shire tent at the Bindoon Show, Volunteer Day/Week Promotions)

**Schedule 10 – Community Amenities**

- Transfer to Waste Reserve to fund the future conversion of the Bindoon Landfill site to a transfer station
- Transfer to STED Reserve to fund the connection to the proposed Septic Tank Effluent Disposal system to be implemented in the Bindoon Townsite
- Drainage infrastructure works to be carried out in Lower Chittering
- Sale of Vehicle surplus to requirements
- Finalisation of the Local Planning Strategy, Community Infrastructure Plan and Developer Contribution Plan



**Schedule 11 – Recreation and Culture**

- CCTV Upgrade for Muchea Hall (subject to grant funding)
- Construction of Muchea Hall Pavilion (subject to grant funding)
- Installation Shaded area and Bar-B-Q at John Glenn Park
- Replacement Playground Equipment at Chinkabee Complex
- Completion of the Lower Chittering Recreation Feasibility Study
- Installation of a Cricket practice wicket at Bindoon Oval (subject to contributions)
- Enhancements to the Brockman Centre
- Installation of roofing to Arts & Craft Pergola at the Brockman Centre
- Transfer to the Recreation Development Reserve to fund future recreation facilities
- Transfer from the Recreation Development Reserve to fund the Lower Chittering Recreation Feasibility Study
- Funding for Community Grants (Chittering Wildlife Carers, Chittering Bindoon CWA, Bindoon Men's Shed, Bindoon Playgroup, Bindoon Historical Society, BEAT)
- Funding for various Australia Day Events throughout the Shire
- Funding for Community Sponsorship (Bindoon Mobile Recovery Campaign, Bindoon Progress Assoc, Bindoon Ag Society, Bindoon Bowling Club, Chittering Tourist Association, Chittering Junior Football Club, Lower Chittering and Bindoon Christmas Parties)

**Schedule 12 – Transport**

- Completion of the Binda Place Upgrade (partially funded by Roads to Recovery and Wheatbelt Development Commission)
- Roadworks on Chittering Road/Chittering Valley Rd (partially funded by Regional Road Group and State Black Spot funding )
- Roadworks on Chittering Road (100% funded by MRWA Blackspot)
- Black Spot Roadworks on Julimar Road, Muchea East/Wandena Roads and Blue Plains/Maddern Roads (100% funded by MRWA BlackSpot) – Carried forward from 15/16
- Roadworks on Morley Road, Spice Road, Orchard Road, Learner Way, Owen Road, Perry Road, Carl Street, Humphrey Street, Hay Flat Road (funded by Council)
- Footpaths on Ridgetop Ramble
- Bridge Upgrades – Blizzard and Flat Rocks Rd (funded by MRWA and WALGGC)
- Installation of Oil Separator at the Shire Depot
- Replacement Ride on Mower
- Sale of Roller as surplus to requirements
- Transfer to Plant Reserve

**Schedule 13 – Economic Services**

- Funding for major event "Taste of Chittering"
- Funding for projects identified in the Chittering Economic Development Strategy
- Funding for investigation/provision of a bus service to Midland/Joondalup
- Allowances to Community Groups for use of the Community Bus

**Schedule 14 – Other Property and Services**

- Finalisation of the sale of a portion of Lot 62 to WA Retirees and the funds transferred to the Recreation Development Reserve
- Funds received from the NBN Tower lease transferred to the Public Open Space Reserve

### 10.3.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 150716

Moved Cr Rossouw / Seconded Cr Gibson

1. That Council, pursuant to the provision of Section 6.2 of the *Local Government Act 1995* and Part 3 of the *Local Government (Financial Management) Regulations 1996*, adopts the budget for the Shire of Chittering for the 2016-2017 financial year which includes the following:
  - a. Statement of Comprehensive Income by Nature and Type
  - b. Statement of Comprehensive Income by Program
  - c. Statement of Cash Flows
  - d. Rate Setting Statement
  - e. Notes to and forming part of the Budget
  - f. Budget Programme Schedules
  - g. Other Supporting Documents and Schedules
  - h. Transfers to/from Reserve accounts
2. That Council, pursuant to Sections 6.32, 6.34 and 6.35 of the *Local Government Act 1995* impose the following:
  - a. Where the General Rate is to apply, for all rateable properties with Gross Rental Valuations a rate of 0.95393 cents in the dollar, with a minimum rate of \$1000.00 be imposed.
  - b. Where the General Rate is to apply, for all rateable properties with Unimproved valuations a rate of 0.006109 cents in the dollar, with a minimum rate of \$950.00 be imposed.
3. That Council, pursuant to Section 6.51 (1) and subject to Section 6.51(4) of the *Local Government Act 1995* and Regulation 70 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 11% for rates (and charges) and costs of proceedings to recover such charges that remain unpaid after becoming due and payable.
4. That Council, pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 68 of the *Local Government (Financial Management) Regulations 1996*, adopts an interest rate of 5.5% where the owner has elected to pay rates and charges through an instalment option.
5. That Council, pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 64(2) of the *Local Government (Financial Management) Regulations 1996*, offer the following payment options:
  - a. Option 1  
To pay the total of rates and charges included on the rate notice in full by the due date 30 August 2016, which is thirty five (35) days after the date of service. Failure to pay such costs will attract penalty charges.
  - b. Option 2  
To pay by two (2) instalments. Details of these dates and amounts are included on the rate notice. Failure to pay such costs by the due dates will attract penalty charges. This option can only be selected where the first instalment including arrears (if any) is paid by the due date.  
  
Payment dates are:
    - i. 30 August 2016
    - ii. 5 January 2017
  - c. Option 3  
To pay by four (4) instalments. Details of these dates and amounts are included on the rate notice. Failure to pay such costs by the due dates will attract penalty charges. This option can only be selected where the first instalment including all arrears (if any) is paid by the due date.

Payment dates are:

- i. 30 August 2016
- ii. 3 November 2016
- iii. 5 January 2017
- iv. 9 March 2017

6. That Council, pursuant to Section 6.45 of the *Local Government Act 1995* and Regulation 67 of the *Local Government (Financial Management) Regulations 1996*, adopts an instalment charge where the owner has elected to pay rates (and charges) through an instalment option of \$10.00 for each instalment after the initial instalment is paid.
7. That Council, pursuant to Section 67 of the *Waste Avoidance and Resource Recovery Act 2007*, impose a Waste Collection Fee in the compulsory areas, as following:
  - a. \$310.00 per annum – for one (1) refuse mobile garbage bin (collected weekly) and one (1) recycling mobile garbage bin (collected fortnightly)
  - b. \$170.00 per annum – for any additional recycling mobile garbage bins (collected fortnightly)
  - c. \$140.00 per annum – for any additional refuse mobile garbage bins (collected weekly).
8. That Council, pursuant to Section 66 of the *Waste Avoidance & Resource Recovery Act 2007*, adopts the following waste services rate and minimum payment to fund the operations of the Bindoon & Muchea Landfill Centres:
  - a. GRV base rate \$0.000023;
  - b. UV base rate \$0.000023; and a
  - c. Minimum payment of \$45 to apply to both GRV and UV rated land.
9. That Council accepts as part of the budgetary process, the Fees and Charges Schedule as adopted in Item 9.3.2 at the Ordinary Meeting of Council held on 15 June 2016.
10. That Council, pursuant to the *Salaries and Allowances Tribunal determination dated 12 April 2016*, adopts the following annual fees for payment of elected members in lieu of individual meeting attendance fees:
 

a. President	\$19,802
b. Councillors	\$12,789
11. That Council, pursuant to the *Salaries and Allowances Tribunal determination dated 12 April 2016*, adopts the following annual allowances for elected members:
  - a. Reimbursement of Expenses Allowance \$3,500
12. That Council, pursuant to the *Salaries and Allowances Tribunal determination dated 12 April 2016*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
 

a. President	\$15,225
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13. That Council, pursuant to the *Salaries and Allowances Tribunal determination dated 12 April 2016*, adopts the following annual local government allowance to be paid in addition to the annual meeting allowance:
 

a. Deputy President	\$3,806.25
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14. That Council, in accordance with Regulation 34(5) of the *Local Government (Financial Management) Regulations 1996*, and AASB 1031 *Materiality*, adopts a variance of 10% and a minimum of \$10,000 to be used in the statements of financial activity and annual budget review.

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

#### 10.3.4 Policy 2.7 Significant Accounting Policies\*

Report date	20 July 2016
Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Jean Sutherland, Executive Manager Corporate Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Revised Policy 2.7 Significant Accounting Policies 2. Current Policy 2.7 Significant Accounting Policies

#### Executive Summary

Council's consideration is requested to endorse the updated Shire Policy 2.7 Significant Accounting Policies.

#### Background

This Policy was adopted by Council in 2009. There have been subsequent revisions, with the last being adopted by Council in June 2015. The contents of this Policy include the significant accounting policies, which are required to be administrated and thoroughly monitored for compliance and accountability. It is to be noted that the significant accounting policies will be incorporated as Notes to both the Annual Financial Statements and Annual Budget which will be made available to the public once adopted.

An accounting policy is significant if its application will have a material effect on the presentation of the Annual Financial Statements, Annual Budget or Long Term Financial Plan or if its omission is likely to influence the decision of a user (internal or external) and/or general public who rely on them.

This Policy contains a set of specific policies known as "Summary of Significant Accounting Policies" to be used by the Shire to prepare its 2015/16 Financial Statements. These include any methods, measurement systems and procedures for presenting disclosures as required by the Australian Accounting Standards (AAS or AASB).

To ensure the Shire accurately refers to any significant accounting policies, it has engaged the services of Moore Stephens (WA) Pty Ltd who have provided the Shire a model financial report for the 2015/16 annual financial statements, which includes a summary of significant accounting policies. This model financial report complies with the **Local Government Act 1995** (*the Act*) and the related regulations. It is noted that the model financial report used differs to that used in previous years.

#### Consultation

Moore Stephens (WA) Pty Ltd

#### Statutory Environment

Regulation 4(2) of the FM Reg provides that where there is an inconsistency between a provision within the AAS and a provision within the FM Reg, the regulations prevail to the extent of the inconsistency.

Regulation 5A of the FM Reg requires the Shire to comply with the AAS.

Regulation 34(5) of the FM Reg states:

*"Each financial year, a local government is to adopt a percentage or value, calculated in accordance with AAS, to be used in statements of financial activity for reporting material variances".*

Section 5(1) and (2) of the FM Reg govern the Chief Executive Officers's duties as to financial management:

"5 CEO's duties as to financial management

- (1) *Efficient systems and procedures are to be established by the CEO of a local government-*
  - (a) *for the proper collection of all money owing to the local government; and*
  - (b) *for the safe custody and security of all money collected or held by the local government; and*
  - (c) *for the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process); and*
  - (d) *to ensure proper accounting for municipal or trust —*
    - (i) *revenue received or receivable; and*
    - (ii) *expenses paid or payable; and*
    - (iii) *assets and liabilities;**and*
  - (e) *to ensure proper authorisation for the incurring of liabilities and the making of payments; and*
  - (f) *for the maintenance of payroll, stock control and costing records; and*
  - (g) *to assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or these regulations.*
- (2) *The CEO is to —*
  - (a) *ensure that the resources of the local government are effectively and efficiently managed; and*
  - (b) *assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and*
  - (c) *undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews."*

Section 6.5 Of the Division 4 – General financial provisions of *the Act* states the following financial responsibilities of the Chief Executive Officer:

"6.5 *Accounts and records*

*The CEO has a duty —*

- (a) *to ensure that there are kept, in accordance with regulations, proper accounts and records of the transactions and affairs of the local government; and*
- (b) *to keep the accounts and records up to date and ready for inspection at any time by persons authorised to do so under this Act or another written law."*

### **Policy Implications**

Local: 2.7 Significant Accounting Policies

The guiding principle of this Accounting Policy is to provide a financial management and financial governance framework for the Shire as a legal entity, hence management and compliance with this policy is a collective responsibility of all persons engaged by the Shire or closely associated with the Shire in any capacity.

### **Financial Implications**

Nil

### Strategic Implications

#### Governance – Strong Leadership

Strategy Continue to provide transparent leadership

#### Governance – Sustainable Organisation

Strategy Maintain an efficient and capable organisation

### 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

Due to the extensive amendments to the Policy, it is recommended that the current policy be repealed and the proposed draft policy be adopted. The proposed revised and current Accounting Policies can be found in Attachments 1 and 2 respectively.

#### **10.3.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160716**

**Moved Cr Rossouw / Seconded Cr Gibson**

**That Council adopts the Proposed Revised Policy 2.7 Significant Accounting Policies as shown in Attachment 1.**

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



## 10.4 CHIEF EXECUTIVE OFFICER

### 10.4.1 Local Government Extraordinary Election 2016

Report date	20 July 2016
Applicant	Shire of Chittering
File ref	13/06/0001
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	<b>Absolute Majority</b>
Documents tabled	Nil
Attachments	Nil

#### Executive Summary

Council's consideration is requested to appoint the Western Australian Electoral Commission as returning officer to undertake an extraordinary election for the Shire of Chittering.

#### Background

Due to the sudden passing of Council's Shire President, Steve Vallance, a vacancy has now occurred on Council.

An extraordinary election is required as the next election is not due to be conducted until October 2017.

#### Consultation

Executive Manager Corporate Services  
James McGovern, Manager Governance (WALGA)  
Western Australian Electoral Commission (WAEC)

#### Statutory Environment

State: Local Government Act 1995, Section 4.19, 4.20 and 4.61

#### Policy Implications

Nil

#### Financial Implications

The estimated cost provided by the Western Australian Electoral Commission for them to conduct the postal election is \$19,000 (including GST), which has been based on the following assumptions:

- 3,600 electors
- Response rate of approximately 40%
- One vacancy
- Count to be conducted at the offices of the Shire of Chittering
- Appointment of a local Returning Officer
- Standard Australia Post delivery service to apply.

Costs not incorporated in this estimate include:

- Accommodation costs for the Returning Officer over both the nomination and election day period
- Non-statutory advertising (i.e. additional advertisements in the community newspapers and promotional advertising)
- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns
- One local government staff officer to work in the polling station on election day
- Any additional postage rate increased by Australia Post.

These costs have been included in the 2016-17 Annual Budget.

### **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**

There are two methods for conducting local government elections, this being postal voting or voting in person. The *Local Government Act 1995* stipulates that postal elections must only be conducted by the Western Australian Electoral Commission (WAEC).

There are two significant benefits for the elections to be conducted as a postal election:

1. It increases the voter turnout; and
2. It removes the Shire of Chittering staff from the process (the Returning Officer is appointed by the WAEC) therefore creating independence and impartiality.

Having an external person appointed by the WAEC as the Returning Officer creates separation and provides independence to the process.

Other benefits that have been quoted for postal elections are:

- It is easier for electors to vote
- It assists new candidates as all electors get the profiles of all candidates
- There is a perception that the playing field is more level for sitting Councillors versus nominated candidates, and that the success of being elected is not correlated to previous experience.

The suggested election date is Friday, 14 October 2016.

**10.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 170716**

**Moved Cr Tilbury / Seconded Cr Rossouw**

**That Council:**

- 1. Declares, in accordance with the *Local Government Act 1995, Section 4.20(4)* that the Western Australian Electoral Commission to be responsible for the conduct of the Extraordinary Election.**
- 2. Decides, in accordance with the *Local Government Act 1995, Section 4.61(2)* that the method of conducting the election will be as a postal election.**

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

#### 10.4.2 Education Scholarship Award Policy\*

Report date	20 July 2016
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. Proposed updated Education Scholarship Award Policy

#### Executive Summary

Council's consideration is requested to update the Education Scholarship Award Policy.

#### Background

The Education Scholarship Award Policy was approved by Council 18 May 2011 and was last amended by Council 6 September 2015.

#### Consultation

Executive Manager Corporate Services

#### Statutory Environment

Nil

#### Policy Implications

Local: 6.2 Education Scholarship Award

#### Financial Implications

Nil

#### Strategic Implications

Nil

#### Site Inspection

Site inspection undertaken: Not applicable

#### Triple Bottom Line Assessment

##### Economic implications

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

##### Social implications

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

##### Environmental implications

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

## Comment

Details of the changes made to the policy are outlined below:

### Eligibility criteria

Previously the criteria didn't outline what areas were assessed to determine a student's academic achievement and contribution to their school and local community. The criteria now outlines that selection will be based on but not limited to:

- Academic achievement
- All round achievement
- Community involvement
- Outstanding leadership.

### About the Scholarship

Reworded to 'recognising academic excellence and a strong commitment towards civic engagement'.

Included a section on **Assessment process** which outlines that the applications are reviewed by the Education Scholarship group consisting of a three-member panel appointed by Council and assessed against the Shire of Chittering Education Scholarship assessment matrix.

### Timeframe

Outlines that a recommendation is forwarded to Council in December and all applicants notified of the Council decision and invited to attend the Australia Day awards in January.

### Presentation of awards

Included that all unsuccessful applicants will be awarded a certificate of merit. The nominated school of the winning student will be forwarded the monetary award to be held in trust until requested by the student and their parent / guardian.

The Education Scholarship Application 2017 has been amended to reflect these changes as well as the Education Scholarship Assessment Sheet that is utilised by the assessment panel.

#### **10.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 180716**

**Moved Cr Osborn / Seconded Cr Gibson**

**That Council adopts the updated Education Scholarship Award Policy as attached and update the Shire of Chittering Policy Manual accordingly.**

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

**11. REPORTS OF COMMITTEES**

Nil

**12. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13. QUESTIONS FROM MEMBERS WITHOUT NOTICE**

Nil

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

Nil

**15. MEETING CLOSED TO THE PUBLIC**

**15.1 Matters for which the meeting may be closed**

Nil

**16. CLOSURE**

The Presiding Member declared the meeting closed at 9.02pm.



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6177 Great Northern Highway  
PO Box 70 Bindoon WA 6502  
T: 08 9576 4600 F: 08 9576 1250  
E: [chatter@chittering.wa.gov.au](mailto:chatter@chittering.wa.gov.au)  
[www.chittering.wa.gov.au](http://www.chittering.wa.gov.au)

Office hours: Monday to Friday  
8.30am - 4.30pm