

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

Wednesday, 17 June 2015

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.02pm

Closure: 12.25am



These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 15 July 2015.

SIGNED BY

Person presiding at meeting which minutes were confirmed

DATE

Disclaimer

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

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

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

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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.02pm .

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

2.1 Attendance

The following members were in attendance:

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

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Ms Bronwyn Southee	Executive Manager Development Services
Mr Jim Garrett	Executive Manager Technical Services
Mrs Karen Parker	Manager Human Resources
Mr Brendan Jeans	Senior Planner
Ms Karen Dore	Economic Development/Communications Officer (Minute Secretary)

There were 38 members of the general public in attendance.

2.2 Apologies

Nil

2.3 Approved leave of absence

Council has previously approved leave of absence for Cr Barni Norton for the Ordinary Council meeting of 17 June 2015, however it is noted that Cr Norton was in attendance.

3. DISCLOSURE OF INTEREST

Cr Rossouw declared a financial interest in item 10.1.3 as her husband owns a business that develops software and manufactures LED signs.

Cr Clarke declared an impartiality interest in item 9.4.6 as she is a patient of the practice and has an interest in common with 1,100 other patients.

Cr Douglas declared an impartiality interest in item 9.4.6 as he is a patient of the practice and has an interest in common with 1,100 other patients.

The Chief Executive Officer declared a financial interest in item 14.1.1.

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 John Pilbeam, Bindoon

With reference to Item 9.1.1 – Proposed Telecommunications Facility / NBN Fixed Wireless Facility Lot 12383 (Bell Hill Reserve (Reserve No. 44213)) Forrest Hills Parade, Bindoon.

Question 1: Why was the information that was posted missing pages 3 and 4? Mr Pilbeam's wife, Janet, advised that when she attended Development Services she was told that they were left out as they were private emails that couldn't be shared.

Answer 1 Upon investigation by Shire officers, the Planning Department only included sections 1, 2 and 5 and Appendix 3 as the enclosure with the mailout to residents (Shire ref O1556527) as general background and to reduce the amount of paper. Those residents who contacted the Planning Department seeking additional information were given the necessary information. However, once the officer's report was tabled at the May Ordinary Council Meeting sections 3 and 4 were included as part of Attachment 1 (refer to pages 8-13 of Development Services attachments).

4.2 Public question time

Note: the following is a summary of questions asked, and answers given, to the best of the Minute Takers ability as at times due procedure (with reference to the *Shire of Chittering Local Government (Council Meetings) Local Law 2014*) was not followed by questioners meaning that names were not provided/recorded.

4.2.1 Marcus Edmonds, 782 Wells Gover Road, Mooliabeenee

Question 1: In view of the fact that Dr Hayward has joined another medical practice, and that Cr Hawes said at our meeting of 16 June 2015 that this is a very serious matter, can Council assure all present that Council will cease all further negotiations regarding the lease of portion of Chittering Multi-purpose Health Centre until further notice?

Answer 1: The Shire President advised that he could not give that assurance as the Item was to be considered in the current Agenda.

Question 2: Why are there armed police in attendance?

Answer 2: The Shire President informed the meeting that this was due to the attempted intimidation of a Councillor. He further advised that this attempted intimidation was not related to the Multi-purpose Health Centre.

4.2.2 Patricia Tabor, 948 Wells Glover Road, Mooliabeenee

After the May Council meeting a small group of concerned ratepayers obtained for perusal a copy of the first document named 'Lease of portion of Chittering Multi-purpose Health Centre – Great Northern Highway, Bindoon between the Shire of Chittering as Lessor, Binda Medical Services Pty Ltd as Lessee and Dr Janet Hayward as Guarantor'. Even to us as lay persons there appeared to be so many contradictions and loopholes in this document, that we compiled a number of questions and submitted them to President Hawes on 27 May for attention.

One anomaly was addressed by removing the name of the Guarantor, Dr Hayward, from the document. In our opinion this just raised more questions. Some questions were explained but a lot were noted. However, not one of the inconsistencies/loopholes which we pointed out as considered significant enough for inclusion in the final (draft) lease document. Of particular concern to us was that we could not find any provision for default by a company. Mr Tuffin pointed out that Clause 26.2 dealt with this. However, our reading of this clause is that only written notification of change in ownership of shares within fourteen days is required. It would appear to us that change in ownership of the shares of the company was not therefore considered to be in breach of the terms of the lease.

In our 27 May email to President Hawes, we asked the question 'was the directorship of Binda Place Medical Services Pty Ltd known to Council'. At a meeting on 16 June 2015 attended by President Hawes, Cr Gibson, Cr Norton, Cr Douglas, and Mr Gary Tuffin, we discovered that it was not.

For the benefit of this meeting, we table a copy of our agenda for 16 June meeting together with document A, ASIC Company Extract which shows that Binda Medical Services Pty Ltd is a \$1 company and Document B, copy of the Connolly Medical Centres facebook page which welcomed Dr Janet Hayward to their practice on a full time basis from 1 June 2015.

We request that these three documents presented tonight form part of and be shown in the minutes of tonight's meeting.

If our group of concerned ratepayers had not done this investigative work, which we believe should have been carried out by Council/Shire staff, ratepayers would probably all still be unaware of these facts.

Question 1: Why didn't anyone check the corporate details of the Bindoon Medical Services Pty Ltd before entering into a lease contract? Surely this is a basic business principle.

Answer 1: *The Chief Executive Officer advised that as an existing business currently operating within the Shire it was not considered necessary. He further advised that [with reference to rent liability] there would be no exposure to liability if the company were to cease as the proposed lease was for a peppercorn rent. This matter was simply a case of transferring the existing lease from one building to another. The Chief Executive Officer further stated it is necessary under the lease for a number of insurances to be taken out and produced to the Shire. Company registration and service details are checked by Council's solicitors when preparing legal documents.*

Question 2: **Why weren't any of our questions presented to President Hawes on 27 May, particularly regarding default clauses, considered of any consequence? It is now apparent that our concerns and those expressed time and again by Cr Gibson and Cr Norton were justified.**

Answer 2: *The Chief Executive Officer assured Mrs Tabor that the questions had been presented to the Councillors for their consideration. The Shire President referred Mrs Tabor to the Agenda Item which will further address this matter later in the meeting.*

Mrs Tabor stated that the new building was a multi-million dollar building and the leaseholder was a \$1 company.

The Chief Executive Officer asked Ms Tabor for the relevance of her reference to the \$1 company.

Mrs Tabor advised that she felt that there was no default provision within the lease for a company.

The Chief Executive Officer advised that there were a number of clauses within the lease that deal with default issues.

An unnamed member of the gallery stated that if the business were to be sold it would be the company that would make the money.

The Chief Executive Officer advised that the lease provided provisions for ensuring that the same practice (ie medical services) would be undertaken within the building, regardless of who the lessee may be in the future.

Question 3: (asked by an unnamed member of the gallery) Who is the guarantor?

Answer 3: *The Chief Executive Officer advised that Binda Medical Services Pty Ltd would be responsible for the proposed lease.*

Question 4: (asked by an unnamed member of the gallery) Who do we sue?

Answer 4: *The Chief Executive Officer advised that it was a condition of the lease that appropriate insurances be held.*

Question 5: The exclusion clause only applies to an individual Practitioner, a company cannot be registered, so how can the lease be held by a company?

Answer 5: The Chief Executive Officer advised that, with reference to section 3.58 "Disposal of Property" there are a number of requirements that must be adhered to prior to the disposal of property unless exempt. Regulation 30 (2) (f) provides such an exemption in this case. The Interpretation Act provides that a reference to a person includes a business as a person.

4.2.3 Lee Martin, Great Northern Highway, Bindoon

Mr Martin stated that he would like to re-present what was presented at the meeting held on 16 June 2015 to those Councillors who were not present [Cr Clarke, Cr Mackie and Cr Rossouw]. He stated that BCCC had an interest in Bindoon Medical Services and the Aged Care in Bindoon.

In light of ratepayers feelings;

Question 1: Would the Shire provide a schedule of costs incurred to date [for the Chittering Multi-purpose Health Centre]?

Answer 1: The Chief Executive Officer advised that it is possible to provide the requested information.

Question 2: What future costs does the Shire expect to incur till completion of the project?

Answer 2: The Chief Executive Officer advised that council accepted a tender for \$2.4 million thereby fixing that part of the costs. He confirmed that the total budget for the project (Health Centre, excludes subdivision costs) was \$2.6m, and that currently the project was running to budget and on time. However, the supply of a breakdown of total costs (including subdivision of Lot 62, building construction and roads) would be taken on notice.

Question 3: Can the Shire provide access to cost checking by a professional quantity surveyor?

Answer 3: The Chief Executive Officer advised that one had been undertaken prior to going to tender for the construction of the building.

Question 4: Can the Shire provide details of advertising undertaken to seek appointments for this project?

Answer 4: The Chief Executive Officer advised that the details were available in the tender register which is a public document.

Question 5: Provide details of meetings in relation to the Health Centre?

Answer 5: The Chief Executive Officer advised to the affirmative, and further advised that these had been provided to Cr Norton as per her request.

Question 6: Will the shire give ratepayers access to tender documents for appointment of doctors, medical staff and other significant positions?

Answer 6: The Chief Executive Officer advised that there were no documents.

Question 7: Can the Shire provide formal detail of the conditions of appointment for medical staff including rental for premises?

Answer 7: The Chief Executive Officer advised that the lease is a public document.

Question 8: Congratulations to Cr Clarke and Cr Douglas for declaring an interest in this matter. Cr Hawes, are you over your conflict of interest?

Answer 8: The Shire President explained, for the benefit of the meeting, that approximately three years ago Dr Hayward's partner had approached him to enquire if there was a vacancy in the house owned by himself, his wife and his daughter which was located near the University [attended by the daughter]. There was a vacancy and it was taken by Dr Hayward's daughter who paid rent during her occupancy. That agreement terminated approximately eighteen months ago. An interest was declared during the period of her occupancy.

Question 9: The BCCC requests that the Shire of Chittering cease committing any more funds to the medical centre until the questions asked have been answered to the satisfaction of BCCC.

Answer 9: The Shire President advised that currently there were no expected additional costs.

4.2.4 John Nagel

Mr President I would like to take the opportunity to thank the CEO and four of the seven Councillors for listening to the concerned ratepayers yesterday, however the other three Councillors – Deputy Councillor Rossouw, Councillor Mackie and Councillor Clarke need to be asked the question why are they on Council, as under the rules of code of conduct for elected members your primary role is to represent the community and effectively translate the community needs and aspirations for the future of the shire. I would go on and on regarding the code of conduct of some of the Councillors in general.

Mr President I am still waiting for a response to the question I asked at the last months Council meeting where I was told I would receive a written reply which has not happened.

In the agenda for the 17 June Council meeting no mention was made of the meeting which took place on 27 May 2015 between Bullsbrook Family Practice and the Council. I believe after this meeting that it would be a very brave or naïve Council to enter into a lease agreement with Bindoon Medical Practice at this present time.

Question 1: Why was this not included in the agenda? This is deemed to be unjust as he presented a firm proposal and under the Act you are required to be fair and just (compare apples with apples). We are of the opinion that this has not happened in the instance. Do you consider the shire has been just in the process you have used?

Answer 1: The Shire President advised [in reference to Mr Nagel's opening statement] that he was aware that not all Councillors were to be in attendance at the meeting.

The Shire President stated he thought the Shire had been just in its process to date.

Cr Clarke made a statement regarding her personal reason for not being in attendance at the meeting, further expressing her feeling that public opinions should not be formed without having information to hand.

4.2.5 Bill Nobes

With reference to the new medical centre.

Question 1: Is the whole wing being leased to the doctor?

Answer 1: The Shire President replied to the affirmative.

Question 2: Why when we could lease the rooms individually and make money? Who pays the other practitioners?

No time was allowed for a reply.

Question 3: Why is so much emphasis being placed on Dr Hayward? Why isn't the Bullsbrook doctor being interviewed and considered to see if they can offer something better?

Answer 3: The Shire President advised that apart from offering the nominal monthly rental the same services were being offered by the Bullsbrook practice as those currently offered by Dr Hayward.

Question 4: Why after a closed door meeting between two Councillors did all the Councillors vote for the sale [of land to WA Retirees]?

Answer 4: The Chief Executive Officer explained that an expression of interest process had been undertaken [with regards to the sale of the land for the purpose of retirement housing]. Contact was received from several companies, however no formal expressions of interest were received. Each interested party had been contacted so as to gauge why no submission had been made. Following this process WA Retirees approached the Shire with regard to the land.

Question 5: Can you produce names?

Answer 5: The Chief Executive Officer advised that, following confirmation of the suitability of doing this he would be happy to do so. He further stated that he did not believe it would be a problem, however would like to confirm that.

Question 6: The vote of no confidence has not been answered. Should the Shire of Chittering Council be taken to the Tribunal due to lies, intimidation and conflicts of interest [with reference to the medical centre and land sale]?

Answer 6: The Shire President advised that he was not aware of any conflicts of interest that would require this.

4.2.6 Steve Vallance, Muchea

With reference to the BFAC recommendation *“That Council includes in the 2015/16 budget funds to replace all existing LED fire danger indicators boards with electronic (solar) bush fire danger / community notice boards with a minimum of one sign per annum”*.

Question 1: How much does one of these indicator boards cost?

Answer 1: The Shire President advised, approximately \$15,000.

Question 2: How many are required in total?

Answer 2: The Shire President advised he understood that there were currently five boards.

Question 3: What is the research that show these things make a difference and would it show this expenditure is justified?

Answer 3: The Chief Executive Officer clarified that this was a recommendation from the Chittering Bush Fire Advisory Committee following the item being removed during Council’s initial budget considerations.

Question 4: Isn’t it the case that a Shire Councillor does not have the right to abstain from voting in a council meeting?

Answer 4: The Chief Executive Officer advised that was correct during a Council meeting, however not in an informal meeting.

Question 5: Is it the case that item 10.1 would have been ultra vires?

Answer 5: The Shire President advised that part of Item 10.1 had been withdrawn with an accompanying apology. Further advising that a verbal public apology was intended to be made at the relevant part of the Meeting.

The Shire President apologised, on behalf of the Shire of Chittering, to Cr Barni Norton, and advised there is a formal process that should have been followed.

Question 6: Could this not have been cut off? Why was this not pointed out to the BFAC meeting? And /or why were the proper procedures not explained?

Answer 6: The Chief Executive Officer agreed that this was a good point and that the matter should have been handled in a more formal manner. He advised that there was no excuse for the error, it was a mistake made through having never experienced a similar incident in the past.

Question 7: Most Councillors would be aware of the sacking of Dennis Harvey from the Muchea Brigade. Are you aware that his son and his young employee were summarily dismissed from the Muchea Brigade by text message and with no opportunity to defend themselves?

Answer 7: The Chief Executive Officer advised that they were not aware of this, the Shire had been advised that the two volunteers in question had resigned.

4.2.7 Jan Stagbouer

With reference to the proposed Targa West Rally, how many Councillor's have actually attended the event? It was amazing, the place was alive. We need more positive social capital. I am very disappointed about the handful of 'naysayers' who stepped over the line, threatening Council is disgraceful.

Question 1: Has the threat that Councillor's would be 'sued' if they voted for the event been withdrawn?

Answer 1: The Shire President advised that he felt that the matter was under control and he noted that the perpetrator was not present at the meeting.

Question 2: Has an apology been issued? Has the threat been removed?

Answer 2: The Shire President advised to the negative for both questions.

4.2.8 David Barnard

Mr Barnard spoke at length with regards to the Targa West Rally and related safety concerns.

The President requested on a number of occasions that Mr. Barnard state his question, however, no question was forthcoming.

4.2.9 Bill Nobes

With reference to the proposed Bypass.

Question 1: Who will the road belong to?

Answer 1: The Shire President advised that the existing road would become the responsibility of the Shire, whilst the new road would belong to Main Roads WA.

The Chief Executive Officer shared that discussions had been undertaken with Main Roads WA in order to ensure that the existing road was of an acceptable condition before being handed to the Shire.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Deputation – Ross Tapper, Targa West

Ross Tapper from Targa West made a deputation in relation to the proposed Targa West Rally event.

Cr Norton queried Mr Tapper regarding the 2014 post-event survey results which stated that 72 respondents said “right amount of time”, 22 respondents said “should be shorter” and 73 respondents said “should be longer”, with the application showing that the time was doubled or tripled this year. Cr Norton wondered how the results could be considered and the event made longer.

Mr Tapper advised that the road closure time was being extended by half an hour (due to the majority of time being taken up in setting-up / packing-up rather than in the actual event itself) in order to allow the stage to be run twice. This decision was made following feedback received on event day and the results, with the final decision now being left in the hands of Council.

Cr Norton asked for Mr Tapper’s experience of barriers and the illusion of barriers as a safety net, along with the reporting in the media.

Mr Tapper advised that he was limited in what he could say about the incident referred to, however he could advise that the barriers in question were a highly visual turning indicator rather than a safety measure.

Mr David Barnard asked Mr Tapper if he was a representative of CAMS.

Mr Tapper advised that he was the Chairman of the Advisory Panel and that he was not a paid employee.

6. APPLICATIONS FOR LEAVE OF ABSENCE

6.1 Application for Leave of Absence - Cr Doreen Mackie

6.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 010615

Moved Cr Douglas/ Seconded Cr Rossouw

That Cr Doreen Mackie be granted approved leave of absence from 27 July 2015 until 23 September 2015 inclusive.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

7. CONFIRMATION OF MINUTES

7.1 OFFICER RECOMMENDATION

Moved Cr Douglas/ Seconded Cr Mackie

That the minutes of the Ordinary meeting of Council held on Wednesday, 20 May 2015 be confirmed as a true and correct record of proceedings.

AMENDMENT

Moved Cr Gibson Seconded Cr Norton

That on page 88 the Minutes be amended to remove the words "and agreed to its withdrawal"

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

The Chief Executive Officer explained that he and the Shire President had met in his (CEO) office with Cr Gibson prior to the meeting and explained why the motion was to be withdrawn.

RESCINDING OF AMENDMENT VOTE

Moved Cr Hawes / Seconded Cr Douglas

That the previous amendment be rescinded.

**THE MOTION TO RESCIND WAS PUT AND DECLARED CARRIED 7/0
BY AN ABSOLUTE MAJORITY**

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That the leave of absence dates be amended to read 16 (not 20) June 2015.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

That on page 88 the Minutes be amended to remove the words "and agreed to its withdrawal".

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0

7.1 SUBSTANTIVE MOTION

Moved Cr Douglas/ Seconded Cr Mackie

That the minutes of the Ordinary meeting of Council held on Wednesday, 20 May 2015 be confirmed as a true and correct record of proceedings with the following amendments:

1. That the words "*and agreed to its withdrawal*" be removed from page 88; and
2. That the leave of absence for Cr Norton be amended to read 16 (not 20) June 2015.

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Targa West Rally Event – Maryville Downs, Lower Chittering*

Report date	17 June 2015
Applicant	Targa West
File ref	26/01/5; P104/15
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Council Minutes Item 9.1.4 25 June 20142. Application Letter3. Stage Plan4. Risk Management Plan5. Schedule of Submissions6. Traffic Management Plan7. Safety Plan8. Road Closure Plan9. Road Closure Form10. 2014 Post Event Survey

Background

Council's consideration is requested for the proposed Targa West Rally Event in Maryville Downs, Lower Chittering for 2015 and the approval of a Memorandum of Understanding to hold the event for 5 years.

Council previously supported the Targa West Rally Event in Maryville Downs in 2014 at its 25 June 2014 Ordinary Council Meeting:

"That Council grant approval for the proposed Targa West Rally event in Maryville Downs Estate for 2014 subject to the following conditions:

- 1. the rally event shall be held on Saturday 16 August 2014 in accordance with the documentation submitted (P105/14);*
- 2. the Maryville Stage course roads being as follows:*
 - a. Maine-Anjou Drive*
 - b. Dexter Chase*
 - c. Holstein Loop*
 - d. Portion of Santa Gertrudis Drive*
 - e. Sussex Bend*
 - f. Ayrshire Loop*
 - g. Murray Grey Circle*
 - h. Charolais Trail*
 - i. Limousin Way**are to be closed for a maximum of 3.0 hours, as requested by the Applicant;*

3. *the Traffic Management Plan and Risk Management Plan shall be assessed and approved by an independent qualified consultant and a copy provided to the Shire of Chittering a minimum fourteen (14) days prior to the event;*
4. *the Applicant indemnifying the Shire of all public liability claims and taking out Public Liability Insurance of \$100 Million for the event, and evidence of such insurance to be provided prior to the event;*
5. *the rally event shall be held in accordance with the approved Traffic Management Plan.*
6. *refuelling shall only occur at a location, other than Lower Chittering Hall, to be agreed upon, to the satisfaction of the Chief Executive Officer;*
7. *no servicing of cars are permitted on the event course;*
8. *toilet facilities shall be provided to the satisfaction of the Principal Environmental Health Officer as per the Guidelines for Concerts, Events and Organised Gatherings 2009 (Department of Health) and any other relevant policy, legislation etc;*
9. *All necessary approvals being obtained by Targa West for the event from the Police and other government departments as necessary, prior to the event being held;*
10. *site inspections to be held prior to and after the event with the event holder/s and Shire Technical Services department staff;*
11. *the Applicant shall be responsible for the repair and cost of any damage to the road infrastructure and private property as a result of the event;*
12. *Targa West provide a letter drop to all effected properties prior to the event no later than one month prior to the event, providing details of the roads to be closed, time and date, and installing electronic advance event warning signs at least 2 weeks before the event at strategic locations as directed by the Shire.*
13. *temporary signage shall be erected no earlier than fourteen (14) days before the event and removed no later than seven (7) days after the event;*
14. *submission of an "Application for an order for a road closure" to the Shire of Chittering.*
15. *That Targa West meet the cost of the Shire undertaking a survey of residents impacted by the road closure after the event.*
16. *that Targa underwrite the \$10,000 donation to the Shire of Chittering for the lower chittering community prior to the event."*

In January 2015 Targa West submitted a letter of request for approval of the proposed event, including the Memorandum for Understanding for support over a 5 year period (Attachment 2). The Shire Officers requested that an Application for the Targa Rally event proposed in the Maryville Downs Estate be submitted to the Shire with all comprehensive relevant documentation such as a Traffic Management Plan, Emergency Plan, Risk Management Plan, road closure form etc. The Shire receipted the application in April 2015, however, there was still a significant amount of requested information outstanding including the Safety Plan and Traffic Management Plan to which the Risk Management Plan made reference to. The Applicant provided these documents during the assessment process.

This application seeks approval to hold a rally similar to the 2014 event with the only difference being this application is for 2 laps in comparison to last year with 1 lap. As Council would be aware the Targa West Rally event is conducted over the course of the weekend and is split into stages in various locations and local governments, with this application seeking approval for a stage held in Maryville Downs Estate. Targa West has advised no Service or Refuel Parks will be set up for this stage of the rally but is requesting a small refueling area in the Lower Chittering Hall Car Park Area or Lower Chittering Bush Fire Brigade Station property (subject to Council's approval). The difference between the small refueling area and a refuel park purely comes down to size and proposed usage, a refuel park is specifically designed to refuel all competing vehicles whereas the small refueling area (made up of jerry cans and a couple of floor protection mats to avoid contamination of ground from accidental petrol spillage) is only there to be used infrequently. Targa West have and continue to hold annual Targa Rally events in the City of Perth, City of Kalamunda, City of Swan, Shire of Toodyay and Shire of Mundaring. This event has been held in Toodyay for the last nine consecutive years.

If approved, the event would be subject to a number of temporary road closures in Lower Chittering between the hours of 1:00pm to 4:30pm on the Saturday 15th August 2015:

1. Maine-Anjou Drive
2. Dexter Chase
3. Holstein Loop
4. Portion of Santa Gertrudis Drive
5. Sussex Bend
6. Ayrshire Loop
7. Murray Grey Circle
8. Charolais Trail
9. Limousin Way
10. Texon Ridge
11. Shorthorn Pass

As part of the application for the event approval, the Applicant has now submitted the following information including a road closure form required under the *Road Traffic Act 1974*, a Shire event checklist form, a Planning Form, Risk Management Plan, Maryville Downs Stage Plan, Traffic Management Plan and Safety Plan.

Consultation

Local: *Shire of Chittering Community Engagement Plan 2012*

The proposed public event was advertised for a period of 28 days in the following ways:

1. Advertisement in *The Advocate* newspaper 29 April 2015;
2. Advertisement in the *Northern Valley News* May 2015 edition;
3. Public Notice from 28 April to 25 May 2015;
4. Documentation available at Shire Administration and Development Services reception from 28 April to 25 May 2015;

5. Advertisement on the Shire's website in the 'Have Your Say' section from 28 April to 25 May 2015;
6. Referral letters to likely affected and nearby landowners (Maryville Downs landowners and other landowners in the near vicinity of Maryville Downs Estate); and
7. Referral letters to relevant agencies including:
 - i. Department of Mines and Petroleum
 - ii. WA Police
 - iii. Confederation of Australian Motor Sport
 - iv. Department of Health
 - v. Tourism Council of WA
 - vi. Department of Fire and Emergency Services
 - vii. Main Roads WA
 - viii. St John Ambulance (Chittering-Gingin)
 - ix. LGIS WA

A Schedule of Submissions has been attached (Attachment 5). A total of 23 submissions (20 public) were received. The Applicant was provided with the opportunity to respond to the submissions made.

LGIS were also directly consulted upon receipting the application and provided the following advice in relation to the Risk Management Plan:

"Risk Management Plan"

In relation to the Quit Targa West 13th -16th August 2015 Risk Management Plan, I can confirm that the plan demonstrates a structured approach has been taken and generally aligns with AS/NZS ISO 31000:2009 Risk Management. The following points highlight key components of the plan in relation to the risk management process prescribed in ISO 31000;

1) Establish the Context (aligned to ISO 31000)

- *Event context is provided through the event details, schedule, key stakeholders and principle legal references.*
- *The risk management context is documented through the risk management policy, process, methodology, objectives and the matrices documenting the risk assessment criteria. It is also worth noting that the risk management policy statement has an explicit statement of priority for safety, security, health and well-being for all.*

2) Risk Identification (aligned to ISO 31000)

- *Risks / Hazards are identified under risk categories and documented in a risk register.*

3) Risk Analysis (aligned to ISO 31000)

- *Risks / Hazards have been analysed in terms of areas of impact, likelihood and severity to determine a risk rating before and after management of the risks.*

4) Risk Evaluation (partially aligned to ISO 31000)

- *Multiple risk / hazard owners are assigned to each risk which makes it unclear who owns the risks and individual controls.*
- *There is no risk acceptance decision made for each risks or guidance on how to make that decision.*

5) *Risk Treatment (aligned to ISO 31000)*

- *Risk treatments are documented for each risk / hazard under 'management of the risk' and supported by Appendices, not sighted, that appear to address key risks in more detail e.g. Traffic Management Plans, Evacuation Plans, Incident Management, Cancellation Plan etc.*

6) *Monitor & Review (partially aligned to ISO 31000)*

- *While no specific monitor and review timeframes are stated, there is reference to the plan being active and subject to ongoing change and review.*

In addition I would also encourage the Shire to undertake your own assessment of the event with respect to the following to determine if you are comfortable accepting the risks based on your risk tolerance:

- *Impacts to local community*
- *Impacts to Shire assets / infrastructure / services*
- *Impacts to Shire's reputation*
- *Impacts to public / participants*
- *Impacts to ongoing compliance*
- *Impacts to Shire resources*

Please note this advice only comments on the risk management plans alignment with relevant risk management standards providing assurance that the event managers have demonstrated a structured approach to anticipating, understanding and managing event risks. It does not provide assurance that all foreseeable risks are identified and/or risk treatments are appropriate and effective.

It would assist the Shire of Chittering in assessing the event application for Quit Targa West to further demonstrate:

- Evidence to support the commitment to safety at the Lower Chittering stage. This may be through:*
 - *Safety management plan.*
 - *More detail and consideration of how specific hazards at the Lower Chittering stage, in particular those impacting public and infrastructure will be identified, assessed and managed e.g. inspection checklists, official/marshal briefings etc.*
 - *Process of identifying suitable spectator areas and identification and management of non-compliant spectators.*
 - *Inclusion of vehicle impacting person resulting in injury/death risk and associated controls within risk register.*
- Explanation of key differences and risk profiles between a gravel and tarmac rally, to relieve concerns and sensitivities associated with the recent South West rally event tragedy.*
- Provide evidence of appendices that have direct impacts to community and infrastructure e.g. Traffic Management Plans, Evacuation Plans, Crowd Control Plan, Parking Management Plan, Cancellation/Delay Plan*

Insurance

The level of involvement of the Shire will determine the requirements, however, I would recommend the following as a minimum:

Quit Targa West to confirm the event is sanctioned by CAMS and relevant CAMS ticket obtained and evidenced.

General Liability

*QTW to provide evidence of general liability cover by way of certificate of currency.
The Shire to be named as an additional insured for any liability attaching from this event
Ensure all subrogation rights against the Shire are removed
Policy to be endorsed (if not already contained) for sudden/ accidental pollution*

Professional Indemnity

QTW to provide evidence of Professional Indemnity cover by way of certificate of currency / confirm that it has received and confirmed that any professional contractors utilised have appropriate insurance

Motor (this is not for the vehicles participating in the rally)

Comprehensive motor cover, including third party liability cover for \$30M, policy to be endorsed to provide bodily injury gap cover and tools of trade not otherwise insured

Does the Shire have any agreement in place with QTW and does the Shire require such a contract if it restricts itself to 'event application approval' only."

This information has been relayed to the Applicant for action and a detailed officers response to these risks/GAPS identified have been addressed in the Officers Comments section of the report

Statutory Environment

State: Road Traffic Act 1974
Health Act 1911

The Act provides the definition of a 'Public Building':

public building means —

- (a) a building or place or part of a building or place where persons may assemble for—
 - (i) civic, theatrical, social, political or religious purposes; and
 - (ii) educational purposes; and
 - (iii) entertainment, recreational or sporting purposes; and
 - (iv) business purposes; and
- (b) any building, structure, tent, gallery, enclosure, platform or other place or any part of a building, structure, tent, gallery, enclosure, platform or other place in or on which numbers of persons are usually or occasionally assembled, but does not include a hospital;

A public event falls under the definition of a 'public building'.

Section 178 of the *Health Act 1911* sets out the requirement for a 'Certificate of Approval' for a public building.

State: Health (Public Buildings) Regulations 1992

The Regulations, made under the *Health Act 1911*, sets out regulations for the 'Certificate of Approval' for public buildings.

Policy Implications

State: Guidelines for Concerts, Events and Organised Gatherings 2009

The *Guidelines for Concerts, Events and Organised Gatherings 2009* was developed by the Department of Health to prescribe requirements in a format that could be used to guide local government in dealing with and applicants in preparing for an event. The Guidelines makes reference to the requirements for local government approval for public buildings and events (as above) and makes specific mention of motor sports.

Local: Register of Policies

The Shire's Register of Policies covers Concerts, Events and Organised Gatherings whereby the Shire's Principal Environmental Health Officer shall be the responsible officer. Given the nature of the proposed event, it was considered appropriate that the planning department deal with the application.

Financial Implications

The costs associated with advertising the planning application have been invoiced to the Applicant.

Strategic Implications

Local: Shire of Chittering Strategic Community Plan 2012-2022

Social: *Building a sense of community*

Outcome: *Strengthened Social Connections*

Strategies: *Facilitate and nurture community interaction*

Key Priorities: *Develop and implement Shire of Chittering Community Development Plan:*

- *Increase in community events held each year.*

Develop and implement Shire of Chittering Economic Development Strategy:

- *Increase in festivals and events held each year.*

Social: *Prosperity for the Future*

Outcome: *Economic Growth*

Strategies: *Facilitate local services growth*

Key Priorities: *Promote local business and events, where possible:*

- *Create a local business web link on the Shire's website.*
- *Number of commercial development applications issued.*

Local: Shire of Chittering Economic Development Strategy 2015-2025

This Plan provides general support for all types of events to help attract visitors and provide economic benefit in the Shire.

Site Inspection

Site inspection undertaken: It is expected, that if the event is approved a further site inspection would be undertaken prior to and post-event by the Shire's Technical Services department and Targa West to assess the roads and any damage.

Triple Bottom Line Assessment

Economic implications

Whilst the direct economic impact of the event on the Shire's community businesses may be limited and very difficult to measure initially; the high profile nature of the event would provide great tourism opportunities for return visitors after the event. That is, the event may expose the area to visitors that may not have been aware of Chittering had the event not been held here.

The proposed event may provide some economic stimulus (i.e. people coming in to the area to watch/participate) and would provide exposure of the area through national television and media coverage. As mentioned above the event could result in a greater number of visitors to the area throughout the year and possibly increase the interest in property in the area, particularly given the scenery at this time of the year.

Targa West have advised several media coverage and campaign would be undertaken prior to, and during the event including television, YouTube, West Australian newspaper, radio, Targa website and Targa Facebook page.

Social implications

The advertising period resulted in 20 public submissions; 13 objecting to the event and 7 in support of the event. While the 20 submissions represent a small proportion of the 463 letters that were sent to residents in the area and general public population notified of the proposal, the submissions received indicated concerns of public safety and unnecessary inconvenience. The submissions indicating support generally raised comment on the opportunity for family and friends to gather for the event and promotion of the local area.

Environmental implications

Should Council approve a refueling area, it is recommended that a condition be imposed requiring all refueling to be in a sealed area and vehicles are to be stationed on a sealed membrane or material that will absorb or contain all spillage to avoid contamination. It should be noted that the proposed refueling is more the purpose of designating one area for drivers to 'top up' their vehicles with fuel from jerry cans and is vastly different to that of a 'Refuel Park' which involves large fuel storage and associated major servicing.

Comment

Council's previous decisions

As mentioned in the 'Background' of this report, Council approved the 2014 Targa West Rally event to be conducted in Maryville Downs subject to conditions. A condition of the 2014 approval required a post event survey to be undertaken at the cost of the Applicant. The results of this survey are generally positive and supportive of the rally event and are included in Attachment 10.

It is considered the documentation provided for this years proposed event generally meets the requirements of the Guidelines with the preparation and implementation of a Traffic Management Plan and Risk Management Plan and the support from CAMS.

Submissions

As mentioned in the 'Consultation' section of this report, the proposed event was advertised for a period of 28 days in multiple ways in accordance with the *Shire of Chittering Community Engagement Plan 2012*. Within this period a total of 20 public submissions and 3 agency submission were received. Of the 20 public submissions, 7 were in support of the event and 13 objected to the event. It should be noted that the public event was advertised to the Shire population, with specific referral letters to those directly affected in the Maryville Downs Estate area (463 letters). By taking that into consideration the 13 objections received represent a relatively low level of objection to the event given Lower Chittering's total estimated population of over 1,558 people (*ABS 2011- quick stats*). The 3 agency submissions provided advice and did not convey objection.

The Schedule of Submissions (Attachment 5) provides a more detailed account of all the submissions received with a column for the Applicant's response and a column for the Shire's response to each of the points made.

The public submissions objecting to the event being held raised a number of concerns mostly related to:

- (i) Safety to spectators;
- (ii) Safety for animals;
- (iii) Damage to roads and private property;
- (iv) High speed on roads designed for low speed;
- (v) Risks imposed on residents;
- (vi) Noise;
- (vii) Questioned benefit to the Shire and residents; and
- (viii) Reckless driving following the event.

Responses to the individual concerns raised have been addressed in the Schedule of Submissions (Attachment 5). In relation to the above general concerns, it is considered that what can be reasonably addressed has been included in the Traffic Management Plan and Risk Management Plan and the provision of a Rally Safety Plan on the day. The concerns of damage to infrastructure, whilst acknowledged as a risk, can be addressed through the requirement of a bond and inspections whereby Targa West would be responsible for any costs.

LGIS were also consulted for advice (copy in the 'Consultation' section). Their assessment of the risk management for the event concluded that the Risk Management Plan generally aligned with the relevant International Standard (ISO). The queries made by LGIS only related to the Risk Management Plan. The provision and implementation a Traffic Management Plan, Safety Plan and other listed plans/documents such as public liability insurance etc. are considered to address the concerns of LGIS. The specific actions requested of Targa West by LGIS have been addressed in the following ways:

It would assist the Shire of Chittering in assessing the event application for Quit Targa West to further demonstrate:

- iv) *Evidence to support the commitment to safety at the Lower Chittering stage. This may be through:*
 - *Safety management plan.*

Officer comment: Safety Plan provided (Attachment 7)

- *More detail and consideration of how specific hazards at the Lower Chittering stage, in particular those impacting public and infrastructure will be identified, assessed and managed e.g. inspection checklists, official/marshal briefings etc.*

Officer comment: The Applicant has agreed to undertake pre and post event inspections to assess hazards as per last year's event condition. The Applicant has provided a safety inspection checklist (tagging of gates, hazards) and a Road Book which identifies all road hazards to drivers competing.

- *Process of identifying suitable spectator areas and identification and management of non-compliant spectators.*

Officer comment: The Stage Plan (Attachment 3) identifies spectator areas and the Safety Plan outlines spectator management procedures.

- *Inclusion of vehicle impacting person resulting in injury/death risk and associated controls within risk register.*

Officer comment: The Applicant has briefed Council to respond to the concerns on the death of a gravel rally event in south west WA and advised the measures put in place for spectator safety. The Safety Plan outlines management and Targa's commitment to spectator safety.

- v) *Explanation of key differences and risk profiles between a gravel and tarmac rally, to relieve concerns and sensitivities associated with the recent South West rally event tragedy.*

Officer comment: At a Council Briefing the Applicant explained the differences between gravel and tarmac rallies. Tarmac surface provides more grip and better sightlines around bends, particularly in the Maryville Stage. Gravel surfaces involve more slide and different driving techniques as well as drivers requiring to heavily rely on tree lines for driving lines of the track. The associated risk on tarmac is much less than gravel for an event of this nature.

- vi) *Provide evidence of appendices that have direct impacts to community and infrastructure e.g. Traffic Management Plans, Evacuation Plans, Crowd Control Plan, Parking Management Plan, Cancellation/Delay Plan.*

Officer comment: Traffic Management Plan (including parking management) and Safety Plan provided to the Shire. The Applicant has advised all relevant public safety and event information documents will be provided (as required by condition of approval) to affected landowners prior to the event.

Quit Targa West to confirm the event is sanctioned by CAMS and relevant CAMS ticket obtained and evidenced.

Officer comment: CAMS submission confirmed Targa West to be governed by CAMS and relevant permit approval submitted for the event (subject to Council approval).

General Liability

QTW to provide evidence of general liability cover by way of certificate of currency.

The Shire to be named as an additional insured for any liability attaching from this event

Ensure all subrogation rights against the Shire are removed

Policy to be endorsed (if not already contained) for sudden/ accidental pollution

Officer comment: Applicant submitted Public Liability Insurance for \$100 million and a recommended condition of approval (as per the 2014 event) requires Targa West to enter into a Deed to indemnify the Shire of any liability claims.

Professional Indemnity

QTW to provide evidence of Professional Indemnity cover by way of certificate of currency / confirm that it has received and confirmed that any professional contractors utilised have appropriate insurance

Officer comment: All event personnel are covered under CAMS and Targa West insurances. All drivers have their own insurances as mentioned in the Risk Management Plan.

Motor (this is not for the vehicles participating in the rally)

Comprehensive motor cover, including third party liability cover for \$30M, policy to be endorsed to provide bodily injury gap cover and tools of trade not otherwise insured

Officer comment: The applicant has advised that the insurance covered by CAMS and the participants individual vehicle insurance covers this risk.

Does the Shire have any agreement in place with QTW and does the Shire require such a contract if it restricts itself to 'event application approval' only."

Officer comment: The application being considered by Council is for the public event only and the Shire does not take the responsibility or liabilities of the event management; this is covered by Targa West and CAMS.

The Shire's assessment of the risks of the event has taken into consideration the impact on the local community, the public and Council's assets (i.e. road infrastructure). It should be noted the Applicant has since provided further documentation as requested by the Shire following LGIS's early advice (extract in the 'Consultation' section) on the proposed event.

As mentioned earlier CAMS were contacted to confirm the requirements of the rally were met and that they confirm their support of the event as mentioned by Targa West.

Protection of Shire Assets

The event seeks to utilise the following shire owned roads and part of this event:

1. Maine-Anjou Drive
2. Dexter Chase
3. Holstein Loop
4. Portion of Santa Gertrudis Drive
5. Sussex Bend
6. Ayrshire Loop
7. Murray Grey Circle
8. Charolais Trail
9. Limousin Way
10. Texon Ridge
11. Shorthorn Pass

The Shire's Technical Department has assessed the proposal as well as the current condition of the roads and has determined that the roads are of a reasonable standard to be used for this event, however, there is risk of damage.

When evaluating the merits of a commercial event being held in the Shire, various considerations are made including: the location of the event whether it be held on public or private land, proximity to local services, and the event attraction/theme. In the case of Targa West, the event is being held on public roads which are managed by the Shire of Chittering. Although it is considered there is risk to road damage and public infrastructure and safety there is also considerable social capital to be gained from this event.

Various government authorities are involved to ensure public safety, the Shire of Chittering due to the use of its local roads and approval requirements, the Police, St Johns ensuring ambulance facilities are available in the case of an emergency, other emergency services are on standby as well. In addition to this, the Shire of Chittering's Technical Services Department has undertaken assessment of road impact based on proposed traffic movements, the Traffic Management Plan 2015 supplied by Targa West, current state of the road and the required state of the road to ensure vehicle safety for the number of vehicles proposed.

Based on the above as well as relevant plans submitted, the Shire's Technical Services Department has determined approximate costing to reinstate the road in the case of damage would be approximately \$30,000. Therefore, it is considered that should Council approve this event then it should require the applicant to enter into an agreement to ensure that there is a cash bond, or an irrevocable and unconditional bank guarantee from an institution acceptable to the local government, in the amount of \$30,000 is to be provided by the Applicant to the local government to be used to repair any agreed damage to roads or Shire infrastructure as a result of the event.

Guidelines

The event was assessed with guidance from the *Guidelines for Concerts, Events and Organised Gatherings*. The Guidelines prescribes requirements for various types of events. Guideline 12 relates to motor sports and the recommendation for a motor sports event to be administered by an appropriate authority such as the Confederation of Australian Motor Sports (CAMS). CAMS were notified and their response indicates this to be the case.

It is considered the documentation provided for the proposed event generally meets the requirements of the Guidelines with the preparation and implementation of a Traffic Management Plan and Risk Management Plan and the support from CAMS (governing body of Targa West).

Memorandum of Understanding (MOU)

The Applicant provided a draft MOU in January 2015 for Council's consideration. The MOU would provide Targa West with the security of the Maryville Downs rally event over a 5 year period and negate the need for the full event process of prior advertising and Council consideration each year. The Shire believes that the MOU should be considered separate to this years proposed event to allow for a better assessment of the future of the event. Should this year's proposed event be approved, the MOU would likely be considered at the next available Council Meeting.

Conclusion

It is the Officer's Recommendation that the request to consider the MOU for a 5 year event approval be deferred and that the 2015 rally event be approved subject to conditions.

It is believed that the Officer's Recommendation addresses the concerns of the general public and imposes reasonable conditions on the Applicant by requiring the following, but not limited to:

1. Public safety measure.
2. Event holder to repair and pay for any damage to Shire roads and infrastructure which is secured through a bank guarantee.
3. Event holder obtain Public Liability Insurance cover should any damage occur to private property as advised by LGIS.
4. The approval only be for the period specified in the Traffic Management Plan on the 15 August 2015.
5. Absorbent mats or equivalent for any refueling to ensure contamination is minimised.
6. A Deed of Indemnity to indemnify the Shire of any public liability claims that may arise from the event.
7. Approval from CAMS, the governing body, and an accredited Traffic Management Plan.

9.1.1 OFFICER RECOMMENDATION

Moved Cr Rossouw/ Seconded Cr Douglas

That Council:

1. grant approval for the proposed Targa West Rally event in Maryville Downs Estate for 2015 subject to the following conditions:
 - a. the rally event shall be held on Saturday 15 August 2015 in accordance with the documentation submitted (P104/15);
 - b. the Maryville Stage course roads being as follows:
 - i. Maine-Anjou Drive
 - ii. Dexter Chase
 - iii. Holstein Loop
 - iv. Portion of Santa Gertrudis Drive
 - v. Sussex Bend
 - vi. Ayrshire Loop
 - vii. Murray Grey Circle
 - viii. Charolais Trail
 - ix. Limousin Wayare to be closed for a maximum of 3.5 hours, as requested by the Applicant;
 - c. the Applicant indemnifying the Shire of all public liability claims and taking out Public Liability Insurance of \$100 Million for the event, and evidence of such insurance to be provided prior to the event;
 - d. the rally event shall be held in accordance with the approved Traffic Management Plan;
 - e. refuelling shall only occur at a location, with the provision of appropriate absorbent material to contain all spillage to be agreed upon, to the satisfaction of the Chief Executive Officer;
 - f. no servicing of cars are permitted on the event course;
 - g. toilet facilities shall be provided to the satisfaction of the Principal Environmental Health Officer as per the *Guidelines for Concerts, Events and Organised Gatherings 2009* (Department of Health) and any other relevant policy, legislation etc;
 - h. All necessary approvals being obtained by Targa West for the event from the Police and other government departments as necessary, prior to the event being held;
 - i. site inspections to be held prior to and after the event with the event holder/s and Shire Technical Services department staff;
 - j. A legal agreement being entered into at the cost of the applicant within two weeks of the date of this approval. The legal agreement is to ensure that there is a cash bond, or an irrevocable and unconditional bank guarantee from an institution acceptable to the local government, in the amount of \$30,000.00 (being the estimated cost of repairing a proportionate amount of the roads utilized for the event), is to be provided by the applicant to the local government. The bond/bank guarantee may be drawn on by the local government following notice of the damage to the applicant without notice to the applicant as are deemed necessary by the Shire. After the conclusion of the event, the local government will review the condition of the following roads used for the event including;
 - i. Maine-Anjou Drive
 - ii. Dexter Chase
 - iii. Holstein Loop
 - iv. Portion of Santa Gertrudis Drive
 - v. Sussex Bend
 - vi. Ayrshire Loop
 - vii. Murray Grey Circle
 - viii. Charolais Trail

- ix. Limousin Way
- x. Texon Ridge
- xi. Shorthorn Pass

and, if necessary, draw on the bond/bank guarantee to pay for any work required to return the road to a satisfactory standard. Any balance of the bond/bank guarantee which thereafter remains is to be refunded to the applicant;

- k. Targa West provide a letter drop to all effected properties prior to the event no later than one month prior to the event, providing details of the roads to be closed, time and date, and installing electronic advance event warning signs at least 2 weeks before the event at strategic locations as directed by the Shire;
 - l. temporary signage shall be erected no earlier than fourteen (14) days before the event and removed no later than seven (7) days after the event;
 - m. submission of an "Application for an order for a road closure" to the Shire of Chittering; and
 - n. the Applicant enter into a Deed with the Shire of Chittering to indemnify the Shire of any public liability claims.
2. Authorise the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Deed of Indemnity.
3. Defer consideration of the Memorandum for Understanding until after the 2015 Targa West Rally event.

AMENDMENT

Moved Cr Norton / Seconded Cr Clarke

That a contribution of \$3,000 be made towards to the maintenance of the roads utilised for the event.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 4/3

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That a donation of \$10,000 be made to be spent in the Lower Chittering community.

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That Condition (e) be amended to reflect that refuelling should not be undertaken on Shire property, with the recommendation that contact is made with local businesses.

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That there be an additional Condition (o) to read; a community debrief and a local emergency services debrief to take place following the event.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 4/3

AMENDMENT

Moved Cr Norton / Seconded Cr Rossouw

That Condition (k) be amended to read that the letter drop is to include advice regarding fences – that they should not be sat upon, nor are they considered an adequate barrier from a moving vehicle.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That there be an additional Condition (p) to read; Targa to provide temporary safety bollards and / or crash barriers in all the high risk spectator areas.

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That there be an additional Condition (p) to read; Targa provide financial assistance to people with health issues on the rally route who might need to seek respite from their homes on the day of the event.

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

AMENDMENT

Moved Cr Norton / Seconded Cr Gibson

That there be the addition of an advice note: That there is recognition of what some Councillors have received as gifts from Targa following last years event, ie the Gala Ball (\$145 each), drives off course (\$275) and drives on event day.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1

SUBSTANTIVE MOTION / COUNCIL RESOLUTION – 020615

Moved Cr Rossouw/ Seconded Cr Douglas

That Council:

1. grant approval for the proposed Targa West Rally event in Maryville Downs Estate for 2015 subject to the following conditions:
 - a. the rally event shall be held on Saturday 15 August 2015 in accordance with the documentation submitted (P104/15);
 - b. the Maryville Stage course roads being as follows:
 - i. Maine-Anjou Drive
 - ii. Dexter Chase
 - iii. Holstein Loop
 - iv. Portion of Santa Gertrudis Drive
 - v. Sussex Bend
 - vi. Ayrshire Loop
 - vii. Murray Grey Circle
 - viii. Charolais Trail

- ix. **Limousin Way**
are to be closed for a maximum of 3.5 hours, as requested by the Applicant;
- c. the Applicant indemnifying the Shire of all public liability claims and taking out Public Liability Insurance of \$100 Million for the event, and evidence of such insurance to be provided prior to the event;
- d. the rally event shall be held in accordance with the approved Traffic Management Plan;
- e. refuelling shall only occur at a location, with the provision of appropriate absorbent material to contain all spillage to be agreed upon, to the satisfaction of the Chief Executive Officer;
- f. no servicing of cars are permitted on the event course;
- g. toilet facilities shall be provided to the satisfaction of the Principal Environmental Health Officer as per the *Guidelines for Concerts, Events and Organised Gatherings 2009* (Department of Health) and any other relevant policy, legislation etc;
- h. All necessary approvals being obtained by Targa West for the event from the Police and other government departments as necessary, prior to the event being held;
- i. site inspections to be held prior to and after the event with the event holder/s and Shire Technical Services department staff;
- j. A legal agreement being entered into at the cost of the applicant within two weeks of the date of this approval. The legal agreement is to ensure that there is a cash bond, or an irrevocable and unconditional bank guarantee from an institution acceptable to the local government, in the amount of \$30,000.00 (being the estimated cost of repairing a proportionate amount of the roads utilized for the event), is to be provided by the applicant to the local government. The bond/bank guarantee may be drawn on by the local government following notice of the damage to the applicant without notice to the applicant as are deemed necessary by the Shire. After the conclusion of the event, the local government will review the condition of the following roads used for the event including;
- i. **Maine-Anjou Drive**
 - ii. **Dexter Chase**
 - iii. **Holstein Loop**
 - iv. **Portion of Santa Gertrudis Drive**
 - v. **Sussex Bend**
 - vi. **Ayrshire Loop**
 - vii. **Murray Grey Circle**
 - viii. **Charolais Trail**
 - ix. **Limousin Way**
 - x. **Texon Ridge**
 - xi. **Shorthorn Pass**
- and, if necessary, draw on the bond/bank guarantee to pay for any work required to return the road to a satisfactory standard. Any balance of the bond/bank guarantee which thereafter remains is to be refunded to the applicant;
- k. Targa West provide a letter drop to all effected properties prior to the event no later than one month prior to the event, providing details of the roads to be closed, time and date, include advice regarding fences – that they should not be sat upon, nor are they considered an adequate barrier from a moving vehicle, and installing electronic advance event warning signs at least 2 weeks before the event at strategic locations as directed by the Shire;
- l. temporary signage shall be erected no earlier than fourteen (14) days before the event and removed no later than seven (7) days after the event;
- m. submission of an “Application for an order for a road closure” to the Shire of Chittering; and
- n. the Applicant enter into a Deed with the Shire of Chittering to indemnify the Shire of any public liability claims.
- o. a community debrief and a local emergency services debrief to take place following the

event.

- p. That a contribution of \$3,000 be made towards to the maintenance of the roads utilised for the event.
2. Authorise the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Deed of Indemnity.
 3. Defer consideration of the Memorandum for Understanding until after the 2015 Targa West Rally event.

Advice Note:

There is recognition of what some Councillors have received as gifts from Targa following last years event, ie the Gala Ball (\$145 each), drives off course (\$275) and drives on event day.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 4/3
Cr Clarke, Cr Norton and Cr Gibson requested that their names be recorded as voting against the motion.
Cr Rossouw requested her name be recorded as voting for the motion.

Mr Brendan Jeans left the chamber at 9:27pm and did not return.

PROCEDURAL MOTION

**Moved Cr Douglas / Seconded Cr Mackie
That Item 9.4.6 be brought forward in the Agenda.**

THE PROCEDURAL MOTION WAS PUT AND DECLARED CARRIED 6/1

Cr Norton and Cr Douglas departed from Chambers at 9.28pm.

Cr Douglas returned to Chambers at 9.28pm.

Cr Norton returned to Chambers at 9.30pm.

At the Ordinary meeting of Council held 20 May 2015, Council resolved to lay item '14.1.4 Confidential item: Chittering Health Centre Lease – Binda Medical Services' be deferred until the next Council meeting in order to receive additional information.

PROCEDURAL MOTION

**Moved Cr Douglas/ Seconded Cr Mackie
That item '14.1.4 Confidential item: Chittering Health Centre Lease – Binda Medical Services' be raised from the table.**

THE PROCEDURAL MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4.6 Chittering Health Centre Lease – Binda Medical Services*

Report Date	17 June 2015
Applicant	Shire of Chittering
File ref	04/18/72
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft lease agreement for Chittering Health Centre to Binda Medical Services 2. Letter from Bullsbrook Family Medical Centre, dated 1 May 2015 (ref I1558947) 3. Article from the Toodyay Herald

Background

Lease

The construction and fit out of the Chittering Health Centre is near completion and as such a formal lease agreement for the building is now required. It has always been Council's intention to split the building in two, one Northern Wing for GP & related services, and the other Southern Wing for Allied Health Services, which is to be occupied by WA Country Health Services (WACHS).

Council at its meeting held on the 15 April 2015 resolved as follows:

That Council:

- 1. resolve to offer the lease on the North wing of the new Multipurpose Health Centre to the practice currently providing medical services to the Community from the existing Medical Centre.*
- 2. direct the Chief Executive Officer to prepare a lease document satisfactory to Council, for the North wing of the new Multipurpose Health Centre.*

A draft lease has been prepared by Council's solicitors and is presented for Council's consideration.

Binda Medical Services (BMS) have been an active member of the Chittering Health Advisory Working Group that assisted with the design of the building to the extent that the Northern Wing of the building has been designed around their specific requirements.

Historically Council has provided the current medical building (Binda Place) to the local GP of the day on a peppercorn basis.

Council has received another offer from Dr Ogunpie (Bullsbrook Family Medical Centre) dated 1 May 2015. In this offer it has also been requested that the premises be provided on a rent free basis. A copy of his letter is attached (attachment 2). BFMC is also a private practice and restricts bulk billing to children under 16, and patients with a Pension, Health Care Card or Veteran Affairs Patients.

Financial contribution

A request has been received from Binda Medical Services to use the Council's contribution of \$20,800 as a general contribution for the second doctor. Originally the contribution was provided to assist with the doctor's accommodation needs. The Practice Manager has advised that they have offered the second doctor a fuel allowance of \$100 per day as an employment incentive, and that they intend to use the Council contribution for that purpose, if approved.

The second doctor is commuting from outside of Chittering, and does not wish to live within the Shire.

Other peri-urban Council contributions made to attract and retain GP services in their towns;

Shire of Gingin

Total contribution \$230,000

Shire of Beverley

- A Surgery (Free of Charge, Council pays for Water and the Practice pays for Power and Telephone Charges)
- Council provides a photocopier and the computer system for the Practice.
- The Practice is managed by the Doctor.
- A House (Free of charge, Council pays utilities charges)
- A Car (Council pays for services and tyres. The Practice pays for fuel)
- There is also a "Cash" component in the contract that would see Council providing Financial support should the Practice turnover fall beneath a certain amount. (This has never been used as far as I am aware)

Shire of Brookton

\$25k a year to the Beverley Medical Practice to provide a two day a week service to Brookton

Shire of York

Shire has agreed to provide accommodation and a car for a three year period to meet after demand. We will lease a house and car to start the scheme off and hopefully it will be self-supporting.

Shire of Toodyay

It is understood that the Shire of Toodyay refused to provide further assistance to their local doctor, which in part resulted in his departure to Wongan Hills. Refer to the attached Toodyay Herald article dated April 2011.

Currently Toodyay's GP services are provided by the Wheatbelt GP Network, and the premises are provided rent free by the Council.

Consultation

Binda Medical Services Pty Ltd
Shire of Gingin
Shire of Beverley
Shire of Brookton
Shire of Toodyay
Shire of York

Statutory Environment

State: Local Government Act 1995

Section 3.58 of the Local Government Act – Disposing of Property

(1) *In this section—*

dispose includes to sell, **lease**, or otherwise dispose of, whether absolutely or not;

property includes the whole or any part of the interest of a local government in property, but does not include money.

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

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

- (1) *A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.*
- (2) *A disposition of land is an exempt disposition if—*
 - (a) *the land is disposed of to an owner of adjoining land (in this paragraph called **the transferee**) and—*
 - (i) *its market value is less than \$5 000; and*
 - (ii) *the local government does not consider that ownership of the land would be of significant benefit to anyone other than the transferee;*
 - (b) *the land is disposed of to a body, whether incorporated or not—*
 - (i) *the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and*
 - (ii) *the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*
 - (c) *the land is disposed of to—*
 - (i) *the Crown in right of the State or the Commonwealth;*
 - (ii) *a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
 - (iii) *another local government or a regional local government;*
 - (d) *it is the leasing of land to an employee of the local government for use as the employee's residence;*
 - (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land;*

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

Therefore, section 3.58 of the *Local Government Act 1995* does not need to be complied with in relation to the proposed lease as the Binda Medical Services Pty Ltd intends to use the building for carrying on as a medical practice.

State: *Planning and Development Act 2005*

Section 136 of *Planning and Development Act 2005* states

136. Approval required for some dealings as to land not dealt with as a lot or lots

- (1) *Subject to sections 139 and 140 a person is not to —*
 - (a) *lease or grant a licence to use or occupy land for any term exceeding 20 years, including any option to extend or renew the term or period; or*
 - (b) *lease and grant a licence to use or occupy land for terms in the aggregate exceeding 20 years, including any option to renew or extend the terms or periods; or*
 - (c) *sell or agree to sell land; or*
 - (d) *grant any option of purchase of land, without the approval of the Commission unless the land is dealt with by way of such lease, licence, agreement or option of purchase as a lot or lots.*
- (2) *A person who contravenes subsection (1) commits an offence.*

The proposed lease for the portion of the land does not exceed 20 years, therefore, does not require the approval of the Planning Commission.

The proposed term is for a total of ten (10 years), initial term five (5) years, with an option for a further five (5) years. Market Reviews are to be undertaken every five (5) years during the Term (including any further terms and any period of holding over, if applicable) on the anniversary of the commencement date.

Policy Implications

1.5 Execution of documents

Financial Implications

The lease is a peppercorn lease and therefore no income will be derived. However, as mentioned above a provision has been incorporated into the lease requiring at the end of the first five (5) years a market review be undertaken of the rental amount paid.

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

Council will be responsible for future costs such as building insurance, fire extinguisher servicing/replacement, maintenance etc. This expenditure will be including in the Building Maintenance Plan.

The other half of the building (Southern Wing) will be leased by the Health Department (WACHS), and it is recommended that these funds be placed in a reserve for the buildings ongoing maintenance.

Strategic Implications

Social: Building a Sense of Community

Strategy: Advocate for local health and youth services.

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

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

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

Environmental implications

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

Comment

In accordance with Council's instructions, an offer to lease the Northern Wing of the building has been made to Binda Medical Services. The discussions have been based on the draft lease prepared by Council's solicitors.

The Doctor has confirmed that a second doctor (Dr Monica Rosca) has been employed, and as such is looking to extend their hours of operation to five days a week once they have settled into the new building.

It is recommended that a condition be placed in the lease document that whilst two doctors are available to the practice it must provide medical services to the community at least five (5) days a week.

All other terms and conditions can be found in Attachment 1 – Draft Lease.

9.4.6 OFFICER RECOMMENDATION

Moved Cr Douglas/ Seconded Cr Mackie

That Council resolve to:

1. approve the lease agreement for the Chittering Health Centre (Northern Wing) to Binda Medical Services Pty Ltd on the following terms;
 - a. an annual peppercorn lease; and
 - b. a period of 5 years, from 1 June 2015 to 31 July 2020, with an option for a further 5 years; and
 - c. a market review of the rent to be undertaken after the first 5 years; and
 - d. that whilst two doctors are available to the practice it must provide medical services to the public at least 5 days a week, with a longer term view (additional doctors) to provide 5.5 days a week; and
 - e. all other terms and conditions as per the draft lease document prepared by McLeods.
2. authorise the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Chittering Health Centre (Northern Wing) lease agreement *"Lease of portion of Chittering Multi-Purpose Health Centre - Great Northern Highway, Bindoon"*.

3. allocates \$20,800 in its 2015/16 Annual Budget as a financial contribution towards the operation of the Bindoon Medical Practice.

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

That Condition 1 (a) be amended to include a rental of \$50 per month, with annual reviews, and that an Advice Note be added to read; It should be noted that the commercial rental value of the building is approximately \$45,000 per annum.

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

That Condition 1 (c) be amended to delete “after the first 5 years” and replace with “after the first 12 months”, and undertaken annually thereafter;

THE AMENDMENT WAS PUT AND DECLARED LOST 3/4

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

That Condition 1(d) be deleted and amended to read; that it must provide medical services to the public at least 5.5 days per week and 1 evening per week with a minimum of 40 hours of opening time per week. Two doctors must be provided.

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

Ms Sutherland, Executive Manager Corporate Services, departed Chambers at 9.48pm.

Ms Sutherland, Executive Manager Corporate Services, returned to Chambers at 9.50pm.

COUNCILLOR MOTION

Moved Cr Norton / Seconded Cr Gibson

That the Item be laid on the table in order for more information to be added to the Item’s Attachments, for the benefit of Councillors and the community. This is requested in order to ascertain the true value of the financial consideration of the ‘gift’ (estimated at this meeting at \$79,000 per annum) to the Doctor and clarification of the difference between a company and a registered business and an individual.

THE MOTION WAS PUT AND DECLARED LOST 3/4

Cr Douglas departed Chambers at 10.10pm.

Cr Douglas returned to Chambers at 10.11pm.

As there appeared to be some confusion as to the voting on the matter the Shire President re-put the Motion

COUNCILLOR MOTION / COUNCIL RESOLUTION - 030615

Moved Cr Norton / Seconded Cr Gibson

That the Item be laid on the table in order for more information to be added to the Item's Attachments, for the benefit of Councillors and the community. This is requested in order to ascertain the true value of the financial consideration of the 'gift' (estimated at this meeting at \$79,000 per annum) to the Doctor and clarification of the difference between a company and a registered business and an individual.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

9.1.2 Authorisation of Documents and Deed for WAPC 148236 – Maryville Heights, Chittering*

Report date	17 June 2015
Applicant	Statewest Surveys
File ref	18/03/83
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Locality Plan2. Deposited Plan 4028473. Section 70A Notification4. Withdrawal of Caveat5. Deed of Variation6. Temporary Fire Access Easement7. Permanent Fire Access Easement8. Restrictive Covenant9. Surrender of Easement10. Development Plan

Background

On 13 February 2014 the Western Australian Planning Commission granted a subdivision approval for Lot 9601 Guernsey Rise, Chittering subject to a number of conditions. The subdivision approval creates 27 lots and 1 Public Open Space (POS) lot in the south eastern corner of the site in accordance with the endorsed Development Plan as part of a staged development.

The matters requiring documents to be executed by the Shire for the subdivision include:

- (i) Section 70A Notification advising of a subject Fire Management Plan, no reticulated sewerage available and no mains potable water supply;
- (ii) Section 129BA Restrictive Covenant for building envelopes;
- (iii) Section 195 Easement for the Emergency Access Way for fire access (both temporary and permanent);
- (iv) Surrender of Easement of temporary Emergency Access Way;
- (v) Deed of Agreement in relation to deferral of the ceding of POS; and
- (vi) Withdrawal of Caveat (temporarily) to allow the Deed of Agreement to be placed on the new balance lot.

This report to Council is to seek authorisation from Council for the Common Seal to be affixed and for the President and Chief Executive Officer to sign the relevant documents for their execution.

Consultation

Not applicable

Statutory Environment

State: *Transfer of Land Act 1893*
Land Administration Act 1997

Policy Implications

1.5 Execution of Documents

Financial Implications

All associated costs are borne by the Applicant.

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

In order to satisfy the requirements of the Fire Management Plan, the Applicant has provided 2 copies of the Easement in Gross document under Section 195 of the *Land Administration Act 1997* (as amended) for the purpose of creating an Emergency Access Way (EAW). One version is for the permanent EAW referenced as 'E' and 'E1' on the Deposited Plan. The other version is for a temporary EAW to ensure this stage of the development provides adequate fire emergency access and is referenced as 'E2', 'E3', 'E4' and 'E5' on the Deposited Plan.

In order to satisfy conditions 10, 17 and 18 of the subdivision approval, the Applicant has provided the Section 70A Notification form, pursuant to the *Transfer of Land Act 1893* (as amended). This notifies all landowners of a Fire Management Plan subject to the land as well as no reticulated sewerage or reticulated potable water supply available to the land.

In order to satisfy condition 14 of the subdivision approval, the Applicant has provided the Restrictive Covenant under Section 129BA of the *Transfer of Land Act 1893* (as amended) which restricts landowners to not undertake any development outside of the building envelope unless otherwise approved by the local government.

The Subdivision Clearance also requires a Surrender of Easement, Withdrawal of Caveat and new Deed of Agreement to be authorised by Council. The Surrender of Easement form relates to an existing temporary EAW as part of the current subdivision which will become an extension of Guernsey Rise road reserve and is therefore not required.

The Withdrawal of Caveat is to trigger the temporary removal of the caveat from the land (Lot 9601) to allow for the new Deed of Agreement to be placed on the land with a new Caveat on the new balance lot (Lot 9602). The Deed of Agreement is to replace the original agreement for ceding of the POS to the Shire. A Deed sets out, and the caveat protecting the Deed, the requirement to cede POS to the Shire and prevents any further subdivision until this requirement is met. The subject POS is shown in the south western corner of the Development Plan (Attachment 10). The developer intends to stage the subdivision in an anti-clockwise direction, resulting in this portion of POS to not be dealt with in the short term release of stages. Due to the staging of the subdivision, temporary withdrawal of the caveat and new Deed's need

to be undertaken each stage (subdivision) to ensure the developer's obligations for ceding of POS is maintained.

As this is a formality, it is recommended that Council supports the authorisation of the Chief Executive Officer and the Shire President to sign and affix the Common Seal as a requirement of the subdivision clearance. In the event that other documents requiring Council's authorisation may be required in the subdivision process for future stages, it is recommended Council authorise all relevant documents pertaining to this subdivision, with the exception of any variations relating to the Deed.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 040615

Moved Cr Gibson / Seconded Cr Rossouw

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal on the following:

- 1. Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) advising that the newly created lots are subject to a Fire Management Plan and that no reticulated sewerage and mains potable water supply are available to these lots.**
- 2. Restrictive Covenant under Section 129BA of the *Transfer of Land Act 1893* (as amended) advising that the lots 34-38, 70 and 78 on Deposited Plan 402847 are subject to a building envelope.**
- 3. Grant of Easement under Section 195 of the *Land Administration Act 1997* (as amended) to provide an Emergency Access Way for the benefit of the Shire of Chittering on Deposited Plan 402847.**
- 4. Deed of Agreement for the Ceding of the remaining POS Land upon further subdivision or development.**
- 5. Withdrawal of Caveat form, pursuant to the *Transfer of Land Act 1892* (as amended), for Caveat Number M124054 on Lot 9601 on Deposited Plan 67898 to enable the lodgement of a new Deed of Agreement as per (4) above.**
- 6. Surrender of Easement under Section 196 of the *Land Administration Act 1997* (as amended) to remove a temporary Emergency Access Way on Deposited Plan 67898 which now forms Guernsey Rise on Deposited Plan 402847.**
- 7. Any other relevant documents pertaining to subdivision WAPC 148236 or subsequent subdivisions of Maryville Heights in accordance with the endorsed Development Plan.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

The Shire President adjourned the meeting at 10.15pm in order to allow the majority of the public gallery to depart Chambers if they so wished.

Cr Mackie departed Chambers at 10.18pm.
Cr Mackie returned to Chambers at 10.19pm.

Cr Clarke departed Chambers at 10.19pm.
Cr Clarke returned to Chambers at 10.20pm.

Cr Mackie departed Chambers at 10.20pm.
Cr Mackie returned to Chambers at 10.21pm.

The Shire President reconvened the meeting at 10.21pm.

9.1.3 Withdrawal of Caveat – Lot 22 Great Northern Highway, Lower Chittering*

Report date	17 June 2015
Applicant	Boral Property Group
File ref	A11554; 04/10/6
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Withdrawal of Caveat form 2. Transfer of Lot 22 (Council Minutes 19 November 2014 – item 9.1.2)

Background

Council's consideration is requested for the authorisation of the Withdrawal of Caveat form to allow for the transfer of Lot 22 Great Northern Highway to the Shire of Chittering as required by the Deed.

The Deed (dated 13 August 2010) was made to require the landowner/developer (formerly Midland Brick Company Pty Ltd) to cede Lot 22, a future extension of Powderbark Road to Great Northern Highway, within 7 years from the subdivision approval of 'Wandena Estate - Stage 2'.

The form to transfer Lot 22 has been executed by both parties and lodged with Landgate in late 2014 following Council's authorisation at the 19 November 2014 Ordinary Council Meeting (Attachment 2).

Consultation

Not applicable

Statutory Environment

State: *Transfer of Land Act 1893*

Policy Implications

1.5 Execution of Documents

Financial Implications

All associated costs for the transfer of the land shall be borne by the Applicant. It is considered the ongoing maintenance of Lot 22 as a freehold title is negligible.

Strategic Implications

The ceding and future reservation and construction of Lot 22 as a road reserve extension of Powderbark Road from Wandena Road to Great Northern Highway will provide more vehicle connectivity between Lower Chittering residential estates and the highway. Further to this, the ceding of Lot 22 will remove the encumbrance of a caveat on the owner of the surrounding land, allowing it to be sold.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The Applicant has attempted to meet the obligations of the Deed to cede Lot 22 to the Shire of Chittering. Council, at its 19 November 2014 Ordinary Council Meeting, authorised the execution of the transfer of land document to progress the transfer of Lot 22 to the Shire. The Deed however prevents the disposal/transfer of land unless the caveat is withdrawn from the land. The caveat is only withdrawn if the Shire is satisfied the Applicant has met the obligations of the Deed, which in this case is the ceding of Lot 22 to the Shire.

It is considered Council support the Officer's Recommendation to withdraw the caveat to allow the transfer of Lot 22 to the Shire of Chittering.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 050615

Moved Cr Mackie/ Seconded Cr Rossouw

That Council authorises the Shire President and Chief Executive Officer to sign and affix the Common Seal on the Withdrawal of Caveat form, pursuant to the *Transfer of Land Act 1893* (as amended), for Caveat Number L699751 on Lot 22 on Deposited Plan 59350.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.4 Proposed Residential Building – Lot 110 (RN 67) Turtledove Drive, Lower Chittering*

Report date	17 June 2015
Applicant	Castlerock Developments Pty Ltd
File ref	A11097; P080/15
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	1. Floor Plan
Attachments	1. Locality Plan 2. Site Plan 3. Elevations Plan

Background

Council is requested to consider the approval of a proposed Residential Building at Lot 110 (RN 67) Turtledove Drive, Lower Chittering.

The landowners sought the Shire's advice to their initial proposal of a 100m² "Granny Flat" (Ancillary Dwelling) separate from the existing dwelling on the property. Due to the 70m² size limitation of Ancillary Dwellings, the Shire was not in a position to support the proposal and offered alternatives which could be supported by the Shire and fit with the landowner's requirements.

The alternative chosen by the landowner was to construct additions (extensions) to the dwelling, whereby the additions connected internally within the dwelling and resulting in the definition of the building changing from a 'single house' to a 'residential building'. From an aesthetics and design view the proposed development is no different to a typical large house and has been designed to match the existing dwelling.

Consultation

A residential building is listed as an "A" use in the Town Planning Scheme No 6 requiring such proposal to be advertised. The application was advertised for a period of fourteen (14) days in accordance with Clause 9.4.3. No submissions were received.

Statutory Environment

Local: Shire of Chittering Town Planning Scheme No. 6

The subject land is zoned "Rural Residential" and under the Scheme, such zone has the following objectives:

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

The definition of a "Residential Building" under the Scheme has the same meaning given to it in the Residential Design Codes which is:

A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:

- *temporarily by two or more persons; or*
- *permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.*

As already stated, a Residential Building is listed in the scheme as an "A" use which requires such a use to be advertised which has been undertaken in accordance with the Scheme. It also requires Council to exercise its discretion and granting planning approval.

For clarity, the definition of a dwelling ('single house') in the Residential Design Codes is:

A building or portion of a building being used, adapted, or designed or intended to be used for the purpose of human habitation on a permanent basis by a single person, a single family, or no more than six persons who do not comprise a single family.

For additional clarity, the definition of an ancillary dwelling ('granny flat') in the Residential Design Codes is:

Self-contained dwelling on the same lot as a single house which may be attached to, integrated with or detached from the single house.

Policy Implications

State: *State Planning Policy 3.1 Residential Design Codes*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

A residential building is different to an ancillary dwelling in that a residential building is a complete single unit designed to cater for seven or more persons whom do not comprise a single family. Also, a residential building requires the entire structure to be connected via habitable rooms. Ancillary dwellings are a self-contained building independent of the primary dwelling and are restricted to a maximum size of 70m².

The proposal presented in the report complies with the requirements of the Scheme and Residential Design Codes. The landowner also proposes a 50,000 litre rainwater tank in addition to the existing 130,000 litre rainwater tank, which complies with the minimum water supply requirements. Further to this the approval of the structure as a Residential Building allows for more than six (6) persons to reside; whereas this would be restricted to less than six (6) persons under a 'dwelling' approval. It is therefore recommended Council grant Planning Approval for the proposed development subject to the conditions below.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 060615

Moved Cr Gibson/ Seconded Cr Rossouw

That Council grant Planning Approval for the proposed Residential Building at Lot 110 (RN 67) Turtledove Drive, Lower Chittering subject to the following conditions:

- 1. The Residential Building shall be confined to the building envelope identified on the Development Plan.**
- 2. The Residential Building shall maintain full connectivity via a habitable room at all times.**
- 3. The building materials of the additions shall match the existing dwelling.**
- 4. Provisions of a water tank(s) with a total minimum capacity of 170,000 litres.**
- 6. The maximum area allowed to be cleared is 2,000m².**
- 7. The Residential Building shall not be used for commercial purposes unless otherwise approved by the Shire.**
- 8. Any future changes to the proposed residential building shall be subject to planning approval from Council.**

Advice notes:

- 1. If the development [the subject of this approval] is not substantially commenced within a period of two (2) years, or such other period as specified in the approval after the date of the determination, the approval shall lapse and be of no further effect.**
- 2. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.**
- 3. If an Application is aggrieved by this determination there is a Right of Review under Part 14 of the *Planning and Development Act 2005*. This right must be exercised within twenty-eight (28) days of the determination.**
- 4. This approval does not constitute a Building Permit. Prior to any works being undertaken a Building Permit for the structure is required.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.5 WAPC 149820 – Lot 9500 Endeavour Drive, Bindoon*

Report date	17 June 2015
Applicant	Burgess Design Group
File ref	18/03/95; 149820
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Subdivision Plan 3. Endorsed Development Plan

Background

Council's consideration is requested to provide comment to the Western Australian Planning Commission for the proposed subdivision submitted by Burgess Design Group. The Applicant applied to the Western Australian Planning Commission (WAPC) in March 2014 for the subdivision of Lot 9500 Endeavour Drive, Bindoon into 17 lots (Attachment 2).

In June 2014 the WAPC deferred the application, stating that *"the subdivision is inconsistent with the applicable Local Structure Plan. Minor modifications to the Structure Plan are required before the subdivision can be supported"*. In this instance it was deemed that the proposed subdivision was inconsistent with the original development plan for the site due to modifications to the lot layout and introduction of battle-axe lots.

A Development Plan has been endorsed by Council in 2009 (Attachment 3).

Following a lengthy delay with no further progress made by the Applicant to meet the request of the WAPC to provide a modified Development/Structure Plan, the WAPC have now requested for Council to provide a formal response to the subdivision referral to assist the WAPC in making a final determination of the subdivision.

Consultation

Department of Planning

Statutory Environment

State: Planning and Development Act 2005
Town Planning Regulations 1967

Local: Shire of Chittering Town Planning Scheme No. 6

Lot 9500 is zoned 'Residential R2'. The objectives of this zone are:

- *To designate areas for low density residential development in a rural setting, in which natural environmental values are conserved as far as possible.*
- *To meet the demand for lifestyle lots with a minimum lot size of 5,000m².*
- *To ensure development is sited and designated to achieve an integrated and harmonious character within each estate.*

The proposed subdivision is required to be 'generally in accordance' with a Development Plan:

5.8.1. Requirement for a Development Plan

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

Policy Implications

Local: Shire of Chittering Local Planning Policy No. 32 – Development Plans

5.1 Requirement for a Development Plan

A Development Plan is to be prepared and submitted to Council for approval:

- a) Prior to rezoning of any Agricultural Resource land to Rural Retreat, Small Rural Holdings, Rural Residential, Townsite or Industry;*
- b) Prior to subdivision of any land zoned, Rural Retreat, Small Rural Holdings or Rural Residential;*
- c) Prior to subdivision into 10 or more lots of any land zoned Agricultural Resource, Townsite or Industry*
- d) Otherwise as specified by the Council.*

Local: Local Planning Policy No. 1 – Bindoon Townsite

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The application for subdivision of Lot 9500 Endeavour Drive as submitted by the Burgess Design Group and as indicated by the Western Australian Planning Commission is inconsistent with the approved Development/Structure Plan for the subdivision of this site. This does not comply with the Shire’s Town Planning Scheme requirements and Local Planning Policy for subdivision to be consistent with an approved Development Plan.

It is recommended that Council advise the WAPC that it does not support the proposed subdivision based on the reasons outlined in the Officer’s Recommendation below.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 070615

Moved Cr Mackie/ Seconded Cr Douglas

That Council advise the Western Australian Planning Commission that it does not support the proposed subdivision (WAPC 149820) of Lot 9500 Endeavour Drive, Bindoon for the following reasons:

- 1. The subdivision is inconsistent with the endorsed Development Plan over the land which does not comply with Clause 5.8.1 of the Scheme.**
- 2. The subdivision does not comply with Provision 1 of the endorsed Development Plan, which requires that all subdivision to generally be in accordance with the Development Plan.**
- 3. Supporting subdivision not consistent with the endorsed Development Plan would set an undesirable precedent.**
- 4. The subdivision proposes battle axe lots which are not supported under Council's *Policy 9.2 Battle-Axe Access*.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.6 Retrospective Planning Approval for Conversion of Shed to Dwelling, Lot 125 Turtledove Drive, Lower Chittering*

Report date	17 June 2015
Applicant	J & S Ortin
File ref	A11300 P188/11 (Shed and Water Tank) P267/14 (Retrospective Planning Approval – Conversion of Shed to Dwelling) P268/14 (Retrospective Planning Approval – Patio Area)
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Plans indicating the plans for the Shed (Approved 2011) 3. Pictures from applicant indicating works undertaken in unapproved conversion of shed into a dwelling; 4. Plans submitted by Applicant outlining the result of the conversion of the Shed to Dwelling with Patio

Background

Council's consideration is requested for a retrospective approval for the conversion of a non-habitable outbuilding to a dwelling at Lot 125 Turtledove Drive, Lower Chittering.

On 2 May 2011 the Shire granted Planning Approval for a 150m² (10m x 15m – outbuilding/shed), the subject of this application with a condition of approval noting that (3) *'the proposed shed is for storage purposes only and not for residential habitation'*. The Applicant had also signed a statutory declaration varying the Local Planning Policy advising that they would not use the shed for residential habitation. A Building License was granted on 19/05/2011 for a 'Class 10a – Non Habitable Outbuilding'.

Investigation by the Shire's Compliance Officer revealed the landowner had undertaken significant building works to the interior of the shed for the purposes of residential occupation and constructed patio additions and shed extension without prior approval.

As a result of the Shire's compliance actions, the landowner submitted an application for retrospective planning approval to convert the existing shed to a Dwelling including the patio and shed extension.

The proposed floor plan reflects the existing fit out to the shed, although a 5m garage extension and patio has not been approved with the original shed. The landowner has also provided plans showing additions (improvements) to the existing shed to enhance the visual amenity.

The landowner is seeking approval to convert the shed to a dwelling to live on site.

Consultation

Internal consultation between the Applicant and the Shire's previous Planning Officer took place initially in November 2014.

In December 2014; the Applicant met with the Shire's Senior Planning Officer, Compliance Officer and Principal Building Surveyor and the issues discussed were reiterated via email (dated 23 December 2014) with the following key points outlined:

Consideration of Proposal

'the Shire's position for conversion of a shed to a dwelling is generally not to support given a shed is only for storage purposes (as declared by yourselves in the Statutory Declaration) and to approve a conversion sets a precedence of the Shire supporting unauthorised works and supporting the unauthorised fit out and occupation of sheds. This position is evident in a recent decision of a shed conversion that was refused at a recent Council Meeting. It will be difficult for the Shire to recommend Council to approve your proposal as it would undermine the previous decision and therefore it would be at Council's discretion, in which they have the ability, to go against the Shire's recommendation to approve it.

With the above being said if Council determine not to approve your conversion you do have the ability to have the decision reviewed by the State Administrative Tribunal (SAT) where the decision may be mediated. In this situation SAT would take a neutral stance and make their own assessment of the decision, which could either remain with the original decision or change it.

I understand with all the information the Shire has requested does seem like an effort for a proposal in which the Shire is in a difficult situation to approve however I feel you should be prepared for a decision either way and I can only comment on what we have considered previously. I can only reiterate what was suggested in the meeting, and that is to "put your best foot forward" and make the application, and all supporting documentation, as succinct as possible, in an effort to assist Council in making their decision'.

Statutory Environment

Local: Shire of Chittering Town Planning Scheme No. 6

The objectives of the Rural Residential in the Shire of Chittering Town Planning Scheme No. 6 (Clause 4.2.6) 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.*

In the Rural Residential Zone, the *Town Planning Scheme No. 6* requires that for Planning Approval under Section 5.8.3 that:

'Residential use will not be permitted in a building other than one approved by the Council for that purpose, except that Council may grant permission for occupation of a caravan for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force or an application for such is before Council'.

Policy Implications

Local: Local Planning Policy No 7 Outbuildings and Swimming Pools

Local: Local Planning Policy No 27 Living in Sheds

5. POLICY STATEMENT

5.1 *Living in sheds is prohibited;*

5.2 *Where a building permit for a dwelling is concurrently in force or an application has been lodged, Council may grant permission for occupation of a caravan on the lot for a period not exceeding 12 months;*

- 5.3 *The period of caravan occupancy may be extended, provided satisfactory progress is being made on the construction of the dwelling;*
- 5.4 *Council approval is not required for short-term (week-end) caravan occupancy;*
- 5.5 *A pre-requisite for any long-term caravan occupancy is:*
- a) *water storage in tanks of not less than 120,000 litres capacity, as specified in Local Planning Policy No. 21 Fire Management Plans;*
 - b) *connection to an approved effluent disposal system;*
- 5.6 *Caravans used for short or long term occupancy may be stored in a shed or otherwise be provided with weather protection;*
- 5.7 *Sheds may be provided with a toilet and hand basin/wash trough but no other plumbing facilities (see also Local Planning Policy No. 7 Outbuildings).*
- 5.8 *Applications for caravan occupancy may be dealt with by the Chief Executive Officer under delegation issued by Council in accordance with Section 5.42 of the Local Government Act 1995.*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspections have been undertaken by Shire Officers; the first site inspection which triggered the retrospective application and second inspection to view the proposal for the purpose of a thorough assessment. The inspection confirmed the subject structure is not visible from Turtledove Drive due to native vegetation and downward slope from the road. The Applicant has supplied a number of photographs indicating the works which have been undertaken in documenting the conversion of the shed to a dwelling and also the patio area (which does not have approval) as requested by the Shire. These can be viewed in Attachment 3.

Triple Bottom Line Assessment

Economic implications

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

Social implications

The conversion of the shed into a dwelling provides an undesirable precedent in the Shire where it has clearly been stated that living in sheds is prohibited. Furthermore, it is considered that the support of permanent occupation of sheds would create undesirable development and amenity issues in the Shire. It is evident throughout the Shire that the general public have concerns of the negative impact on the visual amenity of their neighbourhood by sheds being occupied and the consistency of Council requirements (both planning and building) for construction of high standard dwellings in the Shire.

Environmental implications

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

Comment

Local Planning Policy No 27 Living in Sheds

The existing shed was granted planning approval as a shed (outbuilding) and a building licence as a 'non-habitable outbuilding'. The Policy was prepared and adopted to address the issues of the unauthorised 'fitout' and occupation of sheds in the Shire. To support the proposal to formalise the conversion of the shed to a dwelling would directly conflict with this Policy and its intentions and would undermine Council's direction to not support the unauthorised occupation of sheds.

Site Inspection

As mentioned previously, the Shire's inspection of the site noted the existing shed structure is not visible from the road and hence the visual impact on the public is not existent. It is however visible from building envelopes on neighbouring properties, which evident from several other compliance cases, still creates the same issues as if were visible to the general public from a road, albeit a lesser impact.

Compliance

The Shire has ongoing compliance issues with the unauthorised occupation of sheds; particularly in Rural Residential properties. Due to this issue, since the adoption of *Local Planning Policy No 7 Outbuildings and Swimming Pools* in 2008 (in particular 5.2(b)), the Shire does not accept applications for a shed on vacant land (except Agricultural Resource zoned land) and requires a building permit for a dwelling to be issued prior to or concurrently with a shed application. Whilst this does not stop landowners from building the shed prior to the dwelling, it does greatly reduce the likelihood of occupation of sheds, particularly long term occupation, and requires greater commitment by landowners to plan and build the dwellings on the property.

In regards to Lot 125 Turtledove Drive, the landowner was able to obtain planning approval for the shed prior to a dwelling in 2011 subject to a Statutory Declaration being provided stating they would not live in the shed. Since obtaining approval the landowner has undertaken significant works to the interior of the shed to make it suitable for living. Approval of the application would therefore set an undesirable precedent to approve the retrospective conversion of the shed to a dwelling, especially given the Shire's ongoing efforts to rectify the issue. This should also be considered not only in the future dealings of 'living in sheds' matter, but previous Council decisions to not support such conversions for the reasons set out in this report and Officer Recommendation.

The landowner met with the Shire's Senior Planning Officer, Compliance Officer and Principal Building Surveyor in December 2014. In this meeting and in a subsequent email (dated 23 December 2014) it was outlined the information required by the applicant to submit in order to proceed with the retrospective planning approval and also outlined the building requirements should planning approval be granted to avoid giving the landowners false hope (i.e. if retrospective building approval was not possible). The Shire has maintained the position at all times that the planning application would highly likely be recommended to be refused and that this application process would give the landowners the respect of due process being carried out.

In addition to the conversions of the shed to a dwelling, the application also retrospectively seeks approval for patio additions and the shed extension. The Shire considers these additions can be approved under delegated authority, however for simplicity and transparency have been incorporated into this report.

Based on the above, it is recommended that Council refuse the application for the conversion of the shed to a dwelling.

9.1.6 OFFICER RECOMMENDATION

Moved Cr Gibson/ Seconded Cr Clarke

1. Refuse the retrospective approval for the conversion of the outbuilding (P118/11) to a Dwelling (P 267/14) on Lot 125 Turtledove Drive, Lower Chittering for the following reasons:
 - a. the proposal is inconsistent with *Local Planning Policy No. 27* in the following ways:
 - i. Does not meet the objective to *'ensure an adequate standard of residential accommodation'*.
 - ii. Policy Statement 5.1 states *'Living in sheds is prohibited'*.
 - iii. Policy Statement 5.7 states *'Sheds may be provided with a toilet and hand basin/wash trough but no other plumbing facilities'*;
 - b. the proposal contravenes Clause 5.8.3 of the Scheme:
'Residential use will not be permitted in a building other than one approved by the Council for that purpose, except that Council may grant permission for occupation of a caravan for a period not exceeding 12 months if a building permit for a dwelling is concurrently in force or an application for such is before Council';
 - c. Approval of such would set an undesirable precedent to retrospectively support the unauthorised conversion of a structure approved and designed for the purpose of storage only; and
 - d. Approval of such would contradict the Statutory Declaration made by the landowners stating *'no intentions to reside in the shed'* which was provided for the Shire to vary 5.2(b) of the Local Planning Policy No 7 in approving a shed on a vacant property.
2. Direct the landowner to remove all building works necessary for the outbuilding (P118/11) to comply with the approvals granted by the Shire within six (6) months to the satisfaction of the Chief Executive Officer.
3. Approve the Garage Extension (P268/14) to the outbuilding subject to the following conditions:
 - a. Roofing to be tiled or pre-painted material such as the product colourbond.
 - b. Structure shall not be used for residential habitation.
4. Approve the 'Lean To/Patio' addition (P268/14) to the outbuilding subject to the following condition:
 - a. Roofing to be tiled or pre-painted material such as the product colourbond.

COUNCILLOR MOTION / COUNCIL RESOLUTION - 080615

Moved Cr Gibson / Carried Cr Norton

That the Item be deferred for one month, to give the Proponent the opportunity to comply with the requirements associated with the conversion of the outbuilding (P118/11) to a Dwelling (P267/14).

THE MOTION WAS PUT AND DECLARED CARRIED 4/3

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 May 2015*

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Financial Statements for period ending 31 May 2015
Attachments	1. Statement of Financial Activity for period ending 31 May 2015 Bank reconciliation for period ending 31 May 2015 List of accounts paid for May 2015

Background

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

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

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

Consultation

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

Statutory Environment

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

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

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

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 090615

Moved Cr Douglas/ Seconded Cr Clarke

That Council:

- 1. endorse the list of payments:**
 - a. PR3510**
 - b. PR3514**
 - c. PR 3515**
 - d. PR 3516**
 - e. EFT 10965 - EFT 11078**
 - f. Municipal Fund Cheques 13890 – 13904**
 - g. BPV52 – BPV52**
 - h. Direct Debits and Transfers as listed**
 - i. Trust Fund Cheques 456 - 461**

Totalling \$726,514.82 for the period ending 31 May 2015.
- 2. receive the bank reconciliation for the period ending 31 May 2015.**
- 3. receive the financial statements for the period ending 31 May 2015.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Signs, Hoardings and Bill Posting Local Law 2015*

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	19/04/0004
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Table of changes 2. Signs, Hoardings and Bill Posting Local Law 2015 (with track changes) 3. Signs, Hoardings and Bill Posting Local Law 2015 (clean copy)

Background

At the Ordinary Meeting of Council held on 20 August 2014 Council resolved to review the Shire of Chittering's By-Law relating to *Signs, Hoardings and Bill Posting*, which was gazetted on 20 August 1993.

A second report was tabled at the Ordinary Meeting of Council held on 18 February 2015, where Council endorsed a replacement draft By-Law relating to Signs, Hoardings and Bill Posting, which also was to repeal the existing By-Law.

Consultation

The draft by-law relating to *Signs, Hoardings and Bill Posting Local Law 2015* was advertised for public comments, with deadline being 4pm on Friday, 24 April 2015.

Local

1. *The Advocate* on 11 March 2015;
2. Shire's public notice board located at the Administration Centre from Monday, 9 March until Tuesday 28 April;
3. Shire's Facebook page;
4. *Northern Valleys News* for April 2015;
5. website (www.chittering.wa.gov.au) under "Public Notices" (11 March 2015) and under the "Have your Say" area (from 9 March until 28 April 2015).

Statewide

1. *The West Australian* on 11 March 2015.

The Department of Local Government provided substantial comment on 1 May 2015 (SYNERGY I1558877). These comments have been incorporated into a new draft local law, and have resulted in the need to re-advertise the proposed Local Law in accordance with section 3.13 of the *Local Government Act 1995*.

As required by Section 3.12 of the *Local Government Act 1995*, an advertisement is to be placed in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than six weeks (42 days).

A further advertisement will be placed once Council has resolved its intent to endorse the amended local law (*Signs, Hoardings and Bill Posting 2015*).

Statutory Environment

State: Local Government Act 1995, Section 3.12. Procedure for making local laws

Section 3.13 of the *Local Government Act 1995* states;

3.13. Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.

State: Local Government (Functions and General) Regulations 1996, Regulation 3

In making a new local law the Shire must comply with the provision of Section 3.12 of the *Local Government Act 1995*. The *Local Government (Functions and General) Regulations*, Regulation 3 states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and that the minutes of the meeting of the council includes the purpose and effect of the proposed local law.

Purpose to provide for the regulation, control and management of signs within the district in support of the Shire of Chittering Town Planning Scheme provisions.

Effect is to establish the requirements with which any person seeking to erect a sign within the district must comply and the means of enforcing those requirements.

Local: Shire of Chittering Town Planning Scheme No 6

Clause 5.11 – Advertisements – Power to Control

5.11.1 For the purpose of this Scheme, the erection, placement or display of any sign and the use of land or any building for the display of any sign involving non site specific advertising is development within the definition of the Act requiring, except as otherwise provided, the prior approval of the Council. Such planning approval is required in addition to any licence pursuant to Council's Signs and Hoarding and Bill Posting Local Laws.

Policy Implications

Nil

Financial Implications

There will be charges for advertising the local law in the *West Australian* and *Advocate* newspapers. Provisions have been made in the budget to charge this cost against GL 1040820.

Strategic Implications

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

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

Attachment 1 reflects the recommended changes from the Department of Local Government.

In accordance with the local law process Council is presented with an amended draft *Signs, Hoardings and Bill Posting Local Law 2015* for further consideration.

Pursuant to section 3.13 of the *Local Government Act 1995* it is necessary that the amended *Signs, Hoardings and Bill Posting 2015* be re-advertised due to the substantial changes made to the original draft previously advertised.

At the conclusion of the advertising period a final report will be presented to Council for their consideration.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 100615

Moved Cr Gibson/ Seconded Cr Mackie

That Council:

1. Adopt the proposed *Shire of Chittering Signs, Hoardings and Bill Posting Local Law 2015* as contained in attachment 3 for advertising purposes.
2. Pursuant to Section 3.12 of the *Local Government Act 1995* the Shire give statewide public notice that it intends to make the *Shire of Chittering Signs, Hoardings and Bill Posting Local Law 2015* as contained in attachment 3:
PURPOSE the purpose of which is to provide for the regulation, control and management of signs within the district in support of the *Shire of Chittering Town Planning Scheme No 6* provisions.
EFFECT the effect of this local law is to establish the requirements with which any person seeking to erect a sign within the district must comply and the means of enforcing those requirements.

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

9.4.2 Cats Local Law 2015*

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	19/04/2
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. DRAFT <i>Shire of Chittering Cat Local Law 2015</i>

Background

In 2011 the State Government introduced state-wide legislation to regulate, amongst other things, the registration, sterilisation, and micro-chipping of cats through the introduction of the Cat Act. The responsibility for enforcing the Cat Act remains with the local government.

The purpose of the Cat Act is “to introduce measures to: reduce the large number of stray cats being euthanised each year; encourage responsible cat ownership; and provide for better management of the unwanted impacts of cats on the community and environment”.

The Cat Act became operative on 1 November 2013.

There are a few areas of regulation not covered by the Cat Act, specifically those relating to limiting the number of cats per premises, confinement of cats and the regulation of cat management facilities. The proposed local law seeks to allow the Shire to retain the ability to regulate those areas of cat ownership not covered by the Cat Act.

Section 79 of the *Cat Act 2011* (the Act), provides local governments with the power to make local laws on all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under the Act.

A Cat Local Law does not operate outside the district of the local government for which it is made and is inoperative to the extent it is inconsistent with the Act or any other written law.

Consultation

Prior to this report being presented to Council internal workshops were held on three occasions (24 March 2015, 1 April 2015 and 14 April 2015) with the following:

- (1) Chief Executive Officer
- (2) Executive Manager Development Services
- (3) Community Emergency Services Manager
- (4) Rangers (x2)
- (5) Senior Planning Officer
- (6) Planning Officer

A workshop was then held with the Elected Members on 13 May 2015.

Following this report to Council consultation will be undertaken in accordance with section 3.12 the *Local Government Act 1995*, an advertisement is to be placed, in a state-wide newspaper, inviting the public to comment on the proposed local law, with submissions being open for a period of not less than 6 weeks (42 days).

The advertisement will be placed once Council has resolved its intent to make the local law.

Following this process, the proposed local law will then be referred back to the Council for consideration of any submissions received in relation to the local law and for the Council to resolve whether or not to make the local law by absolute majority decision.

Statutory Environment

State: Cat Act 2011, Part 4 – Administration and Enforcement

42. Administration by local governments

A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.

Cat Act 2011, Part 5 – Subsidiary Legislation, Division 2

79. Local laws

- (1) *A local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*
- (2) *A local law made under this Act does not apply outside the local government's district unless it is made to apply outside the district under section 80.*
- (3) *Without limiting subsection (1), a local law may be made as to one or more of the following—*
 - (a) *the registration of cats;*
 - (b) *removing and impounding cats;*
 - (c) *keeping, transferring and disposing of cats kept at cat management facilities;*
 - (d) *the humane destruction of cats;*
 - (e) *cats creating a nuisance;*
 - (f) *specifying places where cats are prohibited absolutely;*
 - (g) *requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
 - (h) *limiting the number of cats that may be kept at premises, or premises of a particular type;*
 - (i) *the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
 - (j) *the regulation of approved cat breeders, including record keeping and inspection;*
 - (k) *fees and charges payable in respect of any matter under this Act.*

State: Local Government Act 1995, Part 3 – Functions of Local Governments

3.12. Procedure for making local laws

Policy Implications

Nil

Financial Implications

The Shire has allowed for advertising charges in the 2014/15 Annual budget under GL 1040820.

Strategic Implications

Up to date and relevant local laws are an important cornerstone of good governance. Local Government has a statutory and moral obligation to ensure that the regulation of local matters is conducted in a fair, efficient and reasonable manner.

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

The Shire's natural environment is of great significance and to ensure that the natural fauna are protected from domestic cats, the Shire has incorporated zones (i.e. areas) in the draft Cats Local Law 2015 prohibiting cats from entering.

Comment

Council's consideration is requested to approve the draft *Shire of Chittering Cats Local Law 2015*.

In accordance with the local law process Council is presented with the draft *Shire of Chittering Cats Local Law 2015* for public comment.

In making a new local law, the Shire must comply with the provisions of section 3.12 of the Act.

The *Local Government (Functions and General) Regulations*, Regulation 3 states that for the purpose of Section 3.12(2) of the Act, the person presiding at a council meeting is to give notice of the purpose of the local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that purpose and the minutes of the meeting of the council include the purpose and effect of the proposed local law.

Purpose: The purpose of this local law is to provide Council under the proposed Shire of Chittering Cats Local Law 2015 with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.

Effect: The effect of this local law is to control the number of cats that can be kept and places where cats can be kept.

As a consequence of the introduction of the *Cat Act 2011*, it is recommended that Council adopt the proposed *Shire of Chittering Cats Local Law 2015* for advertising purposes.

9.4.2 OFFICER RECOMMENDATION

Moved Cr Norton/ Seconded Cr Mackie

That Council:

1. Adopt the proposed *Shire of Chittering Cats Local Law 2015* as contained in the attachment for advertising purposes.
2. Pursuant to Section 3.12 of the *Local Government Act 1995* the Shire give statewide public notice that it intends to make the *Shire of Chittering Cats Local Law 2015* as contained in the attachment:

PURPOSE: The purpose of this local law is to provide Council under the proposed *Shire of Chittering Cats Local Law 2015* with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.

EFFECT: The effect of this local law is to control the number of cats that can be kept and places where cats can be kept.

AMENDMENT

Moved Cr Rossouw / Seconded Cr Douglas

Subject to the following amendment to point (1), that with reference to provision 3.7.1 (b) of the Local Law, the words '*contained on the premises*' be deleted and the word '*kept*' inserted.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1

SUBSTANTIVE MOTION / COUNCIL RESOLUTION - 110615

Moved Cr Norton/ Seconded Cr Mackie

That Council:

1. Adopt the proposed *Shire of Chittering Cats Local Law 2015* as contained in the attachment for advertising purposes, subject to the following amendment:
 - That with reference to provision 3.7.1 (b) of the Local Law, the words '*contained on the premises*' be deleted and the word '*kept*' inserted.
2. Pursuant to Section 3.12 of the *Local Government Act 1995* the Shire give statewide public notice that it intends to make the *Shire of Chittering Cats Local Law 2015* as contained in the attachment:

PURPOSE: The purpose of this local law is to provide Council under the proposed *Shire of Chittering Cats Local Law 2015* with measures in addition to those under the *Cat Act 2011* to control the keeping of cats.

EFFECT: The effect of this local law is to control the number of cats that can be kept and places where cats can be kept.

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

9.4.3 Register of Policies*

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Shire of Chittering Register of Policies (with track changes)

Background

Council's consideration is requested to endorse the Shire of Chittering Register of Policies.

In accordance with Section 2.7(2) of the *Local Government Act 1995*, Council is to determine the Shire's policies.

Consultation

The following staff members held a work-shop on 26 May 2015:

1. Chief Executive Officer
2. Executive Manager Corporate Services
3. Executive Manager Development Services
4. Executive Manager Technical Services
5. Manager Human Resources
6. Executive Support Officer

Statutory Environment

State: *Local Government Act 1995, Part 2, Division 2 'Role of Council'*

2.7. Role of council

- (1) *The council—*
 - (a) *governs the local government's affairs; and*
 - (b) *is responsible for the performance of the local government's functions.*
- (2) *Without limiting subsection (1), the council is to—*
 - (a) *oversee the allocation of the local government's finances and resources; and*
 - (b) *determine the local government's policies.*

Policy Implications

1.1 Policy Register

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

During the staff workshop the following new policies were added/amended:

Policy Number	Policy Title	Reason for inclusion
1.17	NEW Community Engagement Policy	To provide a framework for community engagement; and to ensure consistency across the organisation, and staff are to follow this when undertaking engagement projects.
1.18	NEW Integrated Workforce Planning and Management Policy	To ensure that strategic, operational and legislative objectives are met by effective workforce planning and resourcing to demonstrate compliance with the Integrated Planning requirements of the <i>Local Government Act 1995 (Regulation 55.56(2))</i> .
3.16	AMENDED Retirement/Resignation of Employees – Council gift/functions	Under the table for the retirement/resignation function the length of service ‘0-2yrs’ has been amended from ‘NIL’ to ‘up to \$100’.
3.24	NEW Loss of Driver’s Licence	That if an employee loses their driver’s licence or if their licence was to lapse, how this impacts on their role within the Shire.
6.1	AMENDED Australia Day Award	Previously known as the “Citizen of the Year Award”. Policy has been updated with “Objective” and also includes the “School Citizenship Award”.
6.1	AMENDED Education Scholarship Award	Under the heading “Advertising” it referred to the Financial Assistance Grant Scheme. This has been amended to reflect the Education Scholarship Award.
9.2	AMENDED Battleaxe Access	This policy was inconsistent with the Residential design Codes and has been amended.
10.2	AMENDED Bush Fire Control	Under the heading “Harvesting, Movement of Machinery and Burning”, the second last dot point the figure was 400 litres, it has been amended to 600 to be consistent with the Shire’s Fire Break Notice.

The Council, as delegator, is required to review its policies annually. It is recommended that the Council endorses the Register of Policies.

9.4.3 OFFICER RECOMMENDATION

Moved Cr Mackie/ Seconded Cr Douglas

That Council endorse the Shire of Chittering *Register of Policies*.

Miss Southee, Executive Manager Development Services, departed Chambers at 11.00pm.

Miss Southee, Executive Manager Development Services, returned to Chambers at 11.01pm.

Cr Douglas departed Chambers at 11.04pm.

Cr Douglas returned Chambers at 11.06pm.

Cr Rossouw departed Chambers at 11.11pm.

Cr Rossouw returned Chambers at 11.12pm.

AMENDMENT

Moved Cr Hawes / Seconded Cr Douglas

With reference to P158, Policy 4.3 - Elected Members Fees and Allocations, that the last line of the penultimate paragraph be amended to read to attend one conference annually in 'Western' Australia and that '/partners' be added following the word spouses.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 6/1

SUBSTANTIVE MOTION / COUNCIL RESOLUTION - 120615

Moved Cr Mackie/ Seconded Cr Douglas

That Council endorse the Shire of Chittering *Register of Policies*, subject to the following amendment:

- With reference to P158, Policy 4.3 - Elected Members Fees and Allocations, that the last line of the penultimate paragraph be amended to read to attend one conference annually in 'Western' Australia and that '/partners' be added following the word spouses.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4.4 Corporate Business Plan Review*

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	04/01/0001
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Shire of Chittering Corporate Business Plan 2015-2019

Background

Council is requested to adopt the revised Corporate Business Plan.

Council adopted its first Corporate Business Plan at a Special Meeting of Council held on the 26 June 2013.

Consultation

Nil

Statutory Environment

State: Local Government Act 1995

5.56. Planning for the future

- (1) *A local government is to plan for the future of the district.*
- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

Regulation 19DA (5)(6) & (7) of the *Local Government (Administration) Regulations 1996* provides the following:

- (5) *A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.*
- (6) *A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.*
**Absolute majority required.*
- (7) *If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.*

Policy Implications

Nil

Financial Implications

All financial implications are contained within the Corporate Business Plan.

Strategic Implications

This Corporate Business Plan is Council's principal statement that identifies our shorter term priorities by providing a linkage and mechanism to 'activate' the Shire's *Strategic Community Plan*.

The intent of the plan is to integrate community aspirations into local government operations and service delivery. In doing so, Council has set realisable priorities and focus areas, given its capacity to resource and deliver.

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

The economic implications associated with this item are detailed in the various supporting plans.

Social implications

The social implications associated with this item are detailed in the various supporting plans.

Environmental implications

The environmental implications associated with this item are detailed in the various supporting plans.

Comment

Council has recently completed a review of the following documents:

- (1) Workforce Plan
- (2) Sports & Recreation Plan
- (3) Plant Replacement Plan
- (4) Ten Year Road Construction & Maintenance Plan
- (5) Ten Year Building Maintenance Plan
- (6) Disability Inclusion & Access Plan
- (7) Community Development Plan
- (8) Economic Development Plan

These plans were used to formulate the Long Term Financial Plan which has been used to form the basis of the revised Corporate Business Plan.

Given a number of actions have been completed it is recommended that a full review of the Strategic Community Plan be undertaken after the October elections.

It is recommended that Council endorse the revised Corporate Business Plan.

9.4.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 130615

Moved Cr Rossouw/ Seconded Cr Douglas

That Council resolve to adopt the revised *Shire of Chittering Corporate Business Plan 2015-2019*.

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

9.4.5 Delegated Authority Register*

Report Date	17 June 2015
Applicant	Shire of Chittering
File ref	13/05/0001
Prepared by	Danica Kay, Executive Assistant
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	1. Updated Delegated Authority Register

Background

In accordance with Section 5.46 of the *Local Government Act 1995*, delegations are to be reviewed at least once every financial year. The 2014 review was presented to Council on 25 June 2014.

The Chief Executive Officer and the Executive Management Team have undertaken a review of the Delegated Authority Register and the 2015 Register is now presented for Council to review.

Consultation

Chief Executive Officer
Executive Manager Development Services
Executive Manager Technical Services
Executive Manager Corporate Services
Manager Human Resources

Statutory Environment

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

5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*
- (3) *A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.*

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

A list of amendments made to the Delegated Authority Register is listed below:

Delegation Number	Delegation Title	Suggested changes
All	All	Added ' <i>Recorded in central records system</i> ' to the Formal Record section in the table to each delegation
Various		Removed Azhar Awang and Replaced with Bronwyn Southee
DA34	Appointment of Authorised Officers	Removed any regulations from the list and include Town Planning Scheme No. 6. Amended the first paragraph of the section to state ...' <i>Local Government Act 1995 and the following Acts (including their relevant Regulations):</i> ' Amendment Heads of Power section to ' <i>Acts as listed above</i> '
DA39	Building Permits	Include section 16 under Heads of Power Removed reference to section of the Act under Extent of Delegation section
DA40	Building Orders	Include section 111 under Heads of Power section
DA44	Approval of Development Applications	Change title to ' <i>Determination of Applications for Planning Approval</i> ' Include Senior Planner under Delegation by CEO to section Include under Extent of Delegation section: <i>"unless:</i> 1. <i>advertising is undertaken and any objections are received that officers cannot adequately resolve through sourcing of additional information or through conditions of approval</i> 2. <i>The application is contentious</i> 3. <i>It requires the concurrence of the Minister for Planning."</i>
DA46	Planning Approvals	Revoke as superfluous to DA44
DA47	Subdivision	Amend five (5) lots to ten (10) lots

Delegation Number	Delegation Title	Suggested changes
DA60	Multiple Dogs	Include the word 'valid' before 'objections'

The Council, as delegator, is required to review its delegations annually. It is recommended that the Council endorses the revised Delegated Authority Register.

9.4.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 140615

Moved Cr Gibson/ Seconded Cr Douglas

That Council endorse the revised Delegated Authority Register 2015 as attached.

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

10. REPORTS OF COMMITTEES

10.1 Chittering Bush Fire Advisory Committee

Report Date	17 June 2015
Applicant	Shire of Chittering
File ref	09/02/4
Prepared by	Karen Parker, Manager Human Resources
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Background

The Chittering Bush Fire Advisory Committee Meeting was held Tuesday 9 June 2015.

The draft minutes from this meeting have not been finalised, however there are four motions from the meeting that have been requested to be presented to Council at the 17 June 2015 Council Meeting for their consideration.

New Fire Control Officers

The Shire's Volunteer Bush Fire Brigades have held their annual general meetings and new Fire Control Officer's need to be appointed by Council as Authorised Officers.

Council is also requested to endorse the appointment of an additional Deputy Chief Bush Fire Control Officer for the central region of the Shire.

Moved Peter Hall / Seconded Steven Browne

That the Chittering Bushfire Advisory Committee recommends to Council to appoint:

- (1) the following as Bushfire Control Officers:*
 - (a) Steve Browne and Max Brown representing Lower Chittering VBFB;*
 - (b) Peter Hall & Arthur Blewitt representing Muchea VBFB; and*
 - (c) Gordon Carter representing Upper Chittering VBFB.*
- (2) Phillip Humphrey, Upper Chittering Volunteer Bushfire Brigade member, as Central Deputy Bush Fire Control Officer*

Carried 8/0

Membership of the Committee

The Chittering Bush Fire Advisory Committee Membership is required to be updated. Brigades have provided the CESM with their nominations for consideration by Council.

Given that Cr Doreen Mackie advised the Committee that this meeting was her final meeting as Council's representative, the BFAC has also requested that Council reconsider Council's representation on the Committee, taking the final motion of this report and BFACs position which will be outlined to Council by Cr Mackie, into consideration.

Moved Jamie O'Neill / Seconded Peter Hall

That the Chittering Bushfire Advisory Committee (CBFAC) recommends to Council that the CBFAC membership be updated as follows, effective from 1 July 2015:

Members	Deputies
Deputy Chief Bush Fire Control Officer Southern Region - Ian Hollick	Nil
Deputy Chief Bush Fire Control Officer Northern Region - Gregory Cocking	Nil
Deputy Chief Bush Fire Control Officer Central Region - Phillip Humphrey	
Muchea Brigade: Peter Hall	Arthur Blewitt
Lower Chittering Brigade: Steve Browne	Max Brown
Upper Chittering Brigade: Gordon Carter	Nil
Bindoon Brigade: Fred Hoogland	Dennis Badcock
Wannamal Brigade: Kim Haeusler	Nil
Incident Support Brigade: Janice Billen	Nil

Carried 8/0

Electronic bush fire danger notice boards

The Shire will be purchasing an electronic (solar) bush fire notice board this financial year. These notice boards are updated remotely, removing the need for the sign to be changed as per the weather conditions, ensuring the community are kept informed at all times. There is also a section on the notice board that can be used to provide information to the community on many issues, such as community events, change in fire permit dates and firebreak requirements, road maintenance etc.

Council considered the purchase of two additional notice boards in the 2015/2016 budget process but decided not to finance the purchase.

The Committee believes that the notice boards are now an essential requirement and request that Council consider the purchase of at least one additional sign per financial year until the current five LED fire notice boards are replaced.

Moved Ian Hollick / Seconded Peter Hall

That the Bush Fire Advisory Committee requests Council budget to replace all existing LED fire danger indicator boards with electronic (solar) bush fire danger / community notice boards with a minimum of one sign per annum.

Carried 8/0

Mr Tuffin, Chief Executive Officer, departed Chambers at 11.23pm.
Ms Dore, Minutes Secretary, departed Chambers at 11.23pm.
Mr Tuffin, Chief Executive Officer, returned to Chambers at 11.25pm.
Ms Dore, Minutes Secretary, returned to Chambers at 11.25pm.

10.1.1 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION - 150615

Moved Cr Douglas/ Seconded Cr Mackie

That Council appoints:

- 1. the following as Bushfire Control Officers:**
 - a. Steve Browne and Max Brown representing Lower Chittering VBF;**
 - b. Peter Hall and Arthur Blewitt representing Muchea VBF; and**
 - c. Gordon Carter representing Upper Chittering VBF.**
- 2. Phillip Humphrey, Upper Chittering Volunteer Bushfire Brigade member, as Central Deputy Chief Bush Fire Control Officer.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

10.1.2 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION - 160615

Moved Cr Douglas/ Seconded Cr Rossouw

That the Chittering Bush Fire Advisory Committee (CBFAC) recommends to Council that the CBFAC membership be updated as follows, effective from 1 July 2015:

Members	Deputies
Deputy Chief Bush Fire Control Officer Southern Region - Ian Hollick	Nil
Deputy Chief Bush Fire Control Officer Northern Region - Gregory Cocking	Nil
Deputy Chief Bush Fire Control Officer Central Region - Phillip Humphrey	Nil
Muchea Brigade: Peter Hall	Arthur Blewitt
Lower Chittering Brigade: Steve Browne	Max Brown
Upper Chittering Brigade: Gordon Carter	Nil
Bindoon Brigade: Fred Hoogland	Dennis Badcock
Wannamal Brigade: Kim Haeusler	Nil
Incident Support Brigade: Janice Billen	Nil

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

10.1.3 COMMITTEE RECOMMENDATION

Moved Cr Rossouw / Seconded Cr Mackie

That all discussions relating to the operational conduct of the Chittering Fire Services shall be strictly conducted through their nominated BFAC representative or their nominee.

COUNCILLOR MOTION

Moved Cr Norton / Seconded Cr Gibson

That Recommendation 10.1.3 be laid on the table until more information can be supplied to all Councillors as to why this Recommendation has been put forward.

THE MOTION WAS PUT AND DECLARED LOST 2/5

10.1.3 COMMITTEE RECOMMENDATION / COUNCIL RESOLUTION - 170615

Moved Cr Rossouw / Seconded Cr Mackie

That all discussions relating to the operational conduct of the Chittering Fire Services shall be strictly conducted through their nominated BFAC representative or their nominee.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

The Shire President and the Chief Executive Officer extended apologies to Cr Norton in relation to the proposed BFAC recommendation which was originally published in the Agenda.

There is a procedure to be followed when dealing with complaints against elected members that should have been followed, and wasn't in this case.

Cr Rossouw declared a financial interest in item 10.1.3 as her husband owns a business that develops software and manufactures LED signs and departed Chambers at 11.42pm

10.1.4 COMMITTEE RECOMMENDATION

Moved Cr Mackie/ Seconded Cr Douglas

That Council includes in the 2015-2016 budget funds to replace all existing LED fire danger indicator boards with electronic (solar) bush fire danger/community notice boards with a minimum of one sign per annum.

AMENDMENT

Moved Cr Norton Seconded Cr Douglas

That the word "includes" be replaced with the word "considers", and the words "all existing LED" be replaced with "the five".

THE AMENDMENT WAS PUT AND DECLARED CARRIED 5/1

10.1.4 COUNCIL RESOLUTION / COUNCIL RESOLUTION - 180615

Moved Cr Mackie/ Seconded Cr Douglas

That Council considers in the 2015-2016 budget funds to replace the five fire danger indicator boards with electronic (solar) bush fire danger/community notice boards with a minimum of one sign per annum.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 5/1

Cr Rossouw returned to Chambers at 11.53pm.

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

PROCEDURAL MOTION

Moved Cr Douglas/ Seconded Cr Gibson

That Council moves into a confidential session to discuss item 14.1.1 under the terms of the *Local Government Act 1995, Section 5.23(2)*:

(a) *a matter affecting an employee or employees;*

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

The Chief Executive Officer declared a financial interest in item 14.1 and departed the chambers at 11.55pm

Jean Sutherland, Executive Manager Corporate Services, Jim Garrett, Executive Manager Technical Service, Bronwyn Southee, Executive Manager Development Services and Karen Dore, Economic Development / Communications Officer (Minute Secretary) along with the one remaining member of the gallery departed Chambers at 11.55pm.

14.1.1. **Confidential item:** Staff Contract

Report date	17 June 2015
Applicant	Shire of Chittering
File ref	22/10/59
Prepared by	Gary Tuffin, Chief Executive Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

14.2 Public reading of resolution that may be made public

14.1.1 OFFICER RECOMMENDATION

Moved Cr Douglas / Seconded Cr Rossouw

That Council resolve:

1. To authorise the Shire President to formally advise the Chief Executive Officer (Mr G Tuffin), that Council has agreed to renew his contract for a five year period, commencing 1 October 2015 and expiring on 30 September 2020, subject to the following:
 - a. the staff house being returned to Council and that component (Staff House) of the contract is to be cashed-in to a negotiated amount which will be incorporated into the salary component.
 - b. The Shire President be authorised to negotiate the cash component of the housing benefit.
 - c. All other terms and conditions remain unchanged.
2. That the Shire President be authorised to sign the necessary documentation to finalise the contract variation and extension.

Cr Norton left the chamber at 11.57pm and returned to the chambers at 11.59pm

AMENDMENT

Moved Cr Gibson / Seconded Cr Norton

In recommendation 1 - After 'period' insert '*subject to a satisfactory performance review by whole of Council, commencing 1 October 2016 and ending 30 /September 2021, subject to the following*':

In recommendation 1a - After the word 'Council', insert '*after taking into account the current increase in fuel used, wear and tear on tyres and vehicle and effect on trade-in on higher kilometres and the FBT amount.*'

Delete recommendation 1 b

Delete recommendation 2

THE AMENDMENT WAS PUT AND DECLARED LOST 2/5

COUNCILLOR MOTION

Moved Cr Norton / Seconded Cr Gibson

That the report lay on table until the July 2015 meeting to provide an opportunity to provide additional information.

THE MOTION WAS PUT AND DECLARED LOST 2/5

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 190615

Moved Cr Douglas/ Seconded Cr Rossouw

That Council resolve:

1. To authorise the Shire President to formally advise the Chief Executive Officer (Mr G Tuffin), that Council has agreed to renew his contract for a five year period, commencing 1 October 2015 and expiring on 30 September 2020, subject to the following:
 - a. the staff house being returned to Council and that component (Staff House) of the contract is to be cashed-in to a negotiated amount which will be incorporated into the salary component.
 - b. The Shire President be authorised to negotiate the cash component of the housing benefit.
 - c. All other terms and conditions remain unchanged.
2. That the Shire President be authorised to sign the necessary documentation to finalise the contract variation and extension.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

PROCEDURAL MOTION

Moved Cr Douglas/ Seconded Cr Mackie

That Council come from behind closed doors.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

The Shire staff returned to Chambers at 12.20am. There were no members of the public who returned.

15. CLOSURE

The Presiding Member declared the meeting closed at 12.25am.



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