



Development Services Attachments
Wednesday, 18 November 2015

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
9.1.9	<u>LATE ITEM:</u> Developer Contribution Deed – Lot 34 (RN 3363) Great Northern Highway, Muchea 1. Deed document 2. Location Plan 3. Council Resolution, February 2015	1 - 23

Developer Contribution Deed for Lot 34 (No. 3363) Great Northern Highway, Muchea

Shire of Chittering

Barton Cecil Jones & David Cecil Jones



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Details

Parties

Shire of Chittering

of PO Box 70, Bindoon, Western Australia
(Shire)

Barton Cecil Jones

of [REDACTED]

David Cecil Jones

of [REDACTED]

(Owners)

Background

- A The Owners are registered as the proprietors of Lot 34 on Diagram 72458 being the whole of the land comprised in Certificate of Title Volume 1868 Folio 806 (**Lot 34**).
- B Lot 34 is situated within the local government district of the Shire and is within an area of land subject to the provisions of the Muchea Employment Node Structure Plan (**Structure Plan**).
- C The Structure Plan outlines an implementation strategy, a component of which is the introduction of cost sharing arrangements for common Infrastructure in accordance with the Shire's Town Planning Scheme 6 (**TPS 6**) by way of Development Contribution Plan or Plans (**DCP**).
- D The DCP will prescribe the contribution to the cost of common Infrastructure payable by each owner of land within the Structure Plan area (**Cost Contribution**).
- E The Shire has commenced the preparation of the DCP, which is yet to be finalised and included into TPS 6 by way of scheme amendment (**Contribution Amendment**). An amendment to TPS 6 s.6.7, currently under preparation, will precede the gazettal of the amendment to insert the DCP into TPS 6.
- F Upon gazettal of the Contribution Amendment and adoption of the required Development Contribution Plan Report by the Shire's Council, the actual Cost Contribution payable by the Owners for the Subject Land will be determined (**Actual Cost Contribution**).
- G The Owners have applied to the Shire for planning approval to construct a Transport Depot (**Development**) on that portion of Lot 34 described in **Item 1** of the Schedule (**Subject Land**).
- H The Shire approved the Development by resolution dated 18 February 2015, subject to a number of conditions including the following:
 - "1. Prior to any work commencing on site, the Applicant enters into Deed of Agreement with the Shire in relation to the Development Contribution Plan for the provision Infrastructure associated with the Muchea Employment Node Structure Plan This shall be prepared by Council solicitors and costs associated with the Deed will be at the cost of the Applicant."

(Condition 1)

- I The Owners enter into this Deed to satisfy the Shire's requirements in respect of Condition 1.

Agreed terms

1. Payment of Actual Cost Contribution

1.1 Determination of Actual Cost Contribution

- (1) The parties acknowledge and agree that the Actual Cost Contribution for the Development will be determined by the Shire once:
- (a) the Contribution Amendment has been published in the government gazette; and
 - (b) the Shire's Council has adopted the Development Contribution Report.
 - (c) (Finalisation of the Development Arrangement)
- (2) For the purpose of determining the Actual Cost Contribution to be paid by the Owners under the terms of this Deed, the provisions of the following will apply:
- (a) TPS 6;
 - (b) the relevant DCP for the Subject Land;
 - (c) the Precinct as described in the DCP that contains the Subject Land; and
 - (d) the Development Contribution Plan Report for the relevant DCP.

1.2 Owners must pay Actual Cost Contribution once determined

Following Finalisation of the Development Contribution Arrangement, the Owners must pay to Shire the Actual Cost Contribution determined by the Shire for the Development within 30 days of written notice from the Shire.

2. Security for Performance

2.1 Charge & Caveat

The Owners charge their interest in the Subject Land in favour of the Shire and with the payment of the Actual Cost Contribution and for the purpose of securing the same authorise the Shire to lodge an absolute Caveat at Landgate against the Subject Land in order to protect the rights and interests of the Shire under this Deed.

2.2 Charging and Mortgaging of the Subject Land

The Owners will not mortgage, charge, lease or otherwise encumber the Subject Land without the prior written consent of the Shire, which consent the Shire will not withhold if:

- (a) the Owners are not in default of any of their obligations pursuant to this Deed;
- (b) in the case of a mortgagee or chargee the mortgagee or chargee provides to the Shire a specific undertaking in terms of the draft undertaking annexed hereto as **Annexure 2**; and

- (c) there is sufficient equity remaining in the Subject Land in the Shire's reasonable opinion, to satisfy the Shire's requirements in relation to any monies payable or which may become payable by the Owners to the Shire pursuant to this Deed, including without limitation the Actual Cost Contribution.

2.3 Transfer of the Subject Land

The Owners shall not sell, transfer or otherwise dispose of or encumber the Subject Land or part thereof without the prior written consent of the Shire, which consent the Shire will not withhold if:

- (a) the Owners are not in default of any of their obligations pursuant to this Deed; and
- (b) the transferee of the Subject Land has first executed a Deed of Covenant to be prepared by the Shire's solicitors whereby the transferee covenants to observe and perform such of the covenants conditions and stipulations herein contained (including this covenant) as the Shire shall require, as if that person had been a party to this Deed.

2.4 Temporary Withdrawal of Caveat for Transfer or Mortgage

Subject to the Owners complying with **clause 2.2** or **clause 2.3**, as the case may be, the Shire will at the request of the Owners and at the Owners' cost provide to the Owners a withdrawal of any caveat lodged by the Shire pursuant to this Deed sufficient to enable the registration of any transfer, mortgage or charge of the Subject Land provided that the Shire is entitled to re-lodge its absolute caveat following the registration of such transfer, mortgage or charge.

2.5 Permanent Withdrawal of Caveat upon payment of Actual Cost Contribution

Subject to the Owners paying the Actual Cost Contribution to the Shire, the Shire shall provide on receipt of a written request and at the cost of the Owners' a permanent withdrawal of any Caveat lodged by the Shire pursuant to this Deed.

3. Owners' acknowledgement

The Owners acknowledge and agree with the Shire that if they fail to pay the Actual Cost Contribution within the time period provided in this Deed it will be open to the Shire to:

- (a) take action to enforce its charge over the Subject Land, commence an action for breach of contract, and/or obtaining an order for specific performance; and/or
- (b) withhold the provision of a withdrawal of caveat until such time as the Actual Cost Contribution has been paid.

4. Outstanding Amounts

The Shire and the Owners covenant and agree that if any amount payable by:

- (a) the Owners to the Shire; or
- (b) the Shire to the Owners,

pursuant to the terms of the Deed is unpaid for 7 days after becoming due, such amount shall be a liquidated debt recoverable by the party owed the amount in a court of competent jurisdiction

5. Supplemental to Powers under TPS 6

The Owners and the Shire agree that this Deed is supplemental to the provisions of TPS 6 (or any replacement town planning scheme in force) and further agree that notwithstanding any term of this Deed the Shire's rights and powers pursuant to TPS 6 are preserved.

6. Pre-funding of Infrastructure by Owners

The Shire and the Owners covenant and agree:

- (a) the relevant DCP when gazetted will specify the common Infrastructure to be funded through that DCP (including without limitation the transfer or vesting of land for such common Infrastructure);
- (b) the Owners will be entitled to a credit or refund in relation to the provision or pre-funding by it of any accepted item of Infrastructure;
- (c) the Owners will not be entitled to any credit or refund in respect of items of infrastructure which are not identified within the DCP as being common Infrastructure; and
- (d) prior to the Owners undertaking works in relation to an item or items it considers will be specified as common Infrastructure in the relevant DCP (including without limitation the transfer or vesting of land for common Infrastructure), the Owners and the Shire may agree to the Owners pre-funding that item or items and upon such agreement the Owners and the Shire will enter into a separate agreement to establish the basis upon which the value of the pre-funding work or the value of land will be credited to the Owners, whether by an offset to the Owners' Cost Contribution, or otherwise.

7. No Fetter on Shire's Discretion

Notwithstanding any other provision of this Deed, the Owners acknowledge that the Shire is a local government established by the *Local Government Act 1995*, and in that capacity, the Shire will be obliged to comply with statutory obligations imposed by law and the Shire will not be taken to be in default under this Deed by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Deed fetter the Shire in performing its statutory obligations or exercising any discretion under any law, including without limitation the determination of items of Infrastructure and their priority and the preparation and finalisation of the DCP.

8. Costs

The Owners will pay the Shire's reasonable legal costs of and incidental to the preparation, negotiation, execution and stamping of this Deed, all duty payable hereon and the reasonable cost of preparing and lodging any Caveat(s) up to a maximum of \$4,000 and any withdrawal(s) or replacements thereof.

9. Notices

Any communication under or in connection with this Deed:

- (a) must be in writing;
- (b) must be addressed in the manner specified in **Item 2** of the Schedule;
- (c) must be signed by the party making the communication or on its behalf by the solicitor for, or by any attorney, director, secretary, or authorised agent or officer of, any party;

- (d) must be delivered or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with **clause 9(b)** of this Deed;
- (e) will be deemed to be given or made:
 - (i) if by personal delivery, when delivered;
 - (ii) if by leaving the Notice at an address specified in **clause 9(b)** of this Deed, when left at that address unless the time of leaving the Notice is not on a Business Day or after 5pm on a Business Day, in which case it will be deemed to be given or made on the next following Business Day;
 - (iii) if by post, on the second Business Day following the date of posting of the Notice to an address specified in **clause 9(b)** of this Deed, and
 - (iv) if by facsimile, when despatched by facsimile to a number specified in **clause 9(b)** of this Deed unless the time of dispatch is not on a Business Day or after 5 pm on a Business Day, in which case it will be deemed to be given or made on the next following Business Day.
- (f) in this clause **"Business Day"** means a day other than a Saturday, Sunday or public holiday in Perth, Western Australia.

10. Variation

A variation to this Deed must be in writing and signed by the parties.

11. Further assurances

Each party must execute and deliver all such documents, instruments and writings and must do and must procure to be done all such acts and things as may be necessary or desirable to implement and give full effect to the provisions and purpose of this Deed.

12. Severance

If any part of this Deed is, or becomes, void or unenforceable that part is or will be, severed from this Deed to the intent that all parts that are not, or do not become, void or unenforceable remain in full force and effect and are unaffected by that severance.

13. Waiver

The parties mutually covenant and agree that:

- (a) no right under this Deed is waived or deemed to be waived except by notice in writing signed by the party waiving the right;
- (b) a waiver by one party under **clause 13(a)** of this Deed does not prejudice its rights in respect of any subsequent breach of this Deed by the other party; and
- (c) a party does not waive its rights under this Deed because it grants an extension or forbearance to the other party.

14. Applicable law

This Deed shall be governed by the laws of the State of Western Australia, and where applicable the Commonwealth of Australia.

15. Interpretation

In this Deed:

- (a) headings have been inserted for guidance only and shall be deemed not to form part of the text;
- (b) where a reference to a party includes more than one person the rights and obligations of those persons shall be joint and several;
- (c) reference to the parties includes their personal representatives, successors and lawful assigns; and
- (d) the Schedule and Annexures (if any) form part of the Deed.

Schedule

Item 1 Subject Land

That portion of Lot 34 as more particularly shown on the sketch annexed hereto as **Annexure 1**.

Item 2 Notices

Owners

Address:



Fax No: Not applicable.

Attention: Not applicable.

Shire

Address: Shire of Chittering
PO Box 70
BINDOON WA 6502

Fax No: (08) 9576 1250

Attention: Chief Executive Officer

Signing page

EXECUTED

2015

Signed by Barton Cecil Jones
in the presence of:

[Redacted]

Witness Sign

[Redacted]

Name of Witness

[Redacted]

Address

[Redacted]

[Redacted]

Signature of Barton Cecil Jones

Signed by David Cecil Jones
in the presence of:

[Redacted]

Witness Sign

[Redacted]

Name of Witness

[Redacted]

Address

[Redacted]

Signature of David Cecil Jones

The Common Seal of the Shire of Chittering
was hereunto affixed in the presence of -

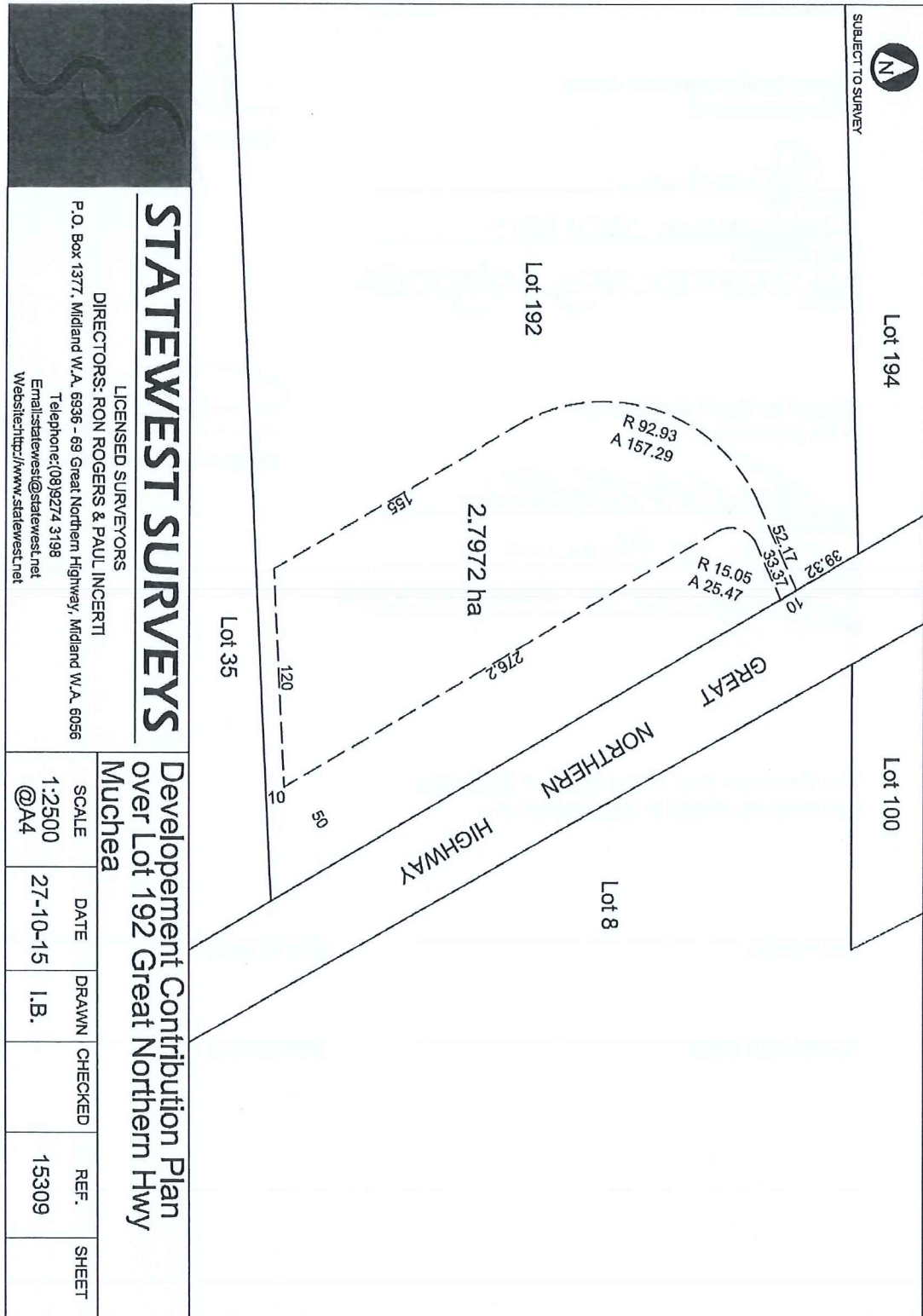
Shire President

(Print full name)

Chief Executive Officer

(Print full name)

Annexure 1 – Sketch of the Subject Land



Annexure 2 -Draft letter of undertaking

[ON MORTGAGEE'S LETTERHEAD]

[date]

Chief Executive Officer
Shire of Chittering
PO Box 70
BINDOON WA 6502

Dear Sir

Letter of Undertaking

[Mortgagee] has perused a copy of the Deed between [insert details of registered proprietor] and the Shire of Chittering (**Deed**) and hereby undertakes that in the event that this institution is ever in a position to exercise its rights pursuant to its Mortgage to deal with [insert subject land details] or any part thereof (**Land**), whether by way of entering into possession or in receipt of rent or profits thereof, the appointment of a receiver of the income thereof, the foreclosure of the Mortgage, the ejectment of the Mortgagor, the carrying on of any business on the Subject Land, or the managing or controlling of the Subject Land, this institution shall, as soon as practicable thereafter, furnish to the Shire of Chittering an agreement or covenant promising to perform and observe the covenants, conditions and stipulations contained in the Deed, as if it were the owner named in the Deed.

Further, the [Mortgagee] will not sell the Subject Land or any part thereof in exercise of its power of sale without first obtaining the execution of an agreement or covenant between any proposed purchaser and the Shire of Chittering whereby the proposed purchaser covenants to perform and observe the covenants contained in the Deed where the performance on the part of [insert details of registered proprietor] remains to be or continues to be performed or observed.

Similarly, this institution will not assign the Mortgage or any rights thereunder without first procuring the execution by the proposed assignee of a similar undertaking to the one given in this letter.

Dated the day of 201

(Executed by person who has Power of Attorney to execute on behalf of the Mortgagee, if an institution.)

LOCALITY PLAN

LOT 34 (NO. 3363) GREAT NORTHERN HIGHWAY, MUCHEA





**MINUTES FOR ORDINARY MEETING OF COUNCIL
WEDNESDAY, 18 FEBRUARY 2015**

9.1.8 Proposed Transport Depot – Lot 34 (RN 3363) Great Northern Highway, Muchea*

Report date	9 February 2015
Applicant	Weightman No 2 Pty Ltd
File ref	A3097; P369/14
Prepared by	Stephanie Gladman, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Traffic Impact Study 4. Schedule of Submissions

Background

Council's consideration is requested for a proposed Transport Depot located on Lot 34 (RN 3363) Great Northern Highway, Muchea.

Lot 34 is 38.7 hectares in area with frontage to the Great Northern Highway in Muchea. The property slopes from the highway in the east to the Ellen Brook Parks and Recreation Reserve in the west. The site is currently zoned Agricultural Resource in the Shire's *Town Planning Scheme No 6* (TPS No 6) and is used for equestrian purposes. Structures currently on the property include a residence and a number of rural sheds and holding paddocks.

The proposal being considered in this application is for a Transport Depot. This type of land use is considered an "A" use requiring Council's discretion. The site has also been identified in the Western Australian Planning Commission's 2011 *Muchea Employment Node Structure Plan* (MENSP) within Precinct 3 West.

The depot is envisaged to include hardstand parking and a manoeuvring area across the front portion of the lot with a maintenance building, crib rooms and ablutions, a self-bunded fuel tank and one of the existing buildings onsite converted to an office for administration purposes.

The depot is proposed to serve ten (10) transport trucks which are used to transport bulk cement powder and livestock sources to destinations off site. These trucks will attend the site briefly and intermittently at differing times. The proponent envisages the trucks will be out on the road the majority of the time, with it unlikely that all trucks will be onsite at the same time. The proposed depot will comprise up to 10 staff whom will attend the workshop area within daylight hours from 6:00am to 8:00pm.

The proposed development in its entirety comprises the following:

- A 36 x 20m steel clad shed to serve as a workshop for truck maintenance and for body building, ie. Repair of trailers. All waste such as oil will be trapped and taken off site;
- A transportable (9.6m x 3.0m) combination crib room and ablution facility to be located under a 6.0m wide awning on the western end of the workshop;
- 20 parking bays to accommodate the private vehicles of employees and visitors;
- Parking accommodation for up to 10 trailer/truck combinations;
- A 90,000 litre self bunded fuel tank;
- A 13.5 diameter rain water tank fed by roof catchment from the workshop and supplemented by the existing bore;
- A 8 x 20m concrete wash down bay;



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- Security lighting around the workshop, fuel bowser and wash down bay;
- A bituminised area around the workshop, fuel tank, crib and ablutions;
- Blue metal road base surround;
- Stormwater drainage onsite via soak wells;
- A 50m setback along the Great Northern Highway to the hardstand area (100m to the proposed shed) and a 10m setback between the hardstand and the southern boundary; and
- Access/egress to the development via a reconstructed crossover from/to Great Northern Highway, as recommended by traffic consultants Shawmac (refer Attachment 3 Traffic Impact Study).

The proposal is seen by the applicant to use approximately 3ha of the site and will not interfere with the continued use of the property for equestrian purposes.

Consultation

Consultation with nearby and adjacent landowners, relevant State Government Departments and interest groups was undertaken for a period of 14 days. Of the six State Government departments and interest groups contacted, three responded; and of the nine private land holders consulted, two responded (refer Attachment 4 Schedule of Submissions).

On the whole, submitters were generally supportive of the proposal. There were however a number of suggestions to improve the traffic movements (through changes to the Traffic Impact Statement) and also potential for runoff and contamination of vegetation and the waterway of the nearby Ellen Brook which have the potential to be implemented through the conditions of planning approval.

Statutory Environment

State: *Planning and Development Act (2005)*

Local: *Town Planning Scheme No 6*

Zoning

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

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

5.0 Development Requirements

5.14 *Transported and Transportable Dwellings*

Planning approval is required for the erection of a new or prefabricated transportable building, kit home or a transported dwelling on a lot and shall be approved where:

- a) the design and location of the building is to the satisfaction of the Local Government, and in its opinion, does not adversely affect the amenity of the locality;*
- c) the proposal complies with the intent of the Scheme and its duly adopted Local Planning Policies.*



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The property falls within the Special Control Areas – Water Prone and Military Considerations. The relevant clauses states as follows:

6.3 Water Prone Area – Ellen Brook Palusplain

6.3.2 Purpose

- a) to manage development in areas where there is high risk of inundation so as to protect people and property from undue damage and where there is a potential risk to human health;
- b) to preclude development and the use of land which may increase the amount of nutrients from entering the surface and/or sub-surface water systems;
- c) to ensure that wetland environmental values and ecological integrity are preserved and mentioned.

6.3.3 Planning Requirements

The Local Government will impose conditions on any Planning Approval relating to –

- a) the construction and occupation of any dwelling or outbuilding;
- b) the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council;
- c) minimum floor levels for any building above the highest known water levels;
- d) any land use which may contribute to the degradation of the surface or sub-surface water quality;
- e) no development other than for conservation purposes will be permitted within 30 metres of any natural water body; and
- f) damming, draining and other developments which may alter the natural flow of surface water will not be permitted unless such works are part of an approved Catchment Management Plan.

6.3.4 Relevant Considerations

In considering applications for planning approval, the Local Government shall have regard to:

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

6.5 Military Considerations

6.5.2 Purpose

- to protect the integrity of the operations of the RAAF Air Base Pearce and its flight paths and to provide conditions on development on land within the designated Special Control Areas which may be effected by noise.
- To minimize the number of people residing in the delineated flight path subject to significant levels of aircraft noise.

6.5.3 Planning Requirements

- Planning approval is required for any development within this Special Control Area;
- Any new dwelling shall be constructed so as to comply with any noise attenuation measures required by Australian Standard AS 2021 – 2000 Aircraft Noise Intrusion – Building Siting and Construction issue by the Standards Association of Australia.



- *The local government shall not permit the construction and occupation of more than one dwelling or holiday or other short term accommodation on any one lot within the designated area.*

6.5.4 Relevant Considerations

In considering any application for planning approval the Local Government shall have regard to:

- the increase in number of dwellings and occupants likely to be affected by aircraft noise;*
- whether the proposal is compatible with the current and future operation of the aerodrome;*
- whether any building proposed for human occupation requires noise attenuation measures; and*
- whether the proposal constitutes a hazard or interference to aircraft flying in the area.*

Transport Depot (as included in Amendment 49)

Means premises used or intended for use for parking or garaging of:

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

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

A Transport Depot is considered in 'A' use in the Shire's TPS No 6 which:

"means that the use is not permitted unless the Local Government has exercised its discretion by granting Planning approval after giving special notice in accordance with Clause 9.4".

Policy Implications

State: *Muchea Employment Node Structure Plan (MENSP)*

In the Western Australian Planning Commission's 2011 *Muchea Employment Node Structure Plan*, Lot 34 was identified within Precinct 3 (West) in the structure plan. The provisions of the precinct are as follows:

6.3.3 Precinct 3 (West)

- Low water use type industries with a minimum lot size of 10,000m² may be established in this area unless the developer can demonstrate prior to development commencing, that wastewater generated can be adequately managed as per the requirements outlined in the Water Management Strategy or a more detailed local water management strategy;*
- For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels;*
- Development shall not conflict with the proposed Perth – Darwin National Highway road reserve and requirements external to it such as the interchange embankment build up and ramp constructions;*
- The access road shall be designed with provisions for a road reserve of 30 metres. This will allow for a road cross section to be developed, which contains 2 x 3.5 metres lanes and a sealed 1.5 metre shoulder on either side, in accordance with the Shire of Chittering Local Planning Policy No. 16 for other rural roads;*



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5. *Future planning is to specifically address treatment of lots abutting the future Perth – Darwin National Highway road reserve and/or the Ellen Brook, with regard to water management and amenity; and*
6. *Structure higher than 90m require referral to RAAF.*

Local: *Local Planning Policy No 7 – Outbuildings and Swimming Pools*

- 5.2 *Planning consent requirements for Outbuildings and In-ground Swimming Pools*
 - a) *Subject to Clause 5.3 below, planning consent is not required for outbuildings or in-ground swimming pools with an area greater than 10m² located in accordance with 5.1 b) i) to vi) unless:*
 - iv) *the proposal is within a Special Control Area*

Local: *Local Planning Policy No 20 – Transported and Transportable Buildings*

New Transportable Buildings

- 5.9 *All applications for planning consent and building approval for the erection of a new prefabricated transportable building or kit home are to be the same as for a constructed building (ref Part 9 of TPS No. 6) and must be accompanied by:*
 - a) *floor plans, elevations, cross section, site plan and specifications;*
 - b) *septic tank, BCITF and building application forms;*
 - c) *a practicing structural engineer's certificate stating the design of the dwelling is suitable for transportation and re-erection.*

Financial Implications

Nil

Strategic Implications

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

The subject property is identified by the *Local Planning Strategy Map* as falling within the Agricultural Resource area, to the south of Muchea townsite and to the west of the Muchea employment investigation area.

Taking into consideration the Shire's Strategic Plan, the proposed transport depot has the potential to affect the following aims of the Shire strategically:

- 3.0 *Economy and Employment*
- 3.3 *Aims*
 - *to facilitate the establishment of a light industrial area in the Shire accessible to both Bindoon and the growing rural residential areas, in the south of the Shire;*
 - *to provide employment opportunities for the residential population; and*
 - *to provide an accessible service location where residents and farming community can obtain readily available services and supplies.*
- 5.0 *Physical features and catchment boundaries*
- 5.5 *Aims*
 - *encourage and enforce best management agricultural practices to arrest land degradation;*
 - *apply principles of the Ellen Brook Catchment Management Plan to reduce nutrient export into the Swan River;*
 - *prohibit any development which may contribute pollutants into the ground water regimes of the Ellen Brook; and*



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- *Protect productive soils for agriculture, horticulture and viticulture and promote value adding of primary produce.*

The proposal considered consistent with the aims of the strategy, however there will be the need to provide conditions pursuant to minimising the effects the development may have on the nearby Ellen Brook.

Site Inspection

Yes

Triple Bottom Line Assessment

Economic implications

The subject property falls within the Muchea Employment Node Structure Plan area and therefore will be subject to the development contribution plan in regards to infrastructure services.

Social implications

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

Environmental implications

The proposal for the transport depot may have the potential to impact the Ellen Brook through runoff of fuels and wastes from cleaning of vehicles used for on-site. It should be noted that the site for the proposal is contained to the front of the property, with the Ellen Brook located towards the rear of the site.

Comment

Access

The site itself is well positioned for the proposed land use being located on the Great Northern Highway and is 2.5 km south of the Brand Highway intersection and Muchea townsite. In strategic terms the property will potentially have good access to the proposed Perth – Darwin National Highway, with a portion of the property identified as required for its development. From this perspective, the establishment of a transport depot is well positioned due to the sites access to major transport routes towards the north of the Shire.

Traffic Management

The proposal for the Transport Depot located at Lot 34 Great Northern Highway Muchea will require finalisation of the Traffic Impact Statement which is currently in draft form, with this to be finalised upon the proponent gaining planning approval and completing the TIS to the satisfaction of Main Roads Western Australia.

Shire of Chittering TPS No 6

(a) Zoning

Whilst the proposal is for a transport depot, which is considered an "A" use, the property will retain its original use as an equestrian facility, with the depot proposed to take up 3 hectares of the original site area. The retention of the equestrian facility allows for the property to continue to meet the objectives of its zoning as a Agricultural Resource area.

(b) Development Requirements

Requirements pertaining to the construction of the outbuilding, transportable, stormwater management and water catchment management can be addressed through conditions of planning approval.



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(c) *Muchea Employment Node Structure Plan (MENSP)*

The site is located within Precinct 3 of the Muchea Employment Node Structure Plan area which sets out the following provisions:

1. Low water use type industries with a minimum lot size of 10,000m² may be established in this area unless the developer can demonstrate prior to development commencing, that wastewater generated can be adequately managed as per the requirements outlined in the Water Management Strategy or a more detailed local water management strategy;
2. For lots that do not require subdivision prior to development occurring, primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds due to high groundwater levels;
3. Development shall not conflict with the proposed Perth – Darwin National Highway road reserve and requirements external to it such as the interchange embankment build up and ramp constructions;
4. The access road shall be designed with provisions for a road reserve of 30 metres. This will allow for a road cross section to be developed, which contains 2 x 3.5 metres lanes and a sealed 1.5 metre shoulder on either side, in accordance with the Shire of Chittering Local Planning Policy No. 16 for other rural roads;
5. Future planning is to specifically address treatment of lots abutting the future Perth – Darwin National Highway road reserve and/or the Ellen Brook, with regard to water management and amenity; and
6. Structure higher than 90m require referral to RAAF.

In addressing the above:

- 1) The application for a transport depot is a relatively low water use industry, to be established on Lot 34 with an area of 38.7 hectares in size.
- 2) Whilst not addressed in the application, primary waste water treatment provisions can be implemented through conditions of planning approval to meet the objective and establish that the *"primary wastewater treatment shall be via aerobic treatment units followed by secondary treatment in evaporation ponds (due to high groundwater levels)"*.
- 3) The proposed development does not conflict with the proposed Perth – Darwin National Highway road reserve as the transport depot is envisaged to front Great Northern Highway. A portion of the property in the north-west corner has been identified as required for the proposed development of the proposed Perth – Darwin National Highway which appears on the Certificate of Title.
- 4) The property and proposed transport depot is accessible via the Great Northern Highway with a proposed 50m setback along the Great Northern Highway to a hard stand area with a further 10m setback between the hardstand and the southern boundary of the property. Access and egress to the development have been proposed as proposed by Shawmac Traffic Consultants (see Traffic Impact Study) with finalisation of the provisions upon Planning Approval as directed by MRWA.
- 5) Future planning to address the treatment of the lot as it abuts both the future Perth – Darwin National Highway Road Reserve and the Ellen Brook can be addressed through the conditions of planning approval,
- 6) The proposal does not include a structure higher than 90m.

Following review of the above, it is recommended that Council supports the establishment of a transport depot at Lot 34, in accordance with the Office Recommendations outlined below.



9.1.8 OFFICER RECOMMENDATION / COUNCIL RESOLUTION – 100215

Moved Cr Gibson/ Seconded Cr Rossouw

That Council grant Planning Approval for the Proposed Transport Depot at Lot 34 (RN 3363) Great Northern Highway, Muchea subject to the following conditions:

1. Prior to any work commencing on site, the Applicant enters into a Deed of Agreement with the Shire in relation to the Development Contribution Plan for the provision of Infrastructure associated with the *Muchea Employment Node Structure Plan*. This shall be prepared by Councils solicitors and costs associated with the Deed will be at the cost of the Applicant.
2. Prior to any work commencing on site, the Applicant is to prepare and submit a Water Quality Management Plan minimising the transport of nutrients in to the Ellen Brook catchment to the satisfaction of the Chief Executive Officer.
3. The Applicant is to enter into an agreement with Main Roads WA to upgrade from a Basic Left Turn (BAL) to a Channelised Left Turn (CHL) treatment, if it is proved necessary once the transport depot begins operation.
4. The Applicant is to obtain Main Roads WA approval of the design and construction of the upgrade of the existing access prior to construction.
5. The Applicant provides a Traffic Impact Statement (TIS) to the approval and satisfaction of Main Roads WA and the Shire.
6. Any swales established for storm water drainage and water runoff are to be vegetated as a requirement of planning approval with appropriate species in liaison with Chittering Landcare and to the satisfaction of the Chief Executive Officer.
7. Vegetated screening of the transport depot is to be established to be along the boundary of Great Northern Highway behind a 6m fire break to a depth of 10m with vegetation endemic to the local area. This vegetated screening is to be maintained at the cost of the applicant for a period of two (2) years.
8. The proposed fuel tank is to be relocated in a suitable position to the satisfaction of the Chief Executive Officer.
9. The fuel tank is to be bunded capable of holding a capacity of 90,000 litres of fuel with appropriate hydrocarbon separators.
10. The wash-down bay requires bunding and the implementation of hydrocarbon/water separators with hydrocarbons removed from the site and disposed of appropriately offsite to the satisfaction of the Chief Executive Officer.
11. Any vehicles used for the transport of stock shall be washed in an appropriate location which is able to retain the water and can be disposed of off-site.
12. A Dust Suppression Management Plan be developed, approved and implemented to the satisfaction of the Chief Executive Officer.
13. Outbuilding is to be constructed of non-reflective materials.
14. Roofing to be tiled or pre-painted material such as colour bond.
15. The outbuilding is to be connected to a rainwater tank with a minimum holding capacity of 120,000 litres to which 10,000 litres shall be kept at all times for firefighting purposes and fitted with a standard Camlock valve.
16. An engineers' certificate is to accompany the building license application for the outbuilding.
17. Transportable crib room is to be constructed with a pitched roof capable of rainwater connection connected to a rainwater tank with a minimum holding capacity to the satisfaction of the Chief Executive Officer.
18. Transportable crib room is to be constructed and connected with an approved septic disposal system to the satisfaction of the Chief Executive Officer.
19. A Fire Management Plan for the site is to be established and implemented to the satisfaction of the Chief Executive Officer.



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20. All buildings and structures shall be setback 100m from the Great Northern Highway and 30m from property boundaries.
21. Development shall be in accordance with the approved plans.
22. Primary waste water treatment shall be via aerobic treatment units followed by secondary treatment to the satisfaction of the Department of Health and the Shire.
23. Transport depot, access roads and hardstand areas shall be bitumen sealed and drained to catch hydrocarbons to the satisfaction of the Chief Executive Officer.
24. The development shall comply with the *Environmental Protection Noise Regulations 1997*.
25. Any servicing of plant and equipment shall be carried out within a confined concrete floor of the workshop, and such area shall have sufficient bunding and spill trays to minimize the impact from any spills as a result of onsite servicing.
26. 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.
27. Where an approval has lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.

Advice Notes:

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

THE MOTION WAS PUT AND DECLARED CARRIED 6/1