

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

WEDNESDAY, 19 OCTOBER 2016

**Council Chambers
6177 Great Northern Highway
Bindoon**

**Commencement: 7.02pm
Closure: 8.25pm**



These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 16 November 2016.

SIGNED BY

_____The person presiding at meeting which minutes were confirmed is the person who signs above

Disclaimer

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

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

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

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

TABLE OF CONTENTS

1.	DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS.....	1
2.	SWEARING IN OF COUNCILLOR	1
3.	RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE.....	1
	3.1 Attendance.....	1
	3.2 Apologies.....	2
	3.3 Approved leave of absence.....	2
4.	DISCLOSURE OF INTEREST.....	2
	4.1. Item 10.1.3 “Proposed Local Structure Plan: Lots 1 and 2 Teatree Road, Bindoon”	2
	4.2 Item 10.1.4 “Request to Reconsider Condition ‘m’ to Extractive Industry: Lot 51 (RN 451) Reserve Road, Chittering”	2
5.	PUBLIC QUESTION TIME	2
	5.1 Response to previous public questions taken on notice	2
	5.2 Public question time	2
	5.2.1 Lee Martin, Bindoon	2
	5.2.2 John Curtis, Bindoon.....	3
6.	PRESENTATIONS / PETITIONS / DEPUTATIONS	3
	6.1 Petitions	3
	6.2 Presentations	3
	6.3 Deputations.....	3
7.	APPLICATIONS FOR LEAVE OF ABSENCE	4
	7.1 Cr George Tilbury	4
	7.2 Cr Michelle Rossouw	4
	7.3 Cr Peter Osborn.....	4
8.	CONFIRMATION OF MINUTES	4
	8.1 Ordinary Meeting of Council – 21 September 2016	4
9.	ANNOUNCEMENT FROM THE PRESIDING MEMBER	5
10.	REPORTS.....	6
	10.1 DEVELOPMENT SERVICES.....	6
	10.1.1 Proposed NBN Telecommunications Infrastructure: Lot 7 (RN 140) Blue Plains Road, Chittering*	6
	10.1.2 Proposed Transportable Building and Shed: Lot 169 (RN 351) Powderbark Road, Lower Chittering*.....	24
	10.1.3 Proposed Local Structure Plan: Lots 1 and 2 Teatree Road, Bindoon*	32
	10.1.4 Request to Reconsider Condition ‘m’ to Extractive Industry: Lot 51 (RN 451) Reserve Road, Chittering*	39
	10.1.5 Proposed Hoarding Sign: Lot 102 Great Northern Highway, Muchea*	45
	10.1.6 Endorsement: Local Planning Policy 7 Outbuildings Policy Review*.....	49
	10.1.7 Waste Local Law 2016*	53
	10.1.8 Health Local Law 2016*	57

10.1.9	Section 70A Notification Authorisation: Two lot survey strata-subdivision of Lot 72 Guernsey Rise, Lower Chittering*	65
10.2	TECHNICAL SERVICES	68
10.3	CORPORATE SERVICES	69
10.3.1	Financial statements for the period ending 30 September 2016*	69
10.4	CHIEF EXECUTIVE OFFICER	71
10.4.1	Change of date for Ordinary Council Meeting scheduled for December 2016	71
10.4.2	Updates to Council Committee and Advisory Groups Booklet*	73
11.	REPORTS OF COMMITTEES	76
12.	MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	76
13.	QUESTIONS FROM MEMBERS WITHOUT NOTICE	76
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING	76
15.	MEETING CLOSED TO THE PUBLIC	76
15.1	Matters for which the meeting may be closed	76
15.1.1	Confidential Item: Appointment of Senior Employee	77
15.1.2	Confidential Item: Use of Common Seal on the Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon*	77
15.1.3	Confidential Item: Muchea Water Solutions Business Case*	77
15.2	Public reading of resolution that may be made public	78
15.1.1	Confidential Item: Appointment of Senior Employee	78
15.1.2	Confidential Item: Use of Common Seal on the Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon*	78
15.1.3	Confidential Item: Muchea Water Solutions Business Case*	78
16.	CLOSURE	78

** indicates separate attachments*

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.02pm.

2. SWEARING IN OF COUNCILLOR

Mr Lee Martin JP (Honorary Freeman of the Shire) swore in the Councillor elect who was declared elected by the Returning Officer at the election held on Friday, 14 October 2016.

The following Councillor made the following declaration, in accordance with the *Local Government Act 1995*, s2.29(1) before acting in the office:

- Cr Mary Angus

I **Mary Angus** of **288 Forrest Hills Parade, Bindoon WA 6502** having been elected to the Council of the **Shire of Chittering** declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the *Local Government (Rules of Conduct) Regulations 2007*.

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

3.1 Attendance

The following elected members were in attendance:

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

The following staff members were in attendance:

Mr Alan Sheridan	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Ms Bronwyn Southee	Executive Manager Development Services
Mr Jim Garrett	Executive Manager Technical Services
Mr Peter Stuart	Senior Planning Officer
Mrs Natasha Mossman	Executive Support Officer (Minute Secretary)

There were 12 members of the general public in attendance.

3.2 Apologies

Two local members were invited to undertake the swearing in our new Councillor, unfortunately this week is a State Parliament sitting week therefore they were unable to attend and wanted their apologies noted:

Shane Love MLA	Member for Moore
Martin Aldridge MLC	Member for Agricultural Region

3.3 Approved leave of absence

Council has previously approved leave of absence for Cr Don Gibson for the period inclusive of Saturday, 1 October 2016 to Thursday, 10 November 2016 (Resolution 010916).

4. DISCLOSURE OF INTEREST

4.1. Item 10.1.3 “Proposed Local Structure Plan: Lots 1 and 2 Teatree Road, Bindoon”

Bronwyn Southee (Executive Manager Development Services) declared an impartiality interest on this item as she is a former employee of Whelans Pty Ltd.

4.2 Item 10.1.4 “Request to Reconsider Condition ‘m’ to Extractive Industry: Lot 51 (RN 451) Reserve Road, Chittering”

Bronwyn Southee (Executive Manager Development Services) declared an impartiality interest on this item as she is a former employee of Whelans Pty Ltd.

5. PUBLIC QUESTION TIME

5.1 Response to previous public questions taken on notice

Nil

5.2 Public question time

5.2.1 Lee Martin, Bindoon

Question 1 Would Council consider supporting The Nationals to give property owners veto rights as to what can and can’t happen on their land, with regard to exploration companies fracking for oil or gas in our Shire?

Answer 1 The President took the question on notice.

5.2.2 John Curtis, Bindoon

(as supplied)

Question 1 Are the same tactics which were used by the Water Corporation on the STED vote going to be used by Council when it comes to vote on the compulsory rubbish service?

Answer 1 *The President advised that the response given to Water Corporation was a legislative requirement.*

Question 2 The rubbish bins; is the Shire going to continue with the service when the contract expires?

Answer 2 *The President advised that the collection of waste will continue in the Shire as it is now a compulsory service. The staff will either extend the current contract or re-tender for the service (expires May 2019).*

The Executive Manager Development Services advised that there is a waste local law being tabled tonight, which will be out for public comment in the coming weeks. This draft local law deals with the collection of waste in the Shire.

Question 3 Why is the Shire handing out \$20,000 of the ratepayers money to the visitors centre when they have a profitable post office business?

Answer 3 *The President advised that Council made the decision during the 2016/17 budget deliberations to support a part-time tourism officer at the Chittering Visitor Centre. The centre is a not-for-profit organisation and their service that they provide to visitors to our Shire is very economical. The visitor centre is a completely separate entity to the Bindoon Post Office.*

6. PRESENTATIONS / PETITIONS / DEPUTATIONS

6.1 Petitions

Nil

6.2 Presentations

Nil

6.3 Deputations

Nil

7. APPLICATIONS FOR LEAVE OF ABSENCE

7.1 Cr George Tilbury

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 011016

Moved Cr Rossouw / Seconded Cr Osborn

That Cr George Tilbury be granted approved leave of absence for the period inclusive of Wednesday, 9 November 2016 until Sunday, 20 November 2016.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

7.2 Cr Michelle Rossouw

7.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 021016

Moved Cr Osborn / Seconded Cr Angus

That Cr Michelle Rossouw be granted approved leave of absence for the period inclusive of Monday, 12 December 2016 until Friday, 13 January 2017.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

7.3 Cr Peter Osborn

7.3 NEW MOTION / COUNCIL RESOLUTION 031016

Moved Cr Rossouw / Seconded Cr Tilbury

That Cr Peter Osborn be granted approved leave of absence for the period inclusive of Thursday, 17 November 2016 until Sunday, 27 November 2016.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

8. CONFIRMATION OF MINUTES

8.1 Ordinary Meeting of Council – 21 September 2016

8.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 041016

Moved Cr Tilbury / Seconded Cr King

That the minutes of the Ordinary meeting of Council held on Wednesday, 21 September 2016 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

9. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Executive Manager Corporate Service

Tonight is the last Council meeting for our Executive Manager Corporate Services, Jean Sutherland who will be leaving us at the end of this month. Jean has been at the Shire of Chittering since August 2010 and will now be moving onwards and upwards as Chief Executive Officer for the Shire of Dalwallinu.

Jean's time with us here at Chittering is truly appreciated. Her role of managing our finances, governance and corporate services functions has involved long hours and a lot of hard work. Our new Council, and those before us, have been fortunate to have an officer with such dedication and experience in such a critical role.

Jean leaves the Council in a solid financial position, with sound practices and processes in place and with a sound record of financial management. We wish Jean all the best for the future and gratefully thank her for her hard work and dedication over the past six years.

Jean, I know that you will be missed by your colleagues who hold you in very high regard. Our loss is Dalwallinu's gain, you are going to shine in your new role.

Bindoon Show

I would also like to take this opportunity to express thanks to the Bindoon & Districts Agricultural Society and all the volunteers who made the 2016 Bindoon Show such an amazing event. I attended this event last weekend and was amazed at the displays and the numbers of visitors that this event brought to our region. And the rodeo and fireworks to conclude the night was truly spectacular. I would also like to extend a big thankyou to Lisa Kay (the Shire's Community & Club Development Officer) and the Chittering Youth Krew for their tireless efforts before, during and after the show.

10. REPORTS

10.1 DEVELOPMENT SERVICES

10.1.1 Proposed NBN Telecommunications Infrastructure: Lot 7 (RN 140) Blue Plains Road, Chittering*

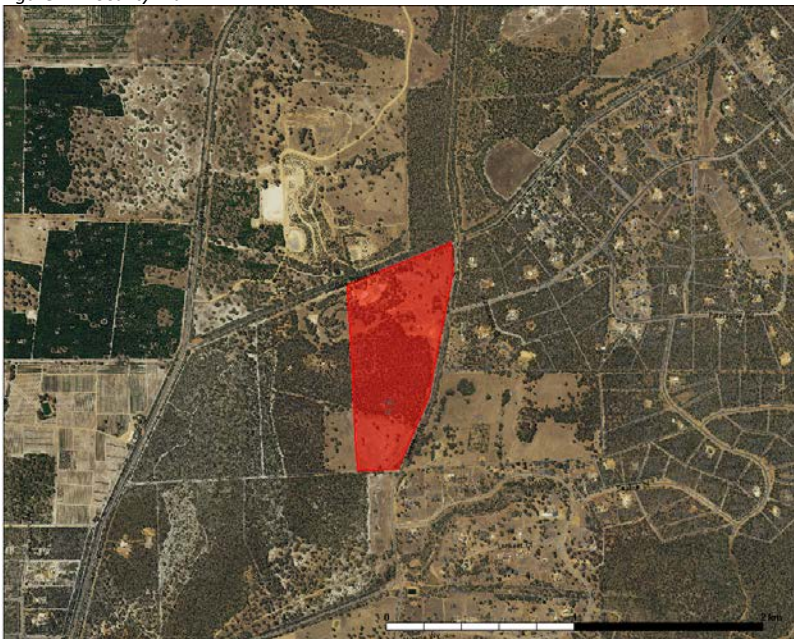
Report date	19 October 2016
Applicant	Aurecon Pty Ltd on behalf of NBN Co
File ref	A10408; P081/16
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Report accompanying Planning Application2. Schedule of submissions3. Photomontage of proposed telecommunications infrastructure

Executive Summary

Council's consideration is requested in relation to the proposed Telecommunications Infrastructure comprising of a 45m monopole structure with three panel antennas, a parabolic dish and associated ancillary equipment including two outdoor cabinets within an 80sqm fenced compound proposed at Lot 7 Blue Plains Road, Chittering.

The infrastructure is proposed to be located on land zoned for "*Agricultural Resource*", for which 'Communications Infrastructure' is an 'A' use. This use is located on land otherwise used for rural industry and living purposes, and is proposed to be situated in an area previously cleared of vegetation.

Figure 1: Locality Plan



Background

The subject property consists of 46.07 hectares of land and is currently used for rural industry and living. The property is situated adjacent to the Blue Plains Estate which consists of rural residential properties in excess of 1 hectare.

The site is consistent in undulation, which rises from the western boundary towards the east. In parts, the site is heavily vegetated, with the grazing areas towards the north-eastern boundary being sparsely vegetated. The telecommunication infrastructure is proposed to be located within the heavily vegetated section. Access to the western portion of site is currently available from an existing gravel track/firebreak located from Maddern South Road. An access is available from Blue Plains Road on the northern border, though this is primarily used to access the dwelling/rural industry only.

In June 2016, the NBN group met with the community to gauge whether it was interested in considering a new application for the Shire. In comparison to the two applications in the north which were recently considered by Council, this application had little public interest.

Subsequently two applications have been separately submitted titled 'Chittering North' and 'Chittering South'. This application represents the former of the two applications and makes the third application of four for the NBN network in the Shire of Chittering

Consultation

Consultation was undertaken in accordance with Section 9.4 of the *Shire of Chittering's Town Planning Scheme No. 6*. In accordance with the abovementioned provision of the Scheme, the application was advertised in the following methods:

- (1) letter to nearby/affected landowners;
- (2) sign placed on the site (corner Forrest Hills Parade and Ridgetop Ramble) including advertisement, maps indicating proposed development;
- (3) on the 'Have your say' page on the Shire's webpage; and
- (4) on the Shire's Social Media page.

The application was advertised for a period of 21 days from 31 August until 20 September 2016.

The application was also advertised to a number of government and referral agencies such as (amongst others):

- (1) Department of Planning;
- (2) Department of Health;
- (3) Department of Parks and Wildlife; and
- (4) Chittering Landcare

During the advertising period, a total of 34 letters were sent directly to landowners, with a total of eight (8) submissions received (i.e. a reply rate of 24%).

Of the eight submissions received; two were in support of the application, whilst six objected to the application.

Of those whom were supportive of the application, the basis of their support was the following:

- (a) Privacy and lifestyle
- (b) Availability of communications facilities

The basis of the submissions which were objecting to the proposal were for the following reasons:

- (a) Visual impact
- (b) Impact on native flora
- (c) Health implications regarding Electro Magnetic Emissions (EME)
- (d) Bushfire
- (e) Existing infrastructure adequately covers locality
- (f) The infrastructure should be placed underground
- (g) Decrease the value of the property
- (h) Impact on endangered species
- (i) Misleading information by the applicant.

Further analysis of these submissions is referred to in the **Comments** section of this report and also in the Schedule of Submissions (see attachment 2).

Statutory Environment

State: *Telecommunications Act (1996)*
Planning and Development Act (2005)
Planning and Development (Local Planning Schemes) Regulations 2015

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

Under TPS6, Lot 7 (RN 140) Blue Plains Road is zoned "**Agricultural Resource**". The objectives of this zone are:

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

At present, the land use definition most closely aligned with this type of development would be Telecommunications Infrastructure. In accordance with TPS6 Telecommunications Infrastructure "*means land used to accommodate any part of the infrastructure of a telecommunications network and includes any line, equipment, apparatus, tower, antenna, tunnel, duct, hole, pit or other structure used, or for use, in or in connection with a telecommunications network*".

Part 10 – Procedure for Dealing with Applications

10.2 Matters to be considered by Local Government

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

- (c) *any approved State planning policy;*
- (l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*

- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*
- (za) *the comments or submissions received from any authority consulted under clause 66.*

Policy Implications

State: *State Planning Policy No. 5.2 – Telecommunications Infrastructure (2015)*
State Planning Policy 2.5 Land Use Planning in Rural Areas (2012)
Visual Landscape Planning in Western Australia (2008)

The above statutory and policy implications are addressed in detail under the **Comments** section.

Financial Implications

There are no financial implications associated with this development.

Strategic Implications

State: *State Planning Strategy 2050*

Local: *Shire of Chittering Local Planning Strategy (2001 – 2015)*
Shire of Chittering Strategic Community Plan (2012 – 2022)

The Shire's *Local Planning Strategy* does not specifically refer to telecommunications facilities, however it does state that "*the notable increases in employment lies in the fields of (...) communication and tourism*", and that "*there is an increase in home-based occupations providing personal services, some using electronic commuting.*" The availability of national broadband network facilities significantly increases the likelihood of communication based employment opportunities.

The Strategic Community Plan specifically refers to the infrastructure. The Strategy states that *Council proactively participates in the National Broadband Network rollout – level of take up of new 'broadband' services.*

Site Inspection

A site inspection was undertaken by Shire Officers. Officers observed that the locality naturally undulates, significantly rising from the northern entrance to Blue Plains Road.

The locality is largely cleared of vegetation, although some significant natural bushland areas exist. The subject proposed location of the facility is bordered by mature trees.

In addition to this the applicant was required to supply photomontage images of the proposed pole, this helps to show the any proposed visual impact from the proposed infrastructure. Further information regarding the likely visual impact of the proposed infrastructure is attached as attachment 3.

Triple Bottom Line Assessment

Economic implications

The economic implications as a result of the establishment of the Telecommunications Infrastructure may provide the following significant benefits to Chittering and in the long term the broader Shire of Chittering in the following ways:

- Meet the objectives outlined in the *Shire of Chittering's Strategic Community Plan 2012 – 2022* in terms of supporting local business and advocating for improved broadband access;
- Provide opportunities for local businesses to conduct business activities over the internet in a more efficient and time effective way due to faster speeds.

A number of submissions advised that they believed there would be a negative economic impact, in that the development of the Telecommunications Infrastructure would result in the devaluation of private property as a result of its construction. The issue of devaluation has been addressed by the applicant and Shire Officers in the Schedule of Submissions (see attachment 2). Property devaluation is not a planning consideration under *Section 10.2 Matters to be considered by Local Government* in the *Shire of Chittering Town Planning Scheme No. 6*.

Whilst concerns are acknowledged, other members of the community may see the installation of the nbn Telecommunications Infrastructure as a positive contribution to their amenity, as they may be able to access the internet readily and reliably, which they may have been unable to do so before.

Regularly the topic of poor communication availability in the Shire is highlighted in a variety of streams and the provision of better services such as that proposed in this application has the ability to address this. Whilst it is acknowledged that not every member of the community will benefit from the technology (as some already have connection which already adequately suits their needs), such infrastructure is a much larger, strategic step towards ensuring the Shire is better connected to a range of telecommunication options.

If Council were to refuse this application, and in the future community demand grew exponentially, Shire funds would need to be spent in order for this type of infrastructure to be established, which at present can only be for the benefit of the community into the future.

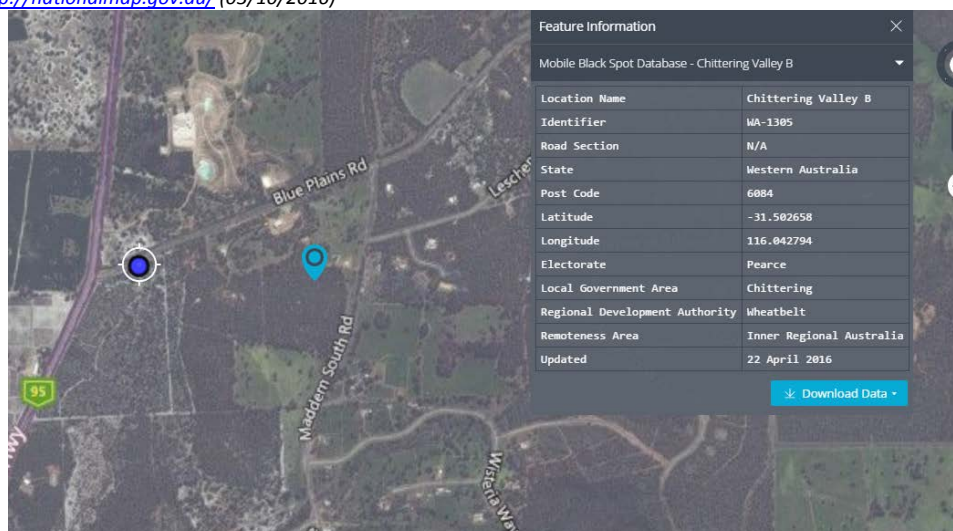
Consequently, economic sustainability for the Shire ultimately relies on the availability of services. In this instance, Telecommunications Infrastructure is viewed as a key service that has the potential to provide further opportunity for 'home' type businesses to flourish.

Social implications

A variety of social implications were expressed by residents who submitted both support and objections to the proposal during the advertising period.

The area around the Blue Plains Estate has also been identified in the Federal Governments 'Black Spot' Mobile Initiative as per the map below. This initiative is envisaged to work towards improving telecommunications coverage and competition in regional and remote Australia.

Image source: <http://nationalmap.gov.au/> (03/10/2016)



The negative social aspects mentioned in the submissions include:

- (1) a diminished level of visual amenity for residents living in close proximity to the property;
- (2) devaluation of property;
- (3) impact on lifestyle;
- (4) health implications such as exposure to electromagnetic radiation and also the risks associated with exposure for those with serious illness and pacemakers; and
- (5) existing infrastructure availability.

These concerns will be discussed in detail in the **Comments** section of the report.

Environmental implications

During the advertising period, a range of submissions outlined the environmental implications as a consequence of the Telecommunications Infrastructure being constructed within an environmentally sensitive area. Many were in relation to the impact on native and endangered species which have been observed within the general area and the amount of clearing required.

Other points raised in the submission included:

- (1) disturbance of native flora and fauna;
- (2) removal of remnant vegetation;
- (3) increased bushfire risk, i.e. obstruction of firefighting aircraft as a result of the construction of the Telecommunications Infrastructure; and
- (4) land degradation and soil erosion.

The submissions from Chittering Landcare Group and the Department of Parks and Wildlife respectively generally supported the applications subject to conditions. Their responses are included in the Schedule of Submissions (see attachment 2).

The specific area subject of the proposal is generally cleared of existing vegetation, and therefore no further significant vegetation will be required to be removed. Moreover the contractors are required to take all reasonable steps to avoid adverse impacts on the environment and surrounding property owners. This means that during construction, hygiene (i.e. noise and property damage) protocol is to be strictly observed.

The development of houses and ancillary structures (i.e. outbuildings, rainwater tanks, driveways etc) has contributed to the loss of habitat for many of the native fauna whom may have previously been seen in these areas. Therefore the subject application will have relatively minimal impact compared to the adjacent residential development has had and continues to have on the habitat of native animals in the area. These animals have been able to largely adapt to the increased presence of urban habitation and would be able to adapt to the presence of the telecommunications infrastructure within the property considering the relatively cleared nature and lack of vegetation.

Comment

Site assessment

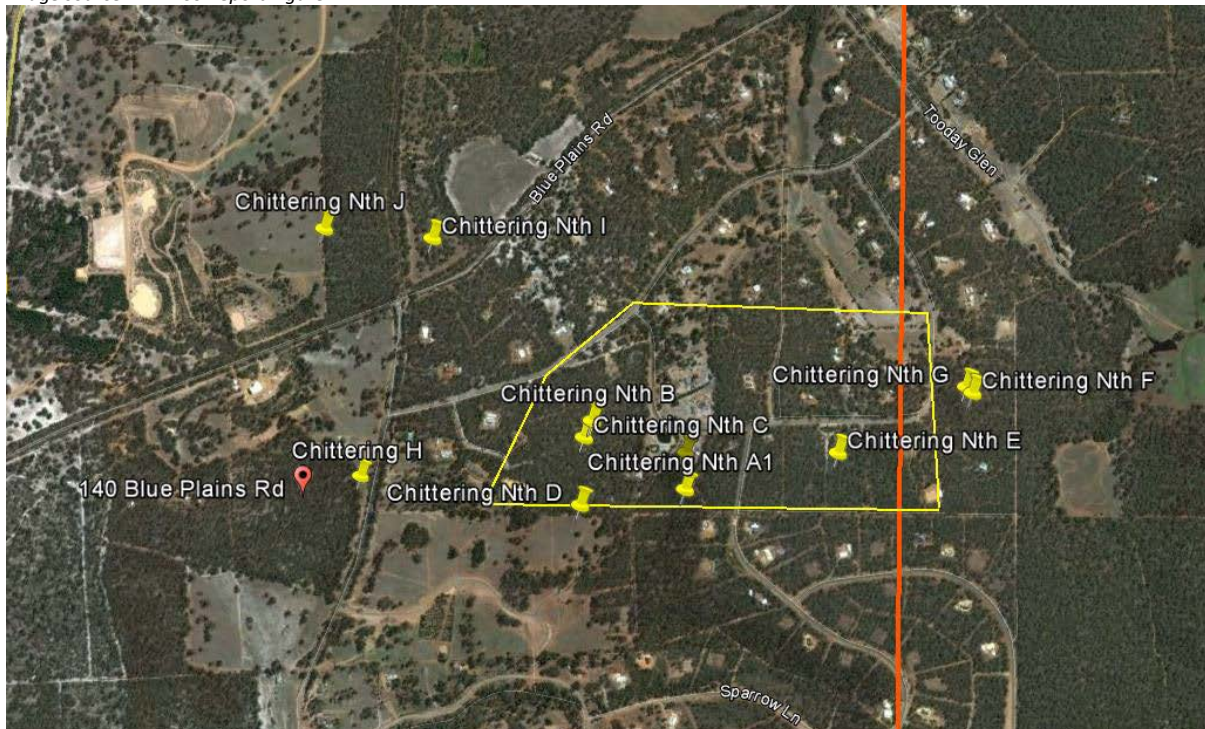
It must be acknowledged that it is not the Shire's role to identify sites which they believe are the most suitable prior to lodgement of an application. It is the applicant's role with knowledge, technology and understanding of how the technology works to ascertain the most appropriate site for their proposal in order to meet their coverage objectives and other performance indicators and from this perspective the application is assessed.

The applicant has undertaken various studies into the suitability of a number of sites from their own research and also those suggested by members of the community. On this occasion the applicant has ascertained that the subject location provides the ideal location to meet its coverage objectives.

The applicant in the accompanying planning report submitted to the Shire with the development application (see applicant's report for alternative locations (by applicant)), indicated a number of sites within the vicinity area which had been investigated in order to identify a suitable location for the Telecommunications Infrastructure.

The image below identifies the various locations explored by the applicant.

Image source: NBN Co Report Figure 2



Some conjecture was raised at the statement for site 'Chittering Nth I', which mentions the site was ruled out on "planning grounds". This is more likely a reference to site planning and costs, rather than urban planning grounds. The Shire is only able to consider and determine the location suitability subject of the application.

A full explanation for each of the identified locations is located within the applicant's report.

Consultation

- **NBN Consultation**

Prior to the lodgement of the application, NBN Co undertook initial consultation with the Blue Plains Estate and wider communities. No additional community consultation by NBN Co. was undertaken prior to lodgement.

The initial consultation undertaken by NBN Co consisted of a community drop-in session at the Immaculate Heart School to ascertain the level of support for the construction of two Telecommunications Infrastructures such as a fixed wireless facility in Lower Chittering which earmarked the subject location along with Hereford Way as its preferred locations to site the said Telecommunications Infrastructure.

The results of the consultation session conducted by NBN Co were not provided, however, there were a number of Council employees and Councillors in attendance and from this, it is understood the session was not well attended.

- **Internal Consultation**

The Shire's Planning Officers referred the application internally to the Shire's Principal Environmental Health Officer and the Economic Development and Communications Officer. Their respective advice is detailed below.

- Health

The Shire's Principal Environmental Health Officer did not have any objection to the proposal. He noted that the application met Australian Radiation Protection and Nuclear Safety Agency (APARNSA) minimum standards in regard to electromagnetic radiation.

- Economic Development/Communications

The Shire's Economic Development/Communications Officer highlighted that the proposed Telecommunications Infrastructure if approved would provide improved telecommunications within Chittering which can only be seen as a positive move forward for the community and business.

Further to the above, according to the Australian Government the digital economy is "*the global network of economic and social activities that are enabled by information and communications technologies, such as the internet, mobile and sensor networks*".

They advise that "*the digital economy is part of the shift from the past industrial period to the new digital or information period, where the factors of production rely on the deployment / use of information and communications technology (ICT) such as computers, the Internet, mobile telephones, landlines and multi-media devices*".

It is agreed that *“in the digital economy broadband is increasingly the precondition for industry competitiveness, job creation, and overall economic and social growth. The NBN has the capability to develop new industries, reshape old ones and redefine both occupational boundaries and the skills required to complete existing or new jobs. It has the power to accelerate current efforts to educate children; support learning; deliver health care; sell online to the world; run a business; communicate and manage global supply chains; and to capture, store, share, discover and access data and knowledge”*.

Reference: Impact of the Digital Economy and the National Broadband Network on Skills - Innovation & Business Skills Australia Ltd

- ***Shire of Chittering public consultation***

In accordance with *Section 9.4* of the *Shire of Chittering’s Town Planning Scheme No. 6*, the application was advertised for a period of 21 days. During the advertising period, a total of 34 letters were sent directly to landowners, with a total of eight (8) submissions received. In addition to letters sent, signage was placed on the property in addition to the application being placed in a newspaper advertisement and also on the Shire’s social media account and ‘Have Your Say’ page on the Shire’s website.

Of the submissions received, two were in support of the application, whilst six objected to the application.

Officer’s comments regarding the submissions are addressed within this report and also in the Schedule of Submissions (see attachment 2).

Statutory Provisions

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

In assessing the application, the Planning Officers have addressed Part 10 – Procedure for Dealing with Applications, *Section 10.2 – Matters to be considered by Local Government* (see below).

Part 10 – Procedure for Dealing with Applications

10.2 Matters to be considered by Local Government

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

—
(c) *any approved State planning policy;*

State: *State Planning Policy 5.2 – Telecommunications Infrastructure (SPP5.2)* provides the most comprehensive guide to determining such applications. *SPP5.2* provides clear guidance for information which is to be included in any planning application.

Throughout the process, the Shire has referred to *SPP5.2*, which has been read in conjunction with the ‘*Guidelines for the Location, Siting and Design of Telecommunication Infrastructure*’ (2008):

(l) *the effect of the proposal on the cultural heritage significance of the area in which the development is located;*

Officers have taken into consideration the provisions of the *Shire of Chittering’s Local Planning Scheme No.6*. There is no known documentation which identifies this locality as being of any heritage significance.

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

The amenity of the area will be largely preserved if the Telecommunications Infrastructure was to be established within the subject property. Many of the dwellings which are located in close proximity are directed towards the valley and surrounding rural views and vistas. While a small number of properties have direct views towards this location, the siting of the proposed tower through its setback and location of the facility are unlikely to significantly affect the existing panoramas currently enjoyed.

From a direct street level adjacent the location, the majority of the tower and compound itself is generally screened from view with it sitting atop a plateau and surrounded by existing vegetation. The impact of the tower itself is more prominent when a short distance from the property itself. The visual impacts are indicated on the photomontages included in attachment 3.

With its grey colouring and streamline monopole, the infrastructure is not as visually intrusive as a lattice structure with red and white colouring.

- (n) *the amenity of the locality including the following —*

- (i) *environmental impacts of the development;*
- (ii) *the character of the locality;*
- (iii) *social impacts of the development;*

The applicant advised that they undertook a desktop study of the Department of Environmental Regulation 'Environmental Sensitive Areas' mapping system. (see attachment 1 Section 7.4 Flora and Fauna Study (p. 39).

From a social and characteristic perspective, a range of concerns have been raised by various residents in their respective submissions to the Shire regarding the development application.

These concerns have been addressed by Council Officers and the applicant in the Schedule of Submissions, however it is considered that this proposal will not have a detrimental social impact nor impact the existing character of the area.

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

The applicant has submitted an Electromagnetic Energy (EME) report, which identifies that the infrastructure would emit approximately 0.73% of the maximum safe level of radiation exposure. As the State Planning Policy requires this specific report type, the applicant's report is to be accepted. This acceptability is reinforced by State Planning policy 5.2.

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

As stated previously within this report, the impact of the development is considered to be positive as it will allow access to the national broadband network. In terms of built form, the infrastructure may have a short term visual amenity impact, however over time this may dissipate. This statement is based on other examples within the Shire and regionally.

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

All submissions received by the Shire have been included and addressed in attachment 2 – Schedule of Submissions with responses addressed from both the applicant and also Shire Officers.

(za) *the comments or submissions received from any authority consulted under clause 66.*

All submissions received by the Shire have been included and addressed in attachment 2 – Schedule of Submissions with responses addressed from both the applicant and also Shire Officers.

Policy implications

State: State Planning Policy 5.2 Telecommunications Infrastructure

Policy objectives:

- a) *facilitate the provision of telecommunications infrastructure in an efficient and environmentally responsible manner to meet community needs;*
- b) *manage the environmental, cultural heritage, visual and social impacts of telecommunications infrastructure;*
- c) *ensure that telecommunications infrastructure is included in relevant planning processes as essential infrastructure for business, personal and emergency reasons; and,*
- d) *promote a consistent approach in the preparation, assessment and determination of planning decisions for telecommunications infrastructure.*

Policy Measure 1

Telecommunications infrastructure should be sited and designed to minimize visual impact

Applicant's response

The proposal involves the erection of a new facility incorporating a 45m monopole and associated ground level equipment. The height and design of the proposed tower is considered to be the minimum required to achieve reasonable transmission objectives. Nbn considers that the proposed new facility will have minimal visual impact on the existing landscape setting as seen by local residents and people passing through the area.

Officer response

In reference to the proposed location of the 45m monopole and associated infrastructure within the compound, it is acknowledged that there will be some visual impact on the amenity of the area. The streamline design of the monopole is less obtrusive than a traditional truss style tower. The area within the site which the proposed monopole is to be sited is largely surrounded by trees and requires minimal clearing which in turn reduces the impact of the infrastructure from the street level. It is considered that over time infrastructure such as monopoles become part of the visual landscape and less offensive to surrounding residents.

Specific Policy Measures

- a) *Telecommunications infrastructure should be located where it will not be prominently visible from significant viewing locations such as scenic routes lookouts and recreation sites.*

Applicant's response

The site is located in a rural area, 1km to the east of Great Northern Highway. The specific location within the property is setback approximately 77m from Maddern South Road and over 500m to Blue Plains Road. The facility has been located with the intention of being as least visibly prominent as possible on the subject site.

Officer response

The proposed 45m monopole if approved will be located atop the plateau of the subject property. Whilst the existing vista may be a significant view point, the infrastructure is to be located on a small portion of a panoramic vista. Therefore the design of the slim line monopole is not considered to be significantly visually obtrusive when viewed from the eastern adjoining properties. Other locations are represented within the photo montages as supplied by the applicant.

- b) Telecommunication Infrastructure should be located to avoid detracting from a significant view of a heritage item or place, a landmark, streetscape, vista or panorama, whether viewed from public or private land.*

Applicant's response

The facility is designed so as not to compromise any significant views or places of significance or local landmarks. Additionally, the subject site is located a long distance from existing residential development and community sensitive land uses.

Officer response

The location of the proposed 45m monopole is located within a heavily vegetated portion of the subject property, and is set back a distance from its respective boundaries. A significant portion of dwellings located in close vicinity to the subject property are oriented away from the proposed location itself and are otherwise obstructed by a line of mature evergreen trees located along Maddern Road.

- c) Telecommunication Infrastructure should not be located where environmental, cultural heritage, social and visual landscape values may be compromised.*

Applicant's response

The construction area and overall compound area of the facility is designed to have minimal disturbance to the environmental characteristics of the site. The installation of the proposed facility can be undertaken at any time and is not anticipated to affect the use of the site or the surrounding area due to the accessibility of the site.

Officer response

The applicant has undertaken studies pertaining to the cultural heritage of the reserve (both indigenous and European (p. 38) and the investigation did not identify any registered cultural, historical or environmental heritage significance in the immediate vicinity of the proposed site.

Furthermore, the reserve is not identified in the Shire's Municipal Inventory. Residents and visitors will still be able to utilise the reserve at their leisure. Clearing of the six trees on the reserve, if the proposal were to be approved would be compensated through a revegetation program the applicant has identified as willing to participate in, with the support of Chittering Land Care and Friends of Bell Hill Reserve.

- d) Telecommunication Infrastructure should display design features including scale, materials, external colours and finishes that sympathetic to the surrounding landscape.*

Applicant's response

To minimise the visual impact of the facility nbn have proposed the use of a monopole and selected a site that is located away from residential areas and other sensitive land uses. The proposed monopole is a structure that has a small profile and is considered the least visually intrusive design option for a new base station. Furthermore, the monopole will remain unpainted (galvanised steel), which over time has been demonstrated to most successfully blend with the uniform colours of the site's rural setting. No landscaping is proposed due to significant setbacks to surrounding roads and dwellings.

Officer response

The proposed telecommunication infrastructure is proposed to be set back approximately 77.3m, and is located within an area that is vegetated with native trees and shrubs.

The grey steel monopole structure is designed to make the least possible impact upon the streetscape by designing the proposal to match in with a grey sky. Notwithstanding, a condition of approval can be applied to ensure the monopole and the associated structure individually match in with the environment as closely as possible.

Policy Measure 2

Telecommunications Facilities should be located where it will facilitate continuous network coverage and/or improve telecommunications services to the community.

Applicant's response

NBN through its strategic planning process has identified this site as having potential to provide the optimal required quality of service for the Bindoon Area.

Officer response

The applicant has ascertained that the proposed location for the less visually significant monopole structure best meets the nbn's coverage objectives for the area, while also providing a service not otherwise available. There may be future co-location of a telco operator, however this cannot be considered or prevented through this application.

Policy Measure 3

Telecommunication cables should be co-located whenever possible

Officer response

The applicant in their submission has identified that there is no existing infrastructure in the area capable of co-location.

a) *Cables and lines should be located within an existing underground conduit or duct.*

Applicant's response

The connection to power is subject to Western Power recommendations.

Officer response

The applicant is responsible for undertaking consultations with Western Power prior to submission of a planning application. In any event, the proposed plans identify underground cabling, which provides a greater amenity outcome.

- | |
|---|
| b) <i>Overhead lines and towers should be co-located with existing infrastructure and/or within existing infrastructure corridors and/or mounted on existing or proposed buildings.</i> |
|---|

Applicant's response

There are no structures or buildings of sufficient height within the surrounding area that could facilitate nbm infrastructure.

Officer response

Generally speaking, telecommunications operators (such as Telstra, Vodafone or Optus) preference co-location as it is both less expensive to construct and is not subject to any local authority approvals. Moreover a site visit has confirmed that there is no availability of co-location or siting on any sufficient existing commercial and/or industrial buildings within this locality.

State: Visual Landscape Planning in Western Australia (2008)

Applicant's response

The guiding principles for the location, siting and design of Telecommunications Infrastructure (Guiding Principles) is published by the Western Australian Planning Commission to underpin State Planning Policy 5.2. The guiding principles philosophy is also reiterated in Part Three of Visual Landscape Planning in Western Australia – a manual for evaluation, assessment, siting and design which was also prepared by the WAPC. The Guiding Principles were taken into consideration when selecting the site and selecting the structure.

Officer response

In undertaking the assessment of this application, Officers took due regard in relation to the *Western Australian Planning Commissions State Planning Policy 5.2* and also the guiding document, *Visual Landscape Planning in Western Australia (2007)*.

This guiding policy indicates the importance of the provision of telecommunications, as '*the WAPC State Planning Strategy that advocates the provision of effective statewide telecommunications network in a manner consistent with the state's sustainability objectives (environmental, economic and social planning objectives*' (p. 135, *Visual Landscape Planning in Western Australia (2008)*).

In relation to the document, it is acknowledged that Telecommunications Infrastructure may be negatively perceived as, '*regardless of the visual prominence of utility towers, the community's perception of the importance of their function may impact on their perceived visual impact and therefore on the extent of visibility that is acceptable. For example, towers designed to provide safety, including lighthouses and airport control towers, may be perceived favourably.....Public suspicion about potential health risks associated with mobile phone towers and power transmission lines may result in these being less tolerated*' (p. 128). This is reiterated and the assumption that '*towers are least tolerated in natural landscapes and more likely to be considered acceptable in rural landscapes*' (p. 128) in the number of submissions received in regards to this application.

However, the presumption by some members of the community that the applicant is placing the proposed Telecommunications Infrastructure in the most visually obtrusive area is negated by the document clearly stating that *'telecommunication towers are often located prominently in the landscape, for example on hilltops, ridgelines, escarpments or in long view corridors, to maximize reception'* (p. 137). This is further substantiated by the extensive number of alternative sites explored within the applicant's report and also addressed in the Schedule of Submissions where alternative sites have been suggested, many of which have been explored by the applicant in their investigation of a suitable site.

Strategic

From a strategic perspective the State Government's *State Strategic Strategy 2050* outlines the developmental objectives in which the State of Western Australia envisages to achieve broadly amongst urban and regional localities throughout the state. Additionally, the Shire has a number of documents which outline the Shire's objectives. These objectives outline a variety of measures in which the Shire envisages to achieve in terms of economic, social and environmental from a short, medium to long term perspective.

State: *State Planning Strategy 2050 (2014)*

The State Government, has in its *State Planning Strategy 2050 (2014)* outlined its strategic direction for the state and ascertained a variety of areas it envisaged to achieve socially, environmentally and economically. The document outlines areas including 'Telecommunications' from which they wish to plan for, with it outlining that *"Telecommunications facilities are also crucial to improving regional and remote education and training outcomes"* (p. 44). Furthermore one of the objective states that they wish to 'To ensure those responsible for telecommunications take into account Western Australia's planning and development priorities and requirements' (p. 83).

Importantly it also ascertains that *"Telecommunications services in Western Australia are provided through a mixture of fixed, wireless and satellite based networks operated by a number of licensed commercial carriers. Technology improvements mean that telecommunications infrastructure is in a constant state of upgrade, expansion and replenishment"* (p. 83). This is something in which the applicant is trying to achieve through its proposed telecommunications infrastructure. The aspirations of this scheme also detail specifically that it is envisaged that:

- *Regional WA has reliable access to high-speed telecommunications*
- *Deployment of a high-speed and reliable broadband and telecommunications network for the whole community*
- *Telecommunications improves everyday life and assists business growth* (p. 84).

The State's strategic document clearly outlines the State government's support in establishing a broad range of telecommunications infrastructure for both urban and regional centres, with an underpinning theme of enhancing the social and economic benefits of its residents. The application meets the aspirations of the document in relation to telecommunications as it potentially provides a regional Shire with a rapidly growing population on the peri urban fringe with a service which may have a vast improvement on to the existing infrastructure currently available.

Critically it also ascertains that *'Telecommunications facilities are also crucial to improving regional and remote education and training outcomes'* (p. 44). The application therefore has strong strategic implications that intend to allow for such development in growth areas of the State.

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

The *Shire of Chittering Local Planning Strategy* outlines the long term goals of the Shire. In the mission statement of the document it states that:

"Our Mission is to work with and for the community to:

- *Protect our natural environment*
- *Enhance our rural lifestyle*
- *Develop quality services and facilities*
- *Facilitate suitable development and employment opportunities"* (p. 2).

Whilst the mission states that the Shire is to protect the natural environment, it also is encouraging of providing facilities and infrastructure which will enhance the rural lifestyle and also facilitate suitable development and employment opportunities.

The proposed Telecommunications Infrastructure is an opportunity for the Shire to establish infrastructure which would enhance the lifestyle of many of the residents within the Lower Chittering area who use internet services on a daily basis for educational, business and personal pursuits.

It also has a minimal impact on the environment in terms of being located in a cleared area amongst trees.

In a State Planning Strategy context, the Local Planning Strategy follows the regional vision statements of the State Planning Strategy:

- *Development of a range of expanded and consolidated towns linked by improved infrastructure*
- *Encouragement of innovation in agriculture, environmental management, and downstream processing of agricultural produce*
- *Rehabilitation and protection of productive farmlands*
- *Maintain and enhance vibrant, viable communities*
- *Sustainable management of the natural resources*

The development of the Telecommunications Infrastructure adjoining the Blue Plains Estate would provide an opportunity for the aims of the strategy mentioned above to be met and improved as it would enable increased connectivity for business within the Estate.

Local: Shire of Chittering Strategic Community Plan (2012-2022)

The Shire's Strategic Community Plan, 'Economic: Prosperity for the Future' section states 'Our Vision' as: *Chittering will have created a prosperous and thriving economy to ensure employment is available and Chittering thrives. Our natural areas will continue to attract visitors and be a weekend destination.*

This outcome to 'Support Local Businesses' in the strategy was to 'Advocate for improved broadband access. Promote local businesses. The key priorities of this was to Lobby Federal Government, with the timeframe as ongoing with partners such as nbn.

Further to the above, in the section titled "Economic: Prosperity for the Future" the outcome is to "Support Local Businesses" with the strategies to "Advocate for improved broadband access. Promote local businesses". The measurable results state that 'Council proactively participates in the National Broadband Network rollout – level of take up of new "broadband" services (p. 26, Shire of Chittering Strategic Community Plan).

The timeframe was seen as being achieved in the short, medium and long term and reiterates the Shire's desire to obtain such infrastructure to the benefit of the community at large.

Local: Shire of Chittering Biodiversity Strategy (2010)

The Shire's *Local Biodiversity Strategy* identifies the site as a High Indicative Conservation Area. The Chittering Landcare in its letter stated that *"While the site is not identified as an Environmentally Sensitive Site by the Department of Environmental Regulation (DER) nor a Bush Forever site, the site is within an High Indicative Value Conservation Area and corridor in the endorsed Shire of Chittering Biodiversity Strategy."*

As an on-ground assessment has revealed no existing vegetation will be removed or damaged, the *Local Biodiversity Strategy* is not considered to be affected by this proposal.

The applicant conducted an on-site study and concluded that *"noted that the monopole does not support any moving parts that have the potential to impact bird life"*. This conclusion is supported by Department of Parks and Wildlife.

Conclusion

In concluding, the application for the Telecommunications Infrastructure located at Blue Plains Road, if approved has the potential to generate a significant improvement in communications in the surrounding Rural Residential areas via high speed internet. This development may also have the potential to provide to a broad range of residents and businesses with social and economic benefits with smaller benefits to the environment to the Blue Plains Estate itself.

Critically, the Shire's *Strategic Community Plan* outlines *"Economic: Prosperity for the Future"* is to *"Support Local Businesses"* with the strategies to *"Advocate for improved broadband access. Promote local businesses"*. The measurable results state that *"Council proactively participates in the National Broadband Network rollout – level of take up of new 'broadband' services"*. If Council were to consider this application and approve it, it would be a step towards achieving its strategic goal in supporting local businesses and advocate (successfully) for the improved broadband access which the Telecommunications Infrastructure has the potential to achieve.

Furthermore, these improvements have the potential to modernise services available in this part of the Shire with the potential for improved business connectivity and efficiency for those undertaking business online and also the younger generation whom are increasingly being educated via online means or required to move away to study. This potentially may entice people into the Shire to sit, stay and engage in the area as opposed to simply 'bypassing'.

There will be no significant environmental impact upon the subject site, which has been reiterated by both Chittering Landcare and Department of Parks and Wildlife in regards to the development. In addition to this, the major concerns in relation to visual amenity can be addressed through screening, siting and additional conditions imposed on the application.

It is understood that there may be some visual impact pertaining to the pole, therefore Council may consider requiring the monopole structure to be painted in a pale eucalypt colour as opposed to the untreated galvanized steel.

Additionally, if Council were to refuse the application and in the near future the community demanded the improvement of telecommunications infrastructure (both mobile phone and/or internet) it would be at a significant cost to the Shire to undertake the installation of it and potentially on multiple locations as to be able to service the growing residential population of Lower Chittering.

In assessing the application for the proposed Telecommunications Infrastructure, it is highlighted that the subject location provides the most appropriate location for such a development due to:

- the locations ability to provide coverage to a significant catchment of potential users covering a large portion of people living in the Blue Plains Estate and also further north and west. This location is seen by the applicant as providing the most evenly distributed coverage for the nbn sectors which in turn provides optimal network service. Other locations explored by the applicant indicate a diminished catchment of potential users and a reduced efficiency of the service. Other alternative sites explored may result in a larger, more visually obtrusive structure which may not even with the increased height, meet the residential catchment as the subject location;
- the applicant has assessed the proposal against relevant state and local policies to ensure the least visual impact possible;
- the location also providing potential coverage to areas of new rural residential development within the Blue Plains Estate in a long term strategic context; and
- there is no impact upon the environment as a result of this application.

In light of the above, it is recommended that Council approve the application subject to conditions.

10.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 051016

Moved Cr Rossouw / Seconded Cr Osborn

That Council grant planning approval for the proposed Telecommunications Facility at Lot 7 (RN 140) Blue Plains Road, Chittering subject to the following:

- 1. All development is to be in accordance with the approved plans.**
- 2. Screen planting is to be installed surrounding the proposed cabinets and associated infrastructure. All planting shall be native and compatible to the area.**
- 3. Any soils deposited or disturbed on-site shall be stabilised to the satisfaction of the Chief Executive Officer.**
- 4. Stormwater generated from the development shall be managed on-site to the satisfaction of the Chief Executive Officer.**

Advice Notes:

- 1. The applicant is to register the tower with the Aviation Authority/RAAF.**
- 2. A building permit shall be issued by the Shire of Chittering prior to the commencement of any work on the site.**
- 3. Any noise emitted during the operation of the tower shall be in accordance with the *Environmental Protection (Noise) Regulations 1997*.**
- 4. This approval shall expire if the development hereby approved has not been substantially commenced within a period of two years from the date hereof, or within any extension of that time (requested in writing prior to the approval expiring) that may be granted by the local government. Where planning approval has lapsed, no further development is to be carried out.**
- 5. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.2 Proposed Transportable Building and Shed: Lot 169 (RN 351) Powderbark Road, Lower Chittering*

Report date	19 October 2016
Applicant	S and K Briffa
File ref	A11369; P085/16
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Application Plans by Applicant

Executive Summary

Council's consideration is requested to determine an application for a transportable building and shed at the abovementioned property. The development is compliant with setbacks, and can achieve a low Bushfire Attack Level (BAL). The property is subject to compliance action and is accordingly put forward to Council for determination.

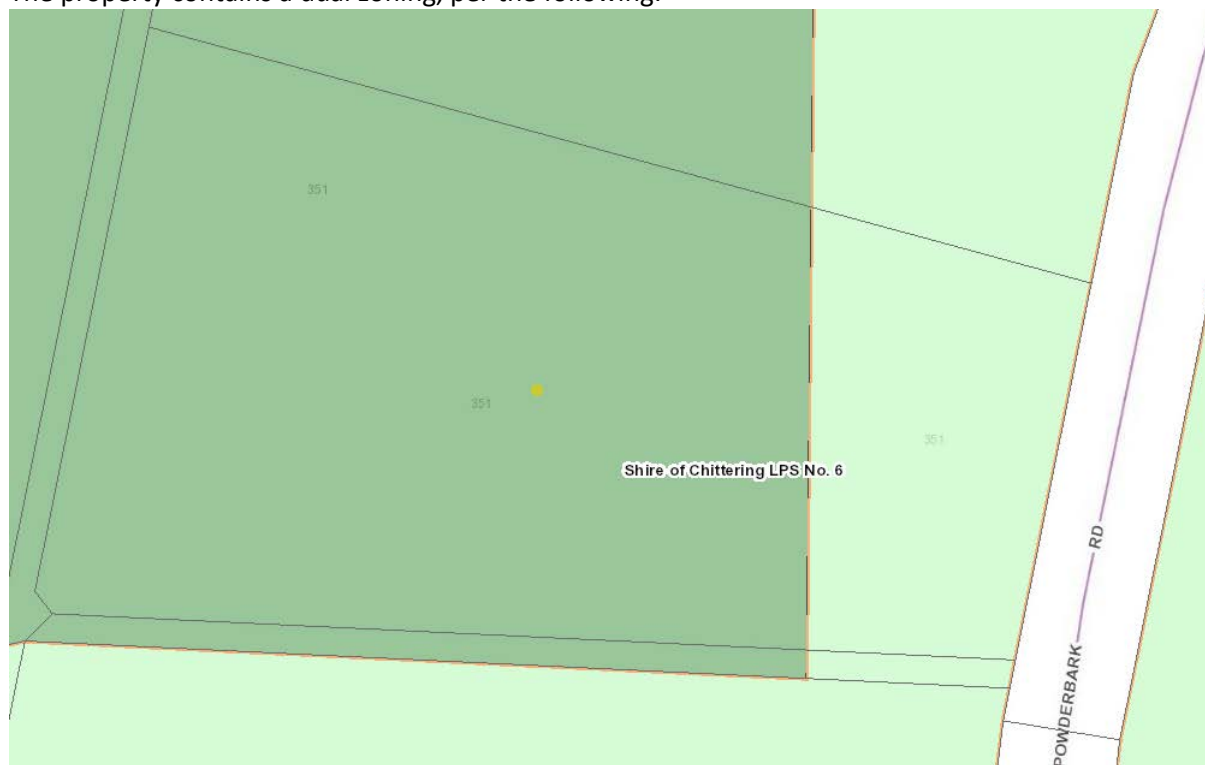
Figure 1: Locality Plan



Background

The subject property forms part of the Wandena Estate Stage 2, which was created in approximately 2010.

The property contains a dual zoning, per the following:



The area in light green is *"Rural Residential"*, while the darker green is *"Agricultural Resource"*. The lot does contain an approved building envelope, for which the majority is contained within the *"Agricultural Resource"*, with a small portion within the *"Rural Residential"* zone. The entirety of the lot is within the *"military considerations Special Control Area"*. In both of these zonings, 'single house' is a permitted use.

While there is no existing approved development on the lot, the Shire was advised that a number of sea containers were present on the block. Accordingly, the matter was brought to the attention of the Shire's Compliance Officer, who attended the site on 5 January 2016. At the time of this inspection, the Compliance Officer observed at least four sea containers and a bus, which was allegedly being used for habitation. The Shire subsequently wrote to the property owners explaining that a permanent house is required to be constructed in order for the site to be considered residential.

The plans were requested to be submitted no later than 30 January 2016, however were not received. The Shire did exercise discretion upon this matter, and allowed the proponents additional time. A follow up letter was sent on 5 July 2016, where the proponents were again requested to submit house plans. The letter advised a date of 5 August 2016 for plans to be submitted.

A subsequent meeting was held at the Shire's office, where it was agreed that the plans would be submitted, and that works would be completed within 12 months. Within this time of construction, the Shire would also allow temporary accommodation.

Surrounding land uses are predominantly residential, while the property's western boundary abuts land contained within the basic raw materials buffer. The building envelope location is sufficiently clear of the buffer area.

Consultation

No consultation was undertaken as the development complies.

Statutory Environment

Local: Town Planning Scheme No 6 (TPS6)

The subject portion of Lot 169 is zoned "Agricultural Resource" under the provisions of TPS6. The objectives of the zone are as follows:

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

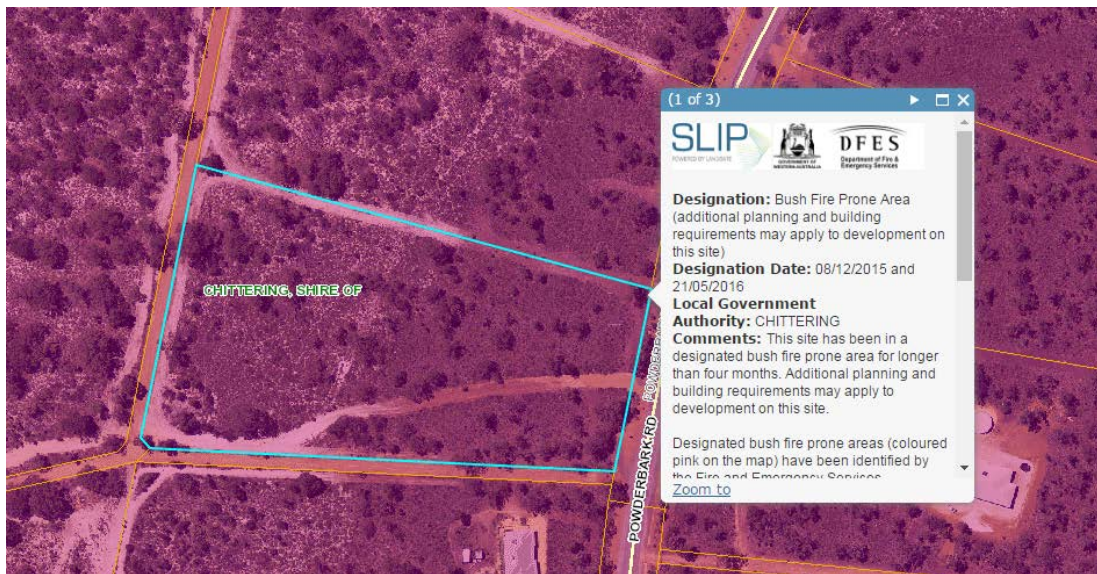
The development proposes a single transportable house and associated outbuilding. Single house is a 'P' use under TPS6 which means 'the use is permitted in the Scheme providing the use complies with the relevant development standards and requirements of the Scheme'.

The historic use of this parcel of land was developed for residential use, therefore it is considered that the requirement of advertising to be onerous and unnecessary.

Policy Implications

State: State Planning Policy 3.7 Planning in Bushfire Prone Areas

Lot 169 is identified in the Department of Fire and Emergency mapping identifying land considered to be 'Bushfire Prone' as indicated below.



The applicant has undertaken a BAL assessment, which has ascertained that a portion of this site is potentially of high risk. The BAL assessment does no less state that a low level can be achieved on the basis that a 20metre radius of clearing be undertaken. Should the application be granted approval, the outlined protection measures within the BAL assessment are to be made as a condition of approval.

Local: Local Planning Policy No. 18 – Transported and Transportable Buildings

The proposed house is intended to be a new, purpose built transported building. Accordingly, *Clause 5* of the Shire's *Local Planning Policy No.18 – Transported and Transportable Buildings (LPP18)* applies.

The applicant has contended that the transportable building will be an entirely new and customised dwelling in accordance with the Shire's specifications. As the plans state that the transportable dwelling is a near new, used transportable, there remains significant questions regarding the applicant's contention. Notwithstanding, the changes required to satisfy LPP18 effectively render the dwelling as shown on the attached plans a brand new dwelling. To ensure this remains the case, a condition of approval reflecting this standard is recommended. Therefore this section will hereafter discuss the dwelling as a newly constructed dwelling.

The clause sets out provisions and requirements for placing a new transported building on a residential property. Many of these requirements relate to the issuance of a Building Permit, however fundamentally the policy aims to ensure the dwelling is capable of habitation.

Accordingly, from a planning perspective of built form and amenity, clause 5.10 sets out design requirements as follows:

The dwelling is to be constructed with:

- a) a verandah, porch, decking, skirt and/or steps, at the discretion of the Council;*
- b) a pitched roof capable of rainwater collection, if Scheme Water is not available; and*
- c) an approved septic disposal system*

While a verandah and associated decking is shown on the attached plans, a sufficiently pitched roof, skirtings and steps are not. Nevertheless these can be included upon an application for Building Permit via conditions of planning approval.

A septic disposal system is identified on the site plan.

Accordingly, *LPP18* can be considered to be satisfied in this instance subject to appropriate conditions.

Local: Draft Local Planning Policy No.7 - Outbuildings

Clause 4.1.2 (iii) of the draft Local Planning policy No.7 – Outbuildings (Draft LPP7) Under Clause 61(1)(i) of Schedule 2 of the deemed provisions, the following exemptions from development approval apply:

(iii) Development approval of the Shire is not required for the development of an outbuilding with an area of less than 300m², with a maximum wall height of 5.5m and a total ridge height of 5.5m measured from natural ground level where it is incidental to the primary land use, in the Agricultural Resource zone.

The proposed outbuilding as shown on the plan identifies a maximum floor area of 391m² at a maximum height of 7.67m. This exceeds the maximum floor area by 91m² and building height by 2.17m. The wall height remains compliant at 5.5m. To this end, the following relevant objectives apply in granting discretion for the outbuilding:

- To allow for appropriate outbuildings that do not have adverse impacts on the streetscape, character, amenity or environmental attributes of the surrounding area.*
- To facilitate and differentiate legitimate forms of short-term accommodation.*
- To protect the natural vegetation, water quality and landscape amenity of the Shire.*

The outbuilding is located in an agricultural resource zone and abuts the basic raw materials buffer. The extended size therefore affords greater amenity to the occupier of the lot by way of privacy and noise reverberation from any industrial use within the buffer. Furthermore the outbuilding is located a significant distance from Powderbark Road and does not serve to add unwarranted bulk or enclosure of an otherwise open and residential façade that is characteristic of the area. No natural vegetation or landscaping quality is affected by this proposal as it is located within the existing approved building envelope.

While no assumption is made as to the use of the shed, the mezzanine floor can be construed as a living quarters. Accordingly, to ensure this does not occur, a condition of approval is recommended upholding this requirement that the outbuilding is not used for human habitation and that the mezzanine is to be deleted from plans and not constructed as part of this approval. The applicant has been advised in writing of this standard requirement.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

The Shire has undertaken a number of inspections at the site for compliance reasons. The full background is discussed, above.

Triple Bottom Line Assessment

Economic implications

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

Social implications

By issuing approval for this development, the quality of living for the proponents is expected to increase. This in turn raises the profile of the locality.

Environmental implications

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

Comment

The application for a transported building and a shed structure is generally compliant with the requirements applicable for this development. Those areas that require further attention can be addressed as conditions of approval.

While the placement of a transported dwelling and associated essential services is not preferable as a long term solution, this outcome represents an acceptable outcome to an undesirable existing situation. Accordingly approval for this development is recommended.

10.1.2 OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Osborn

That Council:

1. Grant approval for temporary accommodation until 9 August 2017 or upon occupancy of an approved permanent dwelling, subject to the following:
 - a. A Building Permit being submitted and approved within six weeks of this determination, containing the following:
 - i. A water tank of no less than 50,000 litres being installed and functioning as the primary potable water supply; and
 - ii. An approved septic system being installed to the satisfaction of the Principal Environmental Health Officer.
2. Approve the application for the Proposed Class 1a Building and Class 10 Shed, in accordance with the attached plans, located on Lot 169 (RN 351) Powderbark Road, Lower Chittering subject to:
 - a. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the Shire:
 - i. The Class 1a residence is to be of a new construction only;
 - ii. Revised floor and elevation plans are to be submitted showing a verandah and associated decking, skirt and steps in addition to the approved dwelling;
 - iii. The roof pitch is to be increased sufficiently to a minimum 20 degrees to allow rainwater collection capability and be tiled or pre-painted material such as the product Colorbond; and
 - iv. The proposed mezzanine proposed within the Class 10 outbuilding is not approved and is to be deleted from the working drawings and not constructed as part of the outbuilding.
 - b. Prior to first occupancy, the following measures are to be undertaken and completed to the satisfaction of the Shire:
 - i. The house has been transported to the site and stumped, joined, all walls internal and external made good, all doors and windows are in working order and all external surfaces painted to the satisfaction of the Shire's Building Surveyor; and
 - ii. All septic tanks, drains and plumbing have been completed and the site cleared of all debris.
 - c. The recommended measures set out within the submitted Bushfire Attack Level report are to be undertaken and completed to the satisfaction of the Shire following issuance of the Building Permit.
 - d. All development shall be within the setback requirements/building envelope.
 - e. The water tank shall be to a minimum total capacity of 120,000 litres, of which 10,000 litres shall be kept at all times for the purposes of firefighting and fitted with a standard camlock valve.
 - f. The proposed shed is not to exceed 390m² in area and is not to be used at any time for human habitation.

Advice Notes

1. Noise levels will have to comply with the *Environmental Protection (Noise Regulations) 1997*.
2. Temporary approval of on-site accommodation is issued on the basis of the permanent dwelling construction.
3. The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.

AMENDMENT / COUNCIL RESOLUTION 061016

Moved Cr Rossouw / seconded Cr Osborn

That the following condition iii. be inserted in 1.a:

“iii. That the actions required in a.i. and a.ii be completed within three (3) months of this approval.”

THE AMENDMENT WAS PUT AND DECLARED CARRIED 5/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

AMENDMENT / COUNCIL RESOLUTION 071016

Moved Cr Osborn / Seconded cr King

That conditon 2.a.iii. be amended to read:

“The roof pitch is to be increased sufficiently to a minimum 12 degrees to allow rainwater collection capability and be tiled or pre-painted material such as the product Colorbond; and”

THE AMENDMENT WAS PUT AND DECLARED 6/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

AMENDMENT / COUNCIL RESOLUTION 081016

ADVICE NOTE

Moved Cr Rossouw / seconded Cr Tilbury

That the following point 4 be added to the “Advice Note:”

“4. The Shire’s Principal Environmental Health Officer shall inspect the site to ascertain and ensure the temporary accommodation meets the minimum health standard as stipulated in health legislation and regulations.”

THE AMENDMENT WAS PUT AND DECLARED CARRIED 5/1
AND FORMED PART OF THE SUBSTANTIVE MOTION

10.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 091016

Moved Cr King / Seconded Cr Osborn

That Council:

1. Grant approval for temporary accommodation until 9 August 2017 or upon occupancy of an approved permanent dwelling, subject to the following:
 - a. A Building Permit being submitted and approved within six weeks of this determination, containing the following:
 - i. A water tank of no less than 50,000 litres being installed and functioning as the primary potable water supply; and
 - ii. An approved septic system being installed to the satisfaction of the Principal Environmental Health Officer.
 - iii. That the actions required in a.i. and a.ii be completed within three (3) months of this approval.

2. Approve the application for the Proposed Class 1a Building and Class 10 Shed, in accordance with the attached plans, located on Lot 169 (RN 351) Powderbark Road, Lower Chittering subject to:
- a. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the Shire:
 - i. The Class 1a residence is to be of a new construction only;
 - ii. Revised floor and elevation plans are to be submitted showing a verandah and associated decking, skirt and steps in addition to the approved dwelling;
 - iii. The roof pitch is to be increased sufficiently to a minimum 12 degrees to allow rainwater collection capability and be tiled or pre-painted material such as the product Colorbond; and
 - iv. The proposed mezzanine proposed within the Class 10 outbuilding is not approved and is to be deleted from the working drawings and not constructed as part of the outbuilding.
 - b. Prior to first occupancy, the following measures are to be undertaken and completed to the satisfaction of the Shire:
 - i. The house has been transported to the site and stumped, joined, all walls internal and external made good, all doors and windows are in working order and all external surfaces painted to the satisfaction of the Shire's Building Surveyor; and
 - ii. All septic tanks, drains and plumbing have been completed and the site cleared of all debris.
 - c. The recommended measures set out within the submitted Bushfire Attack Level report are to be undertaken and completed to the satisfaction of the Shire following issuance of the Building Permit.
 - d. All development shall be within the setback requirements/building envelope.
 - e. The water tank shall be to a minimum total capacity of 120,000 litres, of which 10,000 litres shall be kept at all times for the purposes of firefighting and fitted with a standard camlock valve.
 - f. The proposed shed is not to exceed 390m² in area and is not to be used at any time for human habitation.

Advice Notes

1. Noise levels will have to comply with the *Environmental Protection (Noise Regulations) 1997*.
2. Temporary approval of on-site accommodation is issued on the basis of the permanent dwelling construction.
3. 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.
4. The Shire's Principal Environmental Health Officer shall inspect the site to ascertain and ensure the temporary accommodation meets the minimum health standard as stipulated in health legislation and regulations.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.3 Proposed Local Structure Plan: Lots 1 and 2 Teatree Road, Bindoon*

Report date	19 October 2016
Applicant	Whelans Town Planning
File ref	18/02/26
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Declaration	Bronwyn Southee declared an impartiality interest in this item as a former employee of Whelans Pty Ltd
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Structure Plan documents 2. Schedule of Submissions

Executive Summary

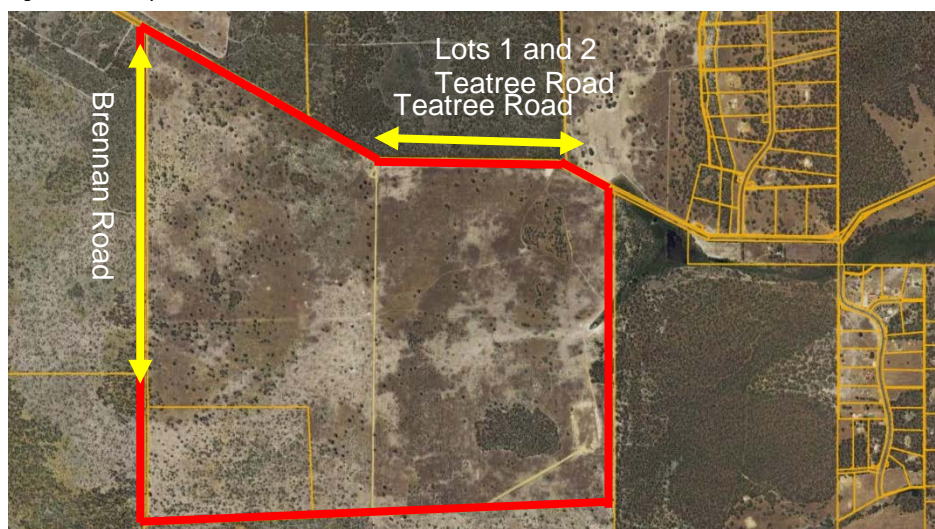
Council at its Ordinary Council meeting held 17 August 2016 resolved to initiate Scheme Amendment 56 to rezone Lots 1 and 2 Teatree Road, Bindoon from “Agricultural Resource” to “Rural Smallholdings”.

Council’s consideration is now requested of the proposed Structure Plan for the subject lots. The Structure Plan outlines how the site is proposed to be developed in the future. This is stage two of a three stage process which includes rezoning the land, which has not been done, then having a Structure plan approved on the site before moving onto the final stage which is the subdivision.

Background

The subject land (see below) comprises 484 hectares, is predominantly cleared and is currently being used for grazing. It is bound by Teatree Road (constructed gravel) along the northern boundary and Brennan Road (constructed gravel) along the western boundary.

Figure 1: Locality Plan



The subject land features an eight (8) hectare ‘pocket’ of remnant vegetation on the south eastern portion on the ridgeline of the property. A small soak is also located on the north eastern part of the site, where groundwater generally soaks to and connects into the neighbouring wetlands in Lot 4 Teatree Road.

The Scheme Amendment proposes to rezone Lots 1 and 2 from 'Agricultural Resource' to 'Rural Smallholdings' (minimum five hectare lots). This proposal was initially considered by Council at its Ordinary Meeting of 18 November 2015, where after following amendments to the applicant's report and a requirement to modify the resolution, Council reconsidered the Scheme Amendment at its Ordinary Meeting of August 2016.

Despite the applicant being advised not to submit the structure plan until the WAPC has advised whether it will progress the scheme amendment to endorsement, the applicant included as part of the documents for the reconsideration of the Scheme Amendment a draft Structure Plan which indicates the creation of a total of 48 lots. Of these lots, 47 are approximately five hectares in size and one being the 186hectare balance lot. The draft Structure Plan also proposes Public Open Space (POS) corridors totalling 34hectares, being 7% of the site, which is to be assessed at that stage. The POS is indicated on the applicant's environmental report only, and therefore appears to be an anomaly. The applicant has not otherwise included any open space.

Despite the Scheme Amendment process awaiting approval from the Western Australian Planning Commission to advertise, the change to the *Planning and Development (Local Planning Schemes) Regulations 2015* includes *Clause 17 (2)*. This clause states that the structure plan is to be taken to have been accepted for assessment and advertising if the local government has not given written notice to the applicant of its decision by the latest of the following days —

- (a) 28 days after receipt of an application;
- (b) 14 days after receipt of the further information requested under subclause (1)(a)(ii);
- (c) if the local government has given the applicant an estimate of the fee for dealing with the application — the day the applicant pays the fee.

Despite the Structure Plan being initially submitted for information purposes, the applicant called upon the clause as the Shire had not given written notice of its rejection within 28 days of receipt of the Structure Plan. There remains conjecture regarding the legitimacy of the Structure Plan being submitted as an 'application', however the applicant submits that by way of including it within the Scheme Amendment documents, the Structure Plan is receipted as an application.

In any event, the application has been advertised and referred to relevant authorities, and requires consideration.

Statutory Environment

State: *Planning and Development Act 2005*

Planning and Development (Local Planning Schemes) Regulations 2015

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

Clause 5.19 of Town Planning Scheme No. 6 (TPS6) details the requirements of developing and submitting a local structure plan. The proposed structure plan complies with these requirements.

The structure plan process has been detailed requiring the following plans:

- (i) Environmental Management Plans;
- (ii) Local Management Strategy;
- (iii) Environmental Assessment and Management Strategy;
- (iv) Strategic Noise Assessment and Management Strategy;
- (v) Strategic Odour Assessment and Management Strategy; and
- (vi) Additional reports including and Infrastructure and Servicing Strategy and Transport Assessment.

Clause 4.2.5 of the TPS6 with regard to the Agricultural Resource Zone: *To preserve productive land suitable for grazing, cropping and intensive horticulture and other compatible productive rural uses in a sustainable manner.*

All of the reports and assessments listed above have been acknowledged/addressed in one form or another, however, there are some concerns that have been raised in government agency submissions and Shire Officer considerations such as the proposed method of waste water treatment, stormwater management, environmental management, impact on Shire of Chittering's entry statement (the whole MEN being the first thing people see when they drive into the Shire) which will be discussed in the Officers comment section of the report.

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

In October 2015 the decision making process for structure plans and scheme amendments changed, removing the local authority from making the decision whether to endorse these documents or not. This decision is now with the Western Australian Planning Commission (WAPC). The Shire is still required to make a recommending report to the WAPC, which takes into account the local authority's perspective of the proposal and includes recommended modifications/conditions.

Consultation

As detailed above the draft Structure Plan was advertised for a period of 28 days. In addition to this the Executive Manager Development Services and Senior Planning Officer liaised directly with the applicant and the Department of Planning regarding the appropriate process for this 'application'. The Department of Planning has yet to make a decision on the Scheme Amendment, until this happens no further action on the Structure Plan can take place as the WAPC needs to determine whether it will support the rezoning of the subject site.

Policy Implications

There are currently no policy implications associated with this property.

Financial Implications

The proposed Structure Plan will not result in any financial implications on Council as an immediate result of this Structure Plan. However, in the future should development of this area progress Council is likely to receive a potential increase in rate collection.

Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001-2015

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

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

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

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

9.8 **SMALL RURAL HOLDINGS**

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

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

Strategies and Actions

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

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

Local: Shire of Chittering Local Biodiversity Strategy 2010

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

State: 'Proposed' Bindoon Bypass

The draft Bindoon Bypass Corridor Options 'A' and 'B' are identified as traversing the subject site. Accordingly, Main Roads' input will be required to determine whether the scheme amendment and Structure Plan is compatible with their proposal, should it go ahead at this location.

Site Inspection

The property is largely cleared sandy soils and is extensively grazed. There is a small pocket of remnant vegetation on the ridge line and a small soak in the north east portion of the site.

Triple Bottom Line Assessment

Economic implications

The creation of additional lots in close proximity to Bindoon Townsite can potentially result in economic stimulus to local businesses and provide for additional rateable properties to the Shire.

Social implications

The proposal intends to provide for semi-rural properties currently not available in the Bindoon area or Shire. The Structure Plan suggests that market sounding indicates a preference for 1-5ha lots, hence the aim of the developer to create minimum size lots of 5ha. Smaller lots are generally ineffective at maintaining a sustainable agricultural yield, however presents an opportunity for 'hobby' based rural activities.

Environmental implications

The applicant has provided a range of environmental reports and prepared the draft Structure Plan in response to the environmental constraints and land capabilities of the site for the proposed zoning. Further assessment as a result of advertising to the relevant environmental agencies such as the Department of Agriculture is anticipated should the Scheme Amendment be allowed to begin advertisement.

The applicant's report states that there are limited environmental constraints affecting the property. As the land maintains a primarily deep sand geology, careful and strict land maintenance strategies will be required should the local structure plan be approved. The reasoning relates to land degradation and wind erosion where poor soil management occurs. The result can be catastrophic as the rural land capability diminishes accordingly.

Comment

This Structure Plan proposal has been submitted without due regard to the current zoning. While a Scheme Amendment Process has been initiated by Council, it remains to be advertised and endorsed. Accordingly the Scheme Amendment process cannot be considered to be seriously entertained.

The biggest consideration at this stage is ensuring the intent of the rural smallholdings zone is supported by appropriate studies and assessment. The proposed Structure Plan is not considered to address the critical concerns currently identified as part of the Scheme Amendment process and land management. Specific considerations in relation to this Structure Plan will be discussed in turn.

Servicing

- Water Supply

The applicant has addressed the issue of sustainable water supply by qualifying it against the Shire's *Town Planning Scheme No.6*. The applicant's report confirms that a minimum 516sqm roof area in order to meet the minimum harvesting yield for sustainable water supply.

Further investigation into how surface and ground water will be managed within this area is imperative due to the land requiring significant land management. Based on the comments above, it is considered that a number of issues are required to be addressed in the land management strategy prior to the final adoption of this Structure Plan.

This property does not appear to be in the WAPC's priority resource area, nor does the applicant appear to want to connect to reticulated water due to the proposed zoning and lot sizes.

- Roads

The applicant concedes Teatree Road will require upgrading as part of the successful implementation of the structure plan. Furthermore new internal roads will need constructing, however no mention of this is made in the applicant's report.

- Power

The Structure Plan identifies the power requirement for this site and addresses this adequately for the purposes of the structure plan.

- Waste Water
The Structure Plan is proposing Aerobic Treatment Units (ATUs). Further assessment of the waste water disposal is recommended to be undertaken at the Scheme Amendment stage should that application be progressed. The reasoning being is that the zoning of the land currently is Agricultural Resource.
- Rural Permissibility
Whilst it is acknowledged that efforts have been undertaken to retain as much existing vegetation on site, further consideration is required for the continued maintenance of the land should subdivision be permitted. For instance, the applicant's land capability report cites that the land is subject to wind erosion. As the proposed intended zoning prioritises the preservation for intensive horticulture and compatible productive rural land uses, the Structure Plan should discuss this in further detail. Instead it assumes responsibility on any future landowners.
- Bushfire Management
A bushfire management strategy has been developed, which classes the site as hazardous. Notwithstanding, measures can be undertaken to reduce the bushfire attack level.
- Environmental Management
Whilst the environmental studies are quite comprehensive, it is considered that there are a number of significant environmental considerations that have been overlooked. For instance the applicant has suggested that landowners will maintain the land, but does not identify how this will be enforced. As the applicant's land capability report suggests the land is susceptible to wind erosion, careful maintenance is required.
- Noise Management Strategy
Whilst this has been identified within schedule 15 as required, the applicant has provided sufficient information with regard to setbacks should the Bindoon bypass be approved at this location. Should approval for the Structure Plan be issued, a notification on the titles would be expected to advise future land owners of the bypass proximity.

While the applicant is able to address most of the requirements related to rural living infill, at this stage the Structure Plan does not relate to the current zoning of the land. It further does not address sufficiently the land use capabilities in terms of soil maintenance, nor whether there is available sufficient water supply to maintain a small, yet intensive rural based zoning. Accordingly the Structure Plan is recommended to be forwarded to the Western Australian Planning Commission with a recommendation of refusal.

10.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 101016

Moved Cr Osborn / Seconded Cr Rossouw

That Council forward its recommendation to refuse *the* Local Structure Plan 1 for Lots 1 and 2 Teatree Road, Bindoon to the Western Australian Planning Commission for the following reasons:

- 1. The Structure Plan proposal relates to a zoning not applicable to the subject land.**
- 2. The Structure Plan does not comply with *Clause 4.2.5* of the Shire of Chittering's *Town Planning Scheme No.6*.**
- 3. Further assessment is required in relation to land capabilities, in particular soil and water management for agricultural and/or horticultural uses.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.4 Request to Reconsider Condition 'm' to Extractive Industry: Lot 51 (RN 451) Reserve Road, Chittering*

Report date	19 October 2016
Applicant	Whelans Town Planning
File ref	A10698; P088/11
Prepared by	Peter Stuart, Senior Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Declaration	Bronwyn Southee declared an impartiality interest in this item as a former employee of Whelans Pty Ltd
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> 1. Council Minutes (Planning Approval) 27 June 2012 2. Council Minutes (Deed of Agreement) 18 November 2015 3. Council Minutes (Planning Approval) 15 June 2016

Executive Summary

Council's consideration is requested in relation to amending a condition placed on a Development Application for an Extractive Industry approval for the extraction of sand and gravel on Lot 51 Reserve Road, Chittering. It was resolved at Council's 27 June 2012 Ordinary Council meeting (OCM) to approve the application to extract sand and gravel subject to conditions.

Figure 1: Locality Plan



Background

On 27 June 2012, Council resolved to grant Planning Approval for an extractive industry at Lot 51 Reserve Road, Muchea subject to several conditions. Condition "m." required the landowner to enter into a Deed of Agreement with the Shire to outline the road upgrade, use and maintenance requirements for Reserve and Yalyal Roads. The Deed of Agreement was established to protect the Shire's assets and ensure adequate upgrade and maintenance of the roads is carried out to an agreed standard.

Text: Condition m from Council Resolution 080612 (OCM 27 June 2012)

m. Prior to the issue of an excavation licence the Applicant shall enter into an agreement with the Council for payment of fees for road construction and road maintenance of Yalyal Road and Reserve Road;

The upgrade of the road was agreed to be an initial grade to remove ruts and fine material. Due to the low number of truck movements (as per Condition "cc.") for the extractive industry (no greater than four per day), upgrade to a seal standard of over 1km of road was considered excessive.

The road maintenance provisions in the Deed not only include re-grading as and when requested by the Shire, but also included dust mitigation. The maintenance of the road is to be monitored by the Shire; however, the Shire may appoint a consultant at a cost to the applicant.

A number of 'prior to' conditions have been required to be completed by the applicant and have only recently been finalised including a Deed of Agreement pertaining to the ongoing contribution to road maintenance on the roads utilised by the vehicles associated with the extractive industry. This deed was formalised and endorsed by Council at its 18 November 2015 OCM.

In January 2016, the Shire received a request from the applicant to either have Condition "cc." removed or amended to state:

"cc. An average of twenty (20) single truck movements are permitted on a daily basis."

In the supporting documentation accompanying the application for amendment, the application has stated that:

"it is requested that this condition be removed or amended as it restricts the commercial viability of the extractive industry. The Approval was for the extraction of a maximum of 100,000 tonnes per annum (Condition rr). A restriction on the number of truck movements per day contradicts the condition restricting the maximum tonnage."

As outlined in the attached email correspondence during the assessment of the application the Shire requested details of traffic volumes and the number of truck movements per day. In response it was advised that the number of movements would be dependent on market demand and as an estimate there would be an average of 4 movements a day. It was advised by the Shire that the information was required to determine road contribution amounts and there was no mention that the number of movements advised would be restricted by a condition of approval. Therefore Condition cc should not have specified a maximum of 4 truck movements as that was an estimated average amount only.

In accordance with Condition m of the approval, the applicant has now entered into a Road Maintenance Agreement with the Shire, which requires the applicant to maintain and repair Reserve Road to a mutually acceptable standard.

There is also a condition on the Approval (Condition dd), which restricts the hours of operation.

It is considered that Conditions dd, m and rr achieve the same outcome as a restriction on the number of daily truck movements and therefore it is requested that Condition cc be removed from the Approval. If the Shire still considers a restriction on the number of vehicles necessary it is requested that the condition be amended to read as follows:

cc: An average of twenty (20) single truck movements are permitted on a daily basis".

It should be noted that the Deed of Agreement was developed and recently formalised (November 2015 OCM) on the basis that the standard of grading and maintenance was for the movement of 4 vehicles per day in accordance with the Conditions of Approval dated 27 June 2012.

In June 2016 Council considered and approved the revision to condition 'cc'. In addition Council resolved to incur the following changes to the approval:

1. amending Condition "1a." to read as follows:
"1a. This planning consent shall be for a period of six (6) years from the date of issue of the amendment to conditions until 30 June 2022."
2. amending Condition "cc." to read as follows:
"cc. A maximum of twenty (20) single truck movements are permitted on a daily basis."
3. adding the following conditions under Condition "cc."
 - i. *Satisfactory arrangements being made with the local government for the full cost of upgrading and/or construction of Reserve Road in the locations as shown in this report (1121m) to the satisfaction of the Chief Executive Officer;*
 - ii. *Provide a contribution to the Shire of \$0.50 per tonne excavated from the extractive industry application to the Shire for the maintenance of the Road;"*
4. adding the following new Condition "vv."
"vv. The applicant is to prepare a revised Deed of Agreement (as per Condition "m.") in regards to the upgrade of the road(s) to a sealed standard to be authorised by the Shire President and Chief Executive Officer to sign and affix the Common Seal. There shall be no increase in traffic movements until the deed is signed and road upgraded;"
5. adding the following points to the Advice Note of the approval:
 3. *This is an amendment to Planning Approval P088/11 granted 27 June 2012, all other conditions in the original approval still stand.*
 4. *The applicant has a right of review to the State Administrative Tribunal should the applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.*
 5. *The applicant will be required to apply for and gain approval for an Extractive Industry License prior to any extractive works being undertaken onsite*
 6. *That the Shire apply to Main Roads WA to impose a 70km speed limit on Reserve Road."*

In accordance with Condition 'vv', the applicant via the Shire's Solicitors, has drafted a revised deed. A provision of the deed requires the upgrading and maintenance of both Reserve Road and Yalyal Road, which accords to condition 'm' of the original approval, as follows:

Prior to the issue of an excavation licence the Applicant shall enter into an agreement with the Council for payment of fees for the road construction and road maintenance of Yalyal Road and Reserve Road.

This condition was discussed at Council's Ordinary Meeting of June 2016. Council were advised that the condition is unnecessary in relation to the Yalyal Road upgrade as the applicant is legally only able to access and egress the site from Reserve Road. Council ultimately resolved that there was merit in the site being accessed and egressed from Yalyal in order to specifically reduce perceived traffic impacts onto Reserve Road.

The subject report has been put forward accordingly to remove Yalyal Road from the deed.

Consultation

The application for the removal/modification to Condition "m" was referred to the Shire's Executive Manager Technical Services. He advised that there are no plans to upgrade, improve or extend Yalyal Road.

Statutory Environment

State: Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2 of the Regulations sets out 'Deemed Provisions for local planning schemes', which came into effect 19 October 2015. These Deemed Provisions act as part of the Scheme and replace any inconsistent provisions in the Shire's Town Planning Scheme. In this case the Shire's Town Planning Scheme clause relating to an amendment to a Planning Approval has been replaced.

Clause 77 of the Regulations now allows for the local government to consider the amendment of a development approval.

Local: Shire of Chittering Town Planning Scheme No 6

Lot 51 Reserve Road is zoned 'Agricultural Resource'. The objectives of this zone are:

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

A portion of the property is located within the "Landscape Protection Area" and a smaller portion within the 'Water Prone' Special Control Areas identified by the Scheme.

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

Local: Shire of Chittering Extractive Industry Local Law 2014

In relation to the *Shire of Chittering Extractive Industry Local Law 2014* it is reflected under Section 3.2 *Transport of material*, under licencing requirements that:

- (2) *The licensee must pay to the local government, as and when required by the local government, the costs or estimated costs, as determined by the local government, of repairs and maintenance to any road that are required as a result of the transport of materials from the site.*
- (3) *If a road on a route prescribed under subclause (1) is inadequate for the transport of materials from the site, the local government may require the licensee to pay all or part of the costs or estimated costs, as determined by the local government, of upgrading the road to the standard required by the local government for these purposes.*

Policy Implications

Local: *1.5 Execution of documents*

Financial Implications

Nil

Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001-2015

Lot 51 Reserve Road has been identified within the Shire's Local Planning Strategy for potential rural retreat development. The document also originally outlined the extended Perth to Darwin Highway would impact upon the property.

More recently the alignment pertaining the Perth to Darwin Highway has been modified, which is unlikely to affect the property.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known significant economic implications associated with this amendment request.

Social implications

There are no known significant social implications associated with this amendment request.

Environmental implications

There are no known significant environmental implications associated with this amendment request.

Comment

It is requested that Council reconsider Condition "m." for the extractive industry development application approval granted at the 27 June 2012 OCM in relation to the extraction of sand and gravel on Lot 51 Reserve Road, Muchea.

As part of the original approval (refer Attachment 2) the applicant was required to enter into an agreement pertaining to an ongoing financial contribution towards the maintenance and upkeep of Reserve/Yalyal Road with the Shire. This Deed of Agreement was supported by Council at its 18 November 2015 OCM.

As Yalyal Road is a no-through road, upgrading the road is considered redundant as all traffic would need to still utilise reserve road in order to access Great Northern Highway and beyond. If a third party landowner refuses access to Old Gingin Road from Yalyal Road, all traffic will need to use Reserve Road. While not ideal, the applicant has approval to use Reserve Road, so it cannot be stopped on this basis.

If Yalyal Road was to be utilised sometime in the future, the proponent of the subject lot would still need to traverse private property, which in itself is a private matter, though legally *ultra vires* should the development approval be enforced with a condition.

Currently the Shire is in the process of working with the applicant to satisfy condition "vv." via the Shire Solicitor. The concern is as Council has conditioned the requirement of the agreement to require the upgrade of Yalyal this needs to be included in the agreement. Accordingly, from an Officer perspective, the upgrade of Yalyal is considered unreasonable and that it should be removed to negate the requirement to upgrade. The result is that Yalyal Road would not be required to be included in the deed of agreement.

Focussing on the upgrade and maintenance of Reserve Road in fact makes the road safer as it is guaranteed to be upgraded and maintained (by law). Upgrading an unusable road could potentially be used as an excuse by the site operators to not upgrade Reserve Road.

Based on the comments above, it is recommended that Council support the condition amendment subject to the conditions below.

10.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 111016

Moved Cr Osborn / Seconded Cr Tilbury

That Council amend the Planning Approval dated 27 June 2012 (P088/11) for the extraction of gravel and sand at Lot 51 (RN 451) Reserve Road, Muchea by amending Condition "m." to read as follows:

"m. Prior to the issue of an excavation licence the Applicant shall enter into an agreement with the Council for payment of fees for the road construction and road maintenance of Reserve Road."

Advice Note:

All conditions of approval dated 15 June 2016 remain unchanged.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.5 Proposed Hoarding Sign: Lot 102 Great Northern Highway, Muchea*

Report date	19 October 2016
Applicant	CLE Town Planning + Design
File ref	A11625
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none"> 1. Lot 102 Great Northern Highway site and elevation plans 2. Justification provided by the applicant

Executive Summary

Council is requested to consider an application for temporary signage on behalf of Sirona Capital located at Lot 102 Great Northern Highway advertising the intended future BP Roadhouse.

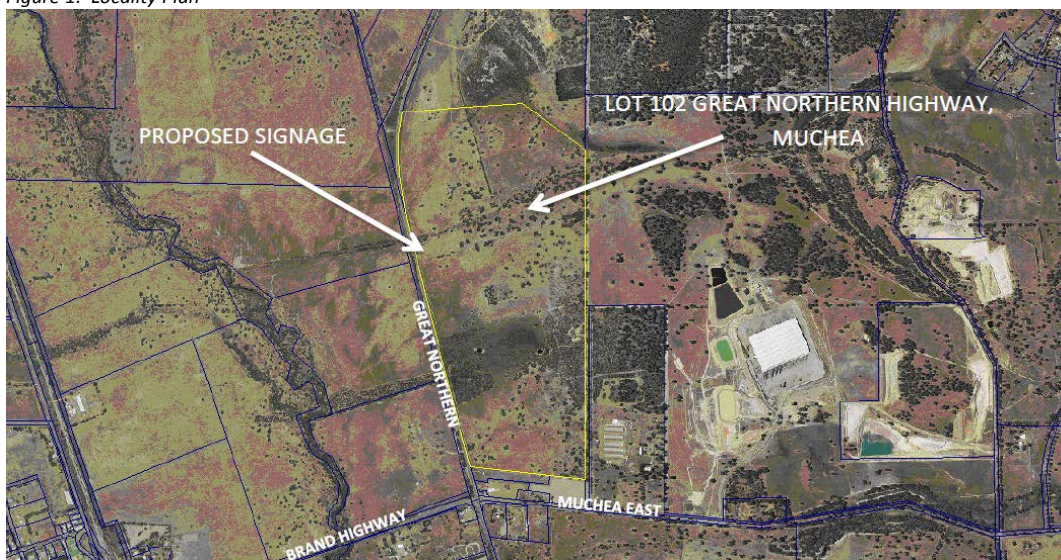
The proposal consists of two shipping containers stacked on one another with it being wrapped in BP advertising. The proposed advertising would be set back 10m from the western boundary of the site making it approximately 29m from the edge of Great Northern Highway pavement. The sign is classified as a 'hoarding sign' with dimensions of 12.14m long, 5.47m high and 2.5m deep.

Background

The proposed signage would be located within the Local Structure Plan 1 (LPS1) area for the Muchea Employment Node (MEN). The Muchea Employment Node Local Structure Plan 1 is the first local structure plan to be prepared within the Muchea Employment Node. Currently, the plan has not gained approval from the Western Australian Planning Commission (WAPC) however is seriously entertained. The sign is suggested as being a precursor to development occurring on site.

Sirona has confirmed that the site has been purchased by BP to be developed as a 'super' service station. This advertising is intended to advertise this 'anchor tenant' and the further Northern Gateway development.

Figure 1: Locality Plan



Consultation

As the proposed site is situated along Great Northern Highway, the Shire is obligated to refer the application to Main Roads WA, who has in turn responded with no objections to the proposal.

In addition to this, Shire Officers suggested the possibility of the applicant utilising the sea containers that make part of the advertising signage for a secondary use such as an information booth or sales office for the proposed MEN. However, this interest was not shared by the applicant and hence no further discussion occurred regarding this topic.

Statutory Environment

Local: *By-laws relating to Signs, Hoardings and Bill Posting gazetted 20 August 1993*

It was determined that the proposal is classed under the definition of a 'Hoarding' which under *clause 1.1* is defined as:

A detached or detachable structure other than a pylon, that is erected for the sole purpose of displaying an advertising device, sign or signs including a poster panel, wall panel or an illuminated panel, but does not include hoarding within the meaning of sections 377 and 378 of the Act.

Due to this classification, the proposed sign is required to obtain a license from the Shire for its erection. However, there is also the matter of *section 4.13* of the Local Law which states:

4.13.1 Subject to paragraph 4.13.2, a person shall not post any bill or paint, stencil, paste, affix or attach any advertisement bill or placard on any street, hoarding, wall, building, fence or structure whether erected on private property or on a public place.

4.13.2 This sub-by-law shall not apply to:

- (a) any sign for which a current licence is in force as referred to in subparagraphs 3.1.1(a);*
- (b) advertisements affixed to or painted on a shop window by the occupier thereof and relating to the business carried on in those premises;*
- (c) the name and occupation of any occupier of business premises painted on a window of such premises;*
- (d) advertisements painted, stencilled, placed or affixed to any fence, if the advertisement indicates;*
- (e) only the name or trading name of the occupier of the property upon which the fence is erected and if the letters on the advertisement do not exceed, where the fence is:*
 - (i) not more than 15m from the nearest footpath, 600mm in height;*
 - (ii) between 15m and 21m from the nearest footpath, 900mm in height;*
 - (iii) between 22m and 30m from the nearest footpath, 1200mm in height;*
 - (iv) more than 30m from the nearest footpath, 1500mm in height.*

Due to the shipping containers being 'wrapped' in signage, the proposal can also be classified as a 'bill posting' as well as a 'hoarding' which under *section 4.13.1* of the Local Law is not permitted within the Shire.

While the use of the land is not currently related to the signage and therefore not permitted, it is arguable that it is advertising the future use of the site and hence also promoting the proposed MEN. In further support of this, *Clause 5.11.1 of TPS6* states:

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.

As the Scheme is an overriding document to any Local Law, it is therefore up to the discretion of the Council to permit the Shire to issue planning approval in addition to any license for the proposal. It should also be noted that while the proposal is not completely consistent with both the local law and MEN Local Structure Plan (LSP), it is however consistent with the Shire's *Local Planning Strategy 2001 – 2015* (LPS).

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

Clause 5.11.1 of TPS6 provides the following:

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 license pursuant to Council's Signs and Hoarding and Bill Posting Local Laws.

This demonstrates that the application can be approved however must first be referred to Council in order to do so.

Furthermore, *TPS6* specifies that the hoarding in question is required to be site specific, i.e. relating to the use of the land. The applicant proposes that while the hoarding is currently not site specific, it adheres to *TPS6* requirements by advertising the owner's future use of the land that is, an upcoming roadhouse. This use is permitted in accordance with the approved Structure Plan, and as such can be considered as seriously entertained.

Local: Shire of Chittering Local Planning Strategy 2001-2015

The proposed signage is located in the proposed LSP. While approval for the LSP has not been given, it is however 'seriously entertained'. For this reason, the applicant has suggested the sign will promote the MEN and the opportunities to purchase industrial land.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

The site currently appears as rural grazing land as opposed to general industry. The sign may have a role to play in assisting in advertising and creating an identity for development intended for the proposed MEN.

Site Inspection

Yes. The site is currently vacant of structures, which is consistent of its historical use as a rural property. Similarly, the surrounding properties are also otherwise undeveloped.

Triple Bottom Line Assessment

Economic implications

The signage may attract the attention of future investors looking for industrial based lands within the MEN.

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 proposed signage has completed a period of referral to Main Roads WA with no objections raised.

While the signage may appear to comply with *TPS6*, the design of the proposal does somewhat affect the visual amenity of the locality because of its size and construction material. Furthermore, sea containers are designed in a temporary nature therefore, it is of the opinion that the sign is erected for a period not exceeding three years. Notwithstanding, the application for the signage is recommended to be conditionally approved as it relates to the future intended use of the site, while generally meeting the required laws and policies, does not cause any risk to passing traffic, and importantly provides promotion to the MEN.

10.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 121016

Moved Cr Tilbury / Seconded Cr Rossouw

That Council:

- 1. Approve the proposed signage at Lot 102 Great Northern Highway, Muchea for a period exceeding not more than 3 years from the date of approval, subject to:**
 - a. All development complying with the approved plans; and**
 - b. The signs must at all times maintain a reference to the development of the Muchea Employment Node.**
- 2. Pursuant to clause 5.11.7 of the *Shire of Chittering Town Planning Scheme No 6*, request the removal of the signage in the event it conflicts with the objectives of the Scheme or it ceases to be effective for the purpose for which it was erected or displayed.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.6 Endorsement: Local Planning Policy 7 Outbuildings Policy Review*

Report Date	19 October 2016
Applicant	Shire of Chittering
File ref	18/06/0007
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Attachments	1. Proposed Local Planning Policy 7 'Outbuildings' 2. Existing Local Planning Policy 7 'Outbuildings and Swimming Pools'

Executive Summary

Council's consideration is requested for the endorsement of the proposed Local Planning Policy 7 - 'Outbuildings' following a period of advertisement under the *Shire of Chittering Town Planning Scheme No 6*.

Background

The Shire has undertaken a review of its existing *Local Planning Policy 7 – 'Outbuildings and Swimming Pools'* (LPP7).

LPP7 has the function of a guidance document to assist in decision making regarding development applications for outbuildings.

The purpose of the review is to amend and update the existing *Local Planning Policy 7 - 'Outbuildings and Swimming Pools'* to reflect current day statutory standards and localised development context of the Shire of Chittering. Specifically, the following has been addressed;

- (i) the policy was amended to be consistent with the new bushfire regulations *Australian Standard 3959 Construction of buildings in bushfire-prone areas*.
- (ii) the policy has been amended to remove the planning consent requirements for in ground swimming pools.
- (iii) A number of items have also been added for clarification including definitions, objectives and a maximum acceptable design standards table.

LPP7 was originally presented to Council for consideration at its Ordinary Council meeting of 17 August 2016. Following this, the policy was subjected to a period of advertisement; however, no public submissions were received.

Consultation

Under the Shire's *Town Planning Scheme No 6 (TPS6)*, an amended local planning policy is required to be advertised through publishing a notice of the proposed policy once a week for two consecutive weeks. Subsequently, submissions then may be made to the Shire regarding the policy for a minimum period of 21 days.

Consultation for LPP7 was undertaken between the dates of 31 August 2016 and 28 September 2016. No public submissions were received.

In accordance with *Clause 7.3.1* of the *Residential Design Codes (R-Codes)*, an outbuilding within an R-Coded area is to be assessed in accordance with the *R-Codes*. Notwithstanding 7.3.1, *Clause 7.3.2* allows for the *R-Codes* to be varied via a Local Planning Policy, subject to approval from the Western Australian Planning Commission.

Accordingly, as part of the consultation process, the policy was forwarded to the Department of Planning for advice and feedback. The Department's feedback resulted in a significant reworking of the policy format. The changes proposed by the Department have been incorporated in the policy currently before Council.

Statutory Environment

Local: *Town Planning Scheme No 6*

Clause 2.4 of *TPS6* outlines the procedure for making and amending Local Planning Policies.

State: *State Planning Policy 3.1 Residential Design Codes*

All development relating to residential development where a residential density applies within Western Australia is required to comply with *State Planning Policy 3.1 Residential Design Codes (R-Codes)*. The requirements of the *R-Codes* are outlined through design principles and deemed-to-comply provisions.

The *R-Codes* recommend that any pre-existing or new Local Planning Policy is consistent with the *R-Codes*. The following clause within the *R-Codes* outlines its prevalence over pre-existing Local Planning Policies where inconsistencies occur:

7.2 Pre-existing Local Planning Policies

If a properly adopted local planning policy which came into effect prior to the gazettal of the R-Codes is inconsistent with the R-Codes, the R-Codes prevail over the policy to the extent of the inconsistency.

The *R-Codes Clause 7.3.1* does not allow for *Clause 5.4.3 'Outbuildings'* to be varied in a zone containing an *R-Code* density, without the approval of the WAPC. As stated above, *Clause 7.3.2* provides the WAPC with discretion to approve the policy variance.

Under the *R-Codes Clause 5.4.3 'Outbuildings'*, the deemed-to-comply requirements vary from the proposed Local Planning Policy 7 – 'Outbuildings' requirements for areas only with an R-Coded density. The Shire generally allows for larger outbuildings to be constructed due to its location within a mostly rural landscape. The *R-Codes* do not contemplate rural context such as R2.5 as it is primarily intended for urban environments where the size and location requirements can be applied consistently.

The proposed Local Planning Policy 7 – 'Outbuildings' permits site areas of 70m² to be constructed with a 3m wall height and a 4.5m ridge height. In addition to this, areas zoned R2.5 and below allow for a site of 120m² to be constructed with a wall height of 3.5m and a ridge height of 3.5m (this is illustrated in Table 1). This is opposed to the *R-Codes*, which stipulate a maximum site area of 60m², a wall height of 2.4m and ridge height of 4.2m in order to meet the deemed-to-comply standards. While the deemed-to-comply standards merely represents one way of gaining development approval, the deemed-to-comply standard is a benchmark which is otherwise inconsistent elsewhere in the Shire. To this end, the policy contains Table 1 allows for outbuildings to be assessed per zone, therefore enabling the Shire to be consistent in its application via a single policy.

The Shire's Senior Planning Officer worked closely with the Department of Planning in order to achieve the standards stipulated in Table 1 however, the Department of Planning have advised that should the Shire wish to include this policy for R-Coded areas that their approval will be required in accordance with *Clause 7.3.2*.

Policy Implications

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

The existing policy was adopted to guide the development of outbuildings without the need for planning approval. Additionally, subsequent legislative changes to the State Planning Policy saw a change to the construction of buildings in bushfire prone areas.

It's important for Council to note that this policy required planning approval for all outbuildings and structures including underground swimming pools with an area greater than 10m². From a planning perspective, underground swimming pools and minor structures are normally exempt from the requirement of planning approval through an exemption through the Scheme because it is considered that this type of development is unlikely to have any major planning implications. Therefore, the policy was amended to remove this requirement and focus more on appropriate outbuilding sizes, materials and siting for specific zones.

Local: *Local Planning Policy No. 18 – 'Setbacks'*

Local Planning Policy No.18 - 'Setbacks' provides measures for building setbacks, therefore it should be noted that Local Planning Policy No. 7 is to be read in conjunction with *Local Planning Policy No. 18 - 'Setbacks'*.

Financial Implications

There will be advertising costs associated with the advertising of the proposed Local Planning Policy 7 – 'Outbuildings'.

Strategic Implications

The amendment of existing *Local Planning Policy No. 7 - 'Outbuildings and Swimming Pools'* is not considered to impact on the Shire of Chittering's Local Planning Strategy.

Site Inspection

This policy has been developed in conjunction with Shire Officers undertaking site visits and taking into consideration the existing build form and what is appropriate development for this Shire.

Triple Bottom Line Assessment

Economic implications

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

Social implications

The amendment of the policy helps to clarify the Shire's position on persons living in non-habitable buildings. It also provides further surety and transparency in process for the community, developers and Shire Officers when developing within the Shire of Chittering.

Environmental implications

The amending of this policy will provide Council with the ability to minimise unnecessary land clearing while also being able to provide clarity as to bush fire management.

Comment

It is important to ensure that Councils and the community's priorities are taken into consideration when developing a Council policy. The strongest feedback Shire Officers have received from the community and Council generally has been that they want to ensure that the 'rural character' of the Shire is retained. The issue with not having an up-to-date prescriptive outbuilding policy is that there is no guidance on appropriate development within the Shire, this often results in a proliferation of oversized sheds which results in an industrialised appearance for the Shire and loss of its 'rural character'. What is particularly pertinent to this is the future Muchea Employment Node which is the entry statement to the Shire. A lot of time and effort will need to go into ensuring that the impact of this industrial development is minimised however, what is even more important is ensuring that our existing rural areas are protected and maintained, this policy will help to achieve this.

Changes to the intent of the policy were only minor as there were no submissions pertaining to Local Planning Policy 7 – 'Outbuildings' received by the Shire. However, significant formatting alterations were made and include; the additional definitions for clarity and the splitting of the development requirements table into different sections relating to the zoning. Specifically, these relate to 'Maximum Standards for Outbuildings in R-Coded areas' and 'Maximum Standards for Outbuildings in Rural Living Zones'. As these changes were recommended by the Department of Planning, they have been incorporated into the version recommended for adoption. Accordingly, Council is recommended to resolve to adopt the modified version of the policy per Attachment 1.

10.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 131016

Moved Cr Rossouw / Seconded Cr Osborn

That Council:

- 1. Pursuant to Clause 2.2 of *Town Planning Scheme No 6* resolves to adopt *Local Planning Policy 7 Outbuildings*.**
- 2. Pursuant to Clause 7.3.2 of *State Planning Policy 3.1 Residential Design Codes*, resolves to forward *Local Planning Policy 7 Outbuildings* to the Western Australian Planning Commission for approval of Clause 5.1 of the Local Planning Policy.**
- 3. Pursuant to Clause 2.4.3 of *Town Planning Scheme No 6* resolves to proceed to advertise the adopted *Local Planning Policy 7 Outbuildings*.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.7 Waste Local Law 2016*

Report date	19 October 2016
Applicant	Shire of Chittering
File ref	19/04/1
Prepared by	Glenn Sargeson, Principal Environmental Health Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft Waste Local Law 2016

Executive Summary

The Draft Waste Local Law 2016 is presented to Council for formal consideration. Authorisation is sought to proceed with the advertising of Council's intention to make the Shire of Chittering Waste Local Law 2016 (attached) in accordance with s3.12 of the *Local Government Act 1995*.

Background

The Shire of Chittering has not previously had a local law dealing specifically with waste issues although Part 4 of the current *Health Local Laws 1998* deals to some extent with refuse disposal. A separate report dealing with the repeal of the *Health Local Laws 1998* and the introduction of the new Health Local Law 2016 is also presented for Council's consideration at this meeting. Changes to legislation, particularly the introduction of the *Waste Avoidance and Resource Recovery Act 2007* (which now has the head of power for making local laws in relation to refuse) has prompted the introduction of Waste Local Laws by a growing number of local governments. The introduction of the kerbside waste and recycling collection scheme in 2014 and a review of the operations of the Shire's two landfill sites were also a catalyst for the introduction of the new Waste Local Law 2016.

The draft Shire of Chittering Waste Local Law 2016 is based upon the Waste Local Law template developed by the Western Australian Local Government Association (WALGA) in collaboration with the Joint Standing Committee on Delegated Legislation, the Waste Authority and the Department of Local Government and Communities.

Consultation

WALGA
Avon Waste
Staff and Executive Managers
Councillors
Various local governments

Statutory Environment

State: *Local Government Act 1995 – Section 3.12*: Procedure for Making Local Laws
Waste Avoidance and Resource Recovery Act 2007 (WARR Act) - Section 61: Local Laws in respect of waste management
Local Government (Functions and General) Regulations 1996 – Regulation 3: Prescribed manner of giving notice of purpose and effect of proposed local law

The draft local law is presented to Council for formal consideration. Authorisation is sought to proceed with the advertising of Council's intention to make the Shire of Chittering Waste Local Law 2016 (attached) in accordance with s3.12 of the *Local Government Act 1995*.

In the event that Council makes such a resolution, the following sequence of events will commence:

1. A public submission period of at least six weeks must be allowed, during which a copy of the proposed local law must be also submitted to the Minister for Local Government and the Minister for the Environment. At the close of advertising, Council must consider any submissions received and then resolve to make the Local Law either as proposed, or in a form that is not significantly different from what was proposed. If, as a result of public submissions, Council wishes to make substantial changes to the local law, then a further public submission will be required.
2. Once the final version of the local law has been determined, it must be re-submitted to the Department of Environment Regulation for consent by the Department's Director General.
3. Following receipt of the Director General's consent, the local law must be re-submitted to Council for adoption. The local law must then be published in the Government Gazette and a further copy provided to the Minister for Local Government and the Minister for Environment.
4. After gazettal, local public notice must be given stating the title of the local law, its purpose and effect (including the date it comes into operation) and advising where copies of the local law may be inspected or obtained.
5. A copy of the local law, together with an accompanying explanatory memorandum, must then be submitted to the WA Parliamentary Joint Standing Committee on Delegated Legislation for scrutiny.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* requires that, in commencing to make a local law, the person presiding at a Council meeting is to give notice of the purpose and effect of the local law by ensuring that:

1. The purpose and effect of the proposed local law is included in the agenda of that meeting; and
2. The minutes of the meeting of the Council include the purpose and effect of the proposed local law.

Accordingly, the purpose and effect of the proposed Shire of Chittering Waste Local Law 2016 are stated as follows:

Purpose: The purpose of the Shire of Chittering Waste Local Law 2016 is to regulate the storage, collection and disposal of waste and recyclable materials in the Shire of Chittering.

Effect: The effect of the Shire of Chittering Waste Local Law 2016 is to allow the control of storage, collection and disposal of waste and recyclable materials for the benefit of the community and protection of the environment.

Policy Implications

State: Western Australian Waste Strategy "Creating the Right Environment"

Financial Implications

Costs will be incurred as a result of the statutory advertising and gazettal process. Provision has been made in Council's adopted budget 2016/2017.

Strategic Implications

Local: In accordance with the Shire of Chittering Strategic Community Plan 2012 – 2022:

Natural Environment: Preserving and enhancing our natural environment

Outcome: Sustainable Resources

Strategy: Reduce waste through recycling and re-use.

Key Priority: Strengthen recycling – waste (educate)

Tracking measurable results

Outcome: *Sustainable Resources*

Strategy: *Reduce waste through recycling and re-use*

Measurable Results: *Develop and implement the Shire of Chittering Waste Management Strategy:*

- *Reduction of the quantity of wastes going to the landfill.*

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 new Waste Local Law 2016 will enable improved management and operation of the kerbside collection service and landfill sites by reducing contamination in bins and improving the separation of waste and recyclable products. The local law will also help to reduce the amount of waste going to landfill; prevent damage to bins and machinery; reduce landfill pollution and extend the life of the Shire's landfill sites.

Comment

The template Waste Management Local Law provided by WALGA has been developed specifically to address concerns previously raised by the Joint Standing Committee and to include only items that are provided for by the head of power in the *WARR Act 2007*. The template has been reviewed by the Joint Standing Committee and local governments who elect to use the template have a reduced risk of having their local law disallowed.

The template has been drafted in a way that accommodates the variety of services that a local government may provide to the community. While it is recognised that currently not all the provisions of the local law will be applicable to the Shire of Chittering (e.g. green waste bins), their inclusion will equip the Shire with the tools to address such matters in the future, if required, without having to go through the process of amending the local law subsequently.

10.1.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 141016

Moved Cr Rossouw / Seconded Cr Angus

It is recommended that Council:

- 1. Adopt the proposed Shire of Chittering Waste Local Law 2016 (attached) for the purpose of advertising.**
- 2. Pursuant to s.3.12 of the Local Government Act 1995, give local and state-wide public notice of its intention to make the Shire of Chittering Waste Local Law 2016 and within that notice advise of the following purpose and effect:**
 - Purpose:** The purpose of this local law is to regulate the storage, collection and disposal of waste and recyclable materials in the Shire of Chittering.
 - Effect:** The effect of this local law is the control of storage, collection and disposal of waste and recyclable materials for the benefit of the community and protection of the environment.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.8 Health Local Law 2016*

Report date	19 October 2016
Applicant	Shire of Chittering
File ref	19/04/0017
Prepared by	Glenn Sargeson, Principal Environmental Health Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft Health Local Law 2016 2. Current Health Local Law 1998

Executive Summary

The draft Health Local Law 2016 is presented to Council for formal consideration. Authorisation is sought to proceed with the advertising of Council's intention to make the Shire of Chittering Health Local Law 2016 (attached) in accordance with s3.12 of the *Local Government Act 1995*.

Background

The existing *Health Local Laws 1998* were gazetted on 29 June 1998. No amendments have been made to the local law since that time, however over the intervening period a number of legislative changes have occurred that need to be taken into consideration. This includes new legislation such as the *Waste Avoidance and Resource Recovery Act 2007* (enabling Waste Local Laws) the *Food Act 2008*, the *Environmental Protection (Controlled Waste) Regulations 2004* and the *Cat Act 2011* (enabling the Cat Local Law).

The Principal Environmental Health Officer commenced a well overdue and comprehensive review of the existing *Health Local Laws 1998* approximately 12 months ago. Part of the delay was due to awaiting the new Public Health Act which was under review for about 20 years and only approved (in phases) as late as July 2016. The health local law review involved considerable research into the health local laws of other local governments and discussions with professional peers within local government and the Department of Health. Because of the extent of changes made, it is considered to be a new local law and not just an update of the previous version. Consequently it is intended to repeal the existing *Health Local Laws 1998*.

Consultation

Department of Health
Various local governments
Shire of Chittering staff and executive managers
Councillors

Statutory Environment

State: *Local Government Act 1995 – Section 3.12*: Procedure for Making Local Laws
Health Act 1911 – Section 134: Purposes for which local laws can be made
Local Government (Functions and General) Regulations 1996 – Regulation 3: Prescribed manner of giving notice of purpose and effect of proposed local law

In the event that Council makes such a resolution to support this draft Local law, the following sequence of events will commence:

1. A public submission period of at least six weeks must be allowed, during which a copy of the proposed local law must be also submitted to the Minister for Local Government and the Minister for the Environment. At the close of advertising, Council must consider any submissions received and then resolve to make the Local Law either as proposed, or in a form that is not significantly different from what was proposed. If, as a result of public submissions, Council wishes to make substantial changes to the local law, then a further public submission will be required.
2. Once the final version of the local law has been determined, it must be re-submitted to the Department of Environment Regulation for consent by the Department's Director General.
3. Following receipt of the Director General's consent, the local law must be re-submitted to Council for adoption. The local law must then be published in the Government Gazette and a further copy provided to the Minister for Local Government and the Minister for Environment.
4. After gazettal, local public notice must be given stating the title of the local law, its purpose and effect (including the date it comes into operation) and advising where copies of the local law may be inspected or obtained.
5. A copy of the local law, together with an accompanying explanatory memorandum, must then be submitted to the WA Parliamentary Joint Standing Committee on Delegated Legislation for scrutiny.

Regulation 3 of the *Local Government (Functions and General) Regulations 1996* requires that, in commencing to make a local law, the person presiding at a Council meeting is to give notice of the purpose and effect of the local law by ensuring that:

1. The purpose and effect of the proposed local law is included in the agenda of that meeting; and
2. The minutes of the meeting of the Council include the purpose and effect of the proposed local law.

Accordingly, the purpose and effect of the proposed Shire of Chittering Health Local Law 2016 are stated as follows:

Purpose: The purpose of the Shire of Chittering Health Local Law 2016 is to provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community.

Effect: The effect of the Shire of Chittering Health Local Law 2016 is to allow health related issues in the Shire of Chittering to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community.

Policy Implications

Nil

Financial Implications

Costs will be incurred as a result of the statutory advertising and gazettal process. Provision has been made in Council's adopted budget 2016/2017.

Strategic Implications

The Health Local Law 2016 will improve the standard of health and hygiene in the community by providing the means to address issues which can affect public health, the standard of living and amenity in the district.

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

Some of the key changes in the new Health Local Law 2016 (HLL 2016) vs the existing Health Local Laws 1998 (HLL 1998) are:

- (i) The HLL 2016 has a new numbering system consisting of clauses and subclauses as opposed to the HLL 1998 which used sections and subsections. This enables new clauses to be added without upsetting the whole document and reflects current drafting standards.
- (ii) Old-fashioned language has been deleted.
- (iii) Ambiguous clauses have been amended.
- (iv) Unnecessary or outdated local laws have been deleted.
- (v) Local Laws covered by other legislation have been deleted.
- (vi) A new Division 5 – Feedlots has been included as they create health issues that need to be dealt with which are not adequately covered elsewhere.
- (vii) The keeping of poultry and pigeons has been updated to clarify where such can be kept. There was previously uncertainty regarding rural residential lots.
- (viii) Part 8 Lodging Houses has been amended with respect to fire retardant materials to clarify what materials have to be fire retardant particular with reference to beds, bedding and bed-linen.
- (ix) Reference to relevant codes of practices, legislation, guidelines, standards etc. has been included so as not to 're-invent the wheel'.
- (x) Cross-referencing with the Shire's Town Planning Scheme has been included where appropriate to ensure that there is no clash between the Scheme requirements and the LL's.
- (xi) Typographical and grammatical errors in the previous LL have been amended.

A more specific description of some of the key changes is included in Table 1.

Table 1: Summary of Key Changes in Health Local Law 2016

DESCRIPTION	COMMENT
PART 1 – PRELIMINARY	
1.5 Interpretation (definitions)	<p>Definition of 'adequate' added.</p> <p>'adequate supply of water' amended from 0.076 litres per second to 5 litres per minute. This equates to the same, but is easier to comprehend.</p> <p>'approved' changed from 'by PEHO' to 'local government'.</p> <p>AS or AS/NZS added to include all referenced standards.</p> <p>Environmental Health Officer (EHO) changed to include Principal Environmental Health Officer (PEHO) and PEHO definition deleted. References to PEHO replaced with EHO where applicable.</p> <p>'sanitary convenience' changed to delete outdated terminology such as water - closets, earth-closets, privies, ash-pits, ash-tubs.</p> <p>'bedding' added.</p>

DESCRIPTION	COMMENT
	‘toilet’ definition changed to delete outdated terminology. ‘window’ definition deleted. Included in BCA.
PART 2 – SANITATION	
Clause 2.1 - Interpretation	Definition of ‘event’ added. A fair, function or festival included. To be consistent with terminology in <i>Health (Public Buildings) Regulations 1992</i> and DOH guidelines.
Clause 2.4 - Events	Requirements for sanitary conveniences removed and replaced with reference to DOH guidelines.
Clause 2.6 - Temporary Works	Replaced by reference to <i>Health (Temporary Sanitary Conveniences) Regulations 1997</i> .
Clause 2.15 - Kitchens	Reference made to compliance with Building Code.
PART 3 – HOUSING AND GENERAL	
Clause 3.2 - Guttering and downpipes	Wording changed to ‘the owner or occupier of a dwelling house which has guttering and downpipes’. This recognizes that some buildings may not have guttering and downpipes in accordance with flexibility in the Building Code.
Clause 3.7 (4) - Ventilation	The discretion for <u>Council</u> to issue a notice for sub-standard ventilation of a house has been changed to enable the EHO to issue the notice. It is not Council’s responsibility to issue notices. Similar corrections have been made throughout the HLL 2016 where ‘Council’ should be replaced with local government, CEO or EHO as appropriate according to the proper allocation of powers. In the past, ‘Council’ and ‘local government’ were often used interchangeably. It is recognised that some contentious issues may have to be referred to Council.
Clause 3.9 (3) - Water supply	This clause has been added to allow non potable water sources for toilet flushing and garden water such as the use of graywater which concurs with modern standards aimed at water re-use.
Clause 3.10 - Rain water tanks	This section has been expanded to recognise the importance of rainwater tanks in the Shire given the lack of reticulated water. It is critical to ensure that the water is kept as safe as possible by correct cleaning and disinfection measures.
Clause 3.11 (c) - Bores and wells	Compliance with the <i>Health Act (Underground Water Supply) Regulations 1959</i> has been added.
PART 4 – LIQUID REFUSE, LIQUID WASTE, BUTCHERS’ WASTE AND REFUSE	
Clause 4.1 – Interpretation	Definitions of ‘apparatus for the treatment of sewage’ and ‘receptacle for drainage’ have been added to aid clarity.
Approval for septic tank pump outs	These sections have been deleted as they are covered by the <i>Environmental Protection (Controlled Waste) Regulations 1984</i> .
Division 3 - Rubbish and Refuse	Division 2 of the HLL 1998 has been removed from the updated HLL 2016 as most of the requirements now come under the <i>Waste Avoidance and Resource Recovery Act 2007</i> (WARR Act) which is now the head of power for rubbish related issues. Under the WARR Act Local Laws may be made and these have been drafted and currently being reviewed in conjunction with the HLL 2016 by management and councillors. Two sections have been kept in the HLL 2016 relating to the illegal deposit of refuse and burning of rubbish and refuse as these aspects have not been included in the Waste Local Law template provided by WALGA.
Division 2 - Restriction of Vehicles Clause 4.6	The wording in the new HLL 2016 has changed to ensure that a vehicle used for the transport of butchers’ waste shall not be used to transport any other item,

DESCRIPTION	COMMENT
	substance or material which is not butchers' waste in the same compartment.
PART 5 – NUISANCES AND GENERAL	
Clause 5.9 - Storage of fertiliser and compost	Changed to disallow the keeping of fertiliser and compost inside a dwelling house but can be stored in a non-habitable building such as a shed, garage or storage room which is separate to the dwelling house.
Keeping of cats	Deleted. Covered by the Cat Act and Cat Local Laws.
Division 3 - Keeping of Approved Animals 6.14 - Interpretation	Definition of 'approved animal' expanded to include camels, alpacas, llamas and goats. These are what other LGs have included. Definition of 'natural shelter' included. This will allow an alternative to having to provide stable(s).
Clause 5.15 - Keeping of pigs	Changed to ensure pigs are kept in areas in accordance with the <i>Shire of Chittering Town Planning Scheme</i> . Reference made to Part 9 of the HLL 2016 Offensive Trade Division 7 – Piggeries and compliance with requirements of that division. Reference made to premises categorised in the <i>Environmental Protection Regulations 1987</i> and that licence or registration conditions apply.
Clause 5.16 - Keeping of approved animals and provision of stables	Reworded to allow adequate 'natural shelter' or a stable which shall comply with the requirements of the Building Code. Discretion given to an EHO with regard to construction material and method of discharge of drains. Added: compliance with requirements of the <i>Biosecurity and Agriculture Management (Stable Fly) Management Plan 2016</i> .
Division 4 - Keeping of Poultry and Pigeons Clause 5.19 - Interpretation	Definition of 'poultry' expanded to include bantams. 'Prescribed area' changed to reference the <i>Shire of Chittering Town Planning Scheme</i> and applies to town sites (and R Coded areas) and Rural Residential areas. Previously, Rural Residential was not included. Added: the Division only applies to keeping of poultry on residential properties for domestic purposes and not commercial poultry establishments. Commercial poultry establishments to comply with the <i>Environmental Code of Practice for Poultry Farms in Western Australia</i> .
Clause 5.20 – Limitations on numbers of poultry and pigeons	Reference to 'Affiliated Person' removed. This only made the local law more complex than necessary. Number of poultry and pigeons which can be kept changed from a combined total of 20 to 20 poultry and 20 pigeons. This reflects the rural nature of much of our shire.
Clause 5.22 – Roosters	Added: An EHO may rescind approval for keeping a rooster if they cause a nuisance.
Division 5 – Feedlots	This is a new division which has been added to reflect the rural nature of much of the shire and to enable control measures to be implemented to control nuisances. Approval of feedlots is required under the <i>Shire of Chittering Town Planning Scheme</i> . Cattle feedlots with more than 500 animals are to be licensed under the <i>Environmental Protection Regulations 1987</i> if they are less than 100 m from a watercourse and exceed 50 cattle per hectare. Feedlots greater than 100 m from a watercourse and which exceed 50 cattle per hectare must be registered. A table of buffer distances has been included at clause 5.27 (3). Reference is made to the <i>'Guidelines for the Environmental Management of Beef Cattle Feedlots in Western Australia'</i> .

DESCRIPTION	COMMENT
	Sites conditions are included in clause 5.29 describing aspects such as slope, soil type, groundwater clearance, drainage, dust, effluvia and liquid waste.
PART 6 – PEST CONTROL	
Division 1 – Flies Clause 6.2 – Control of flies	Reference is made to the <i>Fly Eradication Regulations</i> . The control measures listed in the HLL 1998 have been deleted in the HLL 2016 as all necessary measures are included in the regulations. One of the aims of the HLL 2016 is to not duplicate other legislation.
Division 5 – Argentine Ants	As per flies, control measures are included in the <i>Argentine Ant Regulations</i> and have therefore been excluded.
PART 7 – INFECTIOUS DISEASES	
Clause 7.1 Purpose of exercise of powers	Added: ‘the powers under this Part are to be exercised for the purpose of preventing or controlling the spread of an infectious disease. ‘This has been inserted to put into context the reasons for some of the interventions which people could find intrusive.
Clause 7.11(3) – Local Government may carry out work and recover costs	Added: ‘other than compensation or damages for loss or damage suffered because the local government acted negligently or in breach of duty.’ This was added upon advice from the Department of Health.
PART 8 – LODGING HOUSES	
Clause 8.1 – Interpretation	Definition of ‘bed linen’ added.
Clause 8.11 – Laundry	Definition of ‘laundry’ shifted to clause 8. - Interpretation in HLL 2016. The temperature of hot water changed from 75 deg. C to 65 deg. C. This is in accordance with most other local government health local laws. The delivery rate of a hot water system has been changed from 136 litres of water per hour to ‘capable of delivering an adequate supply of water at a temperature of at least 65 degrees C ‘for each washing machine provided with the communal facility. The delivery rate for washing machines has been changed from 18 litres per minute to 5 litres per minute or a higher delivery rate according to the manufacturer’s specification. The rationale for these changes is so that the requirements are less prescriptive but will still ensure that an adequate supply of hot water at the correct temperature will be still be available. The new law reflects that modern day washing machines require less water and do not require very hot water due to energy conservation features.
Clause 8.12 – Kitchen	Reference is made to the <i>Food Act 2008</i> , the <i>Food Regulations 2009</i> and the relevant food safety standards. It deletes the prescriptive requirements of the previous HLL 1998.
Clause 8.13 – Cooking facilities	The new HLL 2016 requires only that a kitchen in a lodging house shall have cooking appliances of a number and type approved by an EHO. An EHO is qualified and familiar with such requirements and therefore the new law obviates the necessity to have the prescriptive references included in the table at Section 142 (1) of the former HLL 1998.
Clause 8.16– Fire prevention and control	The new HLL 2016 requires that smoke alarms, emergency evacuation lighting and illuminated exit signs are fitted in accordance with the Building Code and relevant Australian Standards. It also provides restrictions on people smoking inside and that any items likely

DESCRIPTION	COMMENT
	to cause a fire hazard are not located within bedrooms or dormitories. Requirements for bedrooms and dormitories in short term hostels and recreational campsites (but not serviced apartments) have been moved from Clause 8.19 – ‘Restriction on use of rooms for sleeping’ to Clause 8.16 – ‘Fire prevention and control’ as this clause is considered more relevant. The wording makes it clear that the provisions for fire retardant material relate to short-term hostels and recreational campsites only and not serviced apartments. This was not clear in the previous version. The rationale for the distinction is that serviced apartments have fewer people and they are in common occupancy (i.e. a family or group of friends) and are generally a lower fire risk than short-term hostels and recreational campsites which are generally less supervised. The requirement for treatment of drapes, curtains, blinds and floor coverings in short term hostels and recreational campsites remains the same however with the new definition it is now clearer that only flammable beds and upholstery require treatment to meet fire retardant standards and not bed-linen.
Clause 8.23 – Numbers to be placed on doors	Added: ‘or provide alternative means of identification approved by an Environmental Health Officer.’ This provides more flexibility for distinguishing rooms other than by numbers such as through the use of symbols, plants, animals. This enables the keeper or owner to develop a theme (e.g. nature-based, spiritual, etc.).
PART 9 - OFFENSIVE TRADES	
Flock Factories	Deleted.
Division 6 – Abattoirs	Reference made to relevant standards adopted under the <i>Food Act 2008</i> and Part 5 of the <i>Food Regulations 2009</i> .
PART 10 – OFFENCES AND PENALTIES	
Clause 10.1 – Offences and penalties	Penalties have been increased in the order of 2.5 times.
Clause 10.2 – Other enforcement actions	This is a new clause which allows the shire to recoup any expense incurred for the failure of a person to undertake work which has been directed by a provision of the local law.
Prescribed Fees	Deleted. Fees or charges may be fixed by a resolution of the local government in accordance with Section 344C of the <i>Health Act 1911</i> .
Prescribed Areas Section 112 A of Health Act 1911	Deleted. Replaced by the WARR Act.

The draft local law is presented to Council for formal consideration. Authorisation is sought to proceed with the advertising of Council’s intention to make the Shire of Chittering Health Local Law 2016 (attached) in accordance with s3.12 of the *Local Government Act 1995*.

10.1.8 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 151016

Moved Cr Rossouw / Seconded Cr Osborn

It is recommended that Council:

1. Adopt the proposed Shire of Chittering Health Local Law 2016 (attached) for the purpose of advertising.
2. Pursuant to s.3.12 of the *Local Government Act 1995*, give local and state-wide public notice of its intention to make the Shire of Chittering Health Local Law 2016 and within that notice advise of the following purpose and effect:

Purpose: The purpose of the Shire of Chittering Health Local Law 2016 is to provide a statutory means of effectively controlling issues which have the potential to adversely impact on the health and well-being of the community.

Effect: The effect of the Shire of Chittering Health Local Law 2016 is to allow health related issues in the Shire of Chittering to be sufficiently controlled so as to provide an acceptable standard for the maintenance of public health in the community.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.1.9 Section 70A Notification Authorisation: Two lot survey strata-subdivision of Lot 72 Guernsey Rise, Lower Chittering*

Report date	19 October 2016
Applicant	P and J Bright
File ref	18/03/112; WAPC Ref 152031
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Bronwyn Southee, Executive Manager Development Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Section 70A Notification Document 2. Deposited Plan

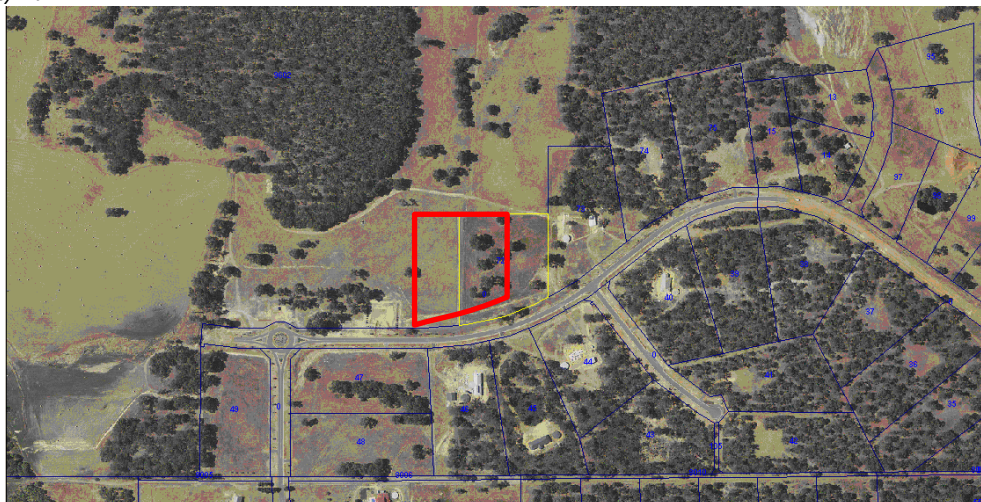
Executive Summary

Council's consideration is requested in relation to the execution of Section 70A Notifications for the subdivision of Lot 72 Guernsey Rise, Lower Chittering. The applicant has approval for the freehold subdivision of Lot 72 Guernsey Rise into two, one ha lots.

Background

On 21 August 2016, the Shire was notified that the subdivision of Lot 72 Guernsey Rise had been conditionally approved by the Western Australian Planning Commission.

FIGURE 1: Locality Plan



Conditions No 4 and 7 of the subdivision approval requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), to be placed on the Certificate of Titles for the proposed lots. The purpose of the Section 70A Notification is to advise the future landowners that 'a reticulated sewerage service is not available to this lot' and 'the lot is subject to an environmental management plan'.

Conditions 5 and 6 on the subdivision approval, which also requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), is required to be placed on the Certificate of Titles for the proposed lots advising the future land owners '*the lot is subject to a fire management plan*' and '*a mains potable water supply is not available to the lot*'. Advice received from the applicant's solicitor confirms that the existing, previous title already contains these notifications, and that the legal parameters are transferable to the proposed titles. Accordingly, these conditions are able to be cleared in accordance with the Council of the time's consent.

Consultation

Not applicable

Statutory Environment

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

Policy Implications

Local: *1.5 Execution of Documents*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

In order to satisfy Conditions No 4 and 7 of the subdivision approval, the applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (see Attachment 1). The execution of this document requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

10.1.9 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 161016

Moved Cr King / Seconded Cr Rossouw

That Council authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal in relation to the subdivision of Lot 72 Guernsey Rise, Lower Chittering (proposed as Lots 18 and 19 Guernsey Rise), upon:

- 1. The Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to a notice that *'the lot/s are subject to an environmental management plan'* and *'a reticulated sewerage service is not available to this lot'* on Lots 18 and 19 Guernsey Rise, Lower Chittering on Deposited Plan 405963; and**
- 2. Any other relevant documents pertaining to subdivision WAPC 152031.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.2 TECHNICAL SERVICES

Nil

10.3 CORPORATE SERVICES

10.3.1 Financial statements for the period ending 30 September 2016*

Report Date	19 October 2016
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Statement of Financial Activity for period ending 30 September 2016 Bank reconciliation for period ending 30 September 2016 List of accounts paid for September 2016

Executive Summary

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

Background

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

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

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

Consultation

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

Statutory Environment

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

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Nil

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

Council is requested to receive the monthly statement of financial activity and bank reconciliation and endorse the list of payments as presented.

10.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 171016

Moved Cr Rossouw / Seconded Cr King

That Council:

- 1. endorse the list of payments:**
 - a. PR3810, PR3815**
 - b. EFT 13064 - EFT 13188**
 - c. Municipal Fund Cheques 14127 – 14145**
 - d. Direct Debits and Transfers as listed**
 - e. Trust Fund Cheques 542 - 544****Totalling \$1,237,929.43 for the period ending 30 September 2016.**
- 2. receive the bank reconciliation for the period ending 30 September 2016.**
- 3. receive the Statement of Financial Activity for the period ending 30 September 2016.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.4 CHIEF EXECUTIVE OFFICER

10.4.1 Change of date for Ordinary Council Meeting scheduled for December 2016

Report date	19 October 2016
Applicant	Shire of Chittering
File ref	13/02/33
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Executive Summary

Council's consideration is requested to approve the change of date for the December 2016 Ordinary Meeting of Council from Wednesday, 21 December 2016 to Wednesday, 14 December 2016.

Background

At the Ordinary Council Meeting held on 16 December 2015 Council resolved the dates for when Council will conduct their Ordinary Council Meetings for the 2016 calendar year. The date for December was in accordance with the meeting frequency, i.e. the third Wednesday of each month. Though the Officer's report highlighted the school holidays and public holidays, it has only now been noticed that having this date will impact on procedures following Council meetings.

Moving the date will ensure that Shire officers are able to complete the work required for resolutions.

To ensure compliance with the *Local Government (Administration) Regulations 1996*, r13 conducting the meeting one week earlier will ensure that the minutes are made available to members of the public within the required timeframe (i.e. 10 business days)

Consultation

Executive Management Team

Statutory Environment

State: Local Government Act 1995

5.25. Regulations about council and committee meetings and Committees

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to-
- (g) the giving of public notice of the date and agenda for council or committee meetings;

State: Local Government (Administration) Regulations 1996

12. Public notice of council or committee meetings – s. 5.25(1)(g)

- (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which-
- (a) the ordinary council meetings; and
- (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.
- (2) A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).

13. Unconfirmed minutes, public inspection of (Act s.5.25(1)(i))

A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public—

(a) in the case of a council meeting, within 10 business days after the meeting; and

Policy Implications

Nil

Financial Implications

There will be minor costs associated with advertising of the local public notice.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

Council is requested to give consideration to changing the date for the December 2016 Ordinary Meeting of Council from Wednesday, 21 December 2016 to Wednesday, 14 December 2016.

If Council confirms the change of date the meeting in accordance with the *Local Government (Administration) Regulations 1996* a local public notice will be published notifying the community of the change of date. Details of the new date will also be published in accordance with the Shire's *Community Engagement Plan 2012*.

10.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 181016

Moved Cr Rossouw / Seconded Cr Osborn

That Council:

- 1. Amend the December 2016 Ordinary Meeting of Council date from Wednesday, 21 December 2016 to Wednesday, 14 December 2016 commencing at 8pm.**
- 2. Advertise the change of meeting date in accordance with the *Local Government (Administration) Regulations 1996*.**

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

10.4.2 Updates to Council Committee and Advisory Groups Booklet*

Report date	19 October 2016
Applicant	Shire of Chittering
File ref	04/06/0001
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Absolute Majority
Documents tabled	Nil
Attachments	1. Council Committees and Advisory Groups booklet

Executive Summary

Council is requested to update the Council and Committee Booklet.

Background

In the past, Council has appointed delegates and deputies to the Committees of Council (i.e. Audit, Bushfire Advisory and Local Emergency Management), advisory groups, external organisations and allocated portfolios following each local government election.

With a new Councillor being sworn in on 19 October 2016 any Committees, advisory groups, external organisations that have a vacancy can be fulfilled by the newly elected member.

A person who is appointed a member of a committee under *Section 5.10*, the person's membership continues until the next ordinary election day (i.e. 21 October 2017).

Consultation

Executive Manager Corporate Services

Statutory Environment

State: *Local Government Act 1995, Part 5 Administration, Division 2 – Council meetings, committees and their meetings and electors meetings, subdivision 2 – committees and their meetings.*

The *Local Government Act 1995* states that a local government may establish committees of three or more persons to assist the Council, and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

State: *Bush Fires Act 1954, section 67*

67. Advisory committees

- (1) *A local government may at any time appoint such persons as it thinks fit as a bush fire advisory committee for the purpose of advising the local government regarding all matters relating to the preventing, controlling and extinguishing of bush fires, the planning of the layout of fire-breaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind as, or a different kind from, those specified in this subsection.*

State: *Emergency Management Act 2005*

38. Local emergency management committees

- (1) *A local government is to establish one or more local emergency management committees for the local government's district.*

Policy Implications

State: [State Emergency Management Policy](#)

The *State Emergency Management Policy* (State EM Policy) provides a strategic framework for emergency management in Western Australia. It has been approved by the State Emergency Management Committee (SEMC). The State EM Policy was approved by SEMC on 24 May 2016.

Local: [4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits](#)

Financial Implications

Limited costs will be incurred by Council as no attendance fees are paid, the main cost would be travel claims (if applicable). An allowance for elected members travel has been included in the 2016 -2017 budget.

Strategic Implications

Representation of Council on external organisations and Council Committees/Advisory Groups provides Council with additional information from the community. This representation assists Council to be better informed on current matters.

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

With the resignation of the Shire's Manager Human Resources any reference to this position in the Committee Booklet needs to be updated accordingly:

- | | | |
|----|---|----------------------------------|
| a. | Chittering Bushfire Advisory Committee | update with "Compliance Officer" |
| b. | Chittering Local Emergency Management Committee | update with "Compliance Officer" |

The Shire Officer has also noted that the Chittering Australia Day Advisory Group currently has only one Shire officer as a "Delegate"; and with the group expected to meet in November to discuss nominations the Club and Community Development Officer is to be appointed a "Deputy" to this group.

10.4.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 191016

Moved Cr Osborn / Seconded Cr Rossouw

That Council:

1. Appoint Cr Mary Angus:

- a. to the following Council Committee and external organisation until 21 October 2017:**

Description	Position
Chittering Audit Committee	Delegate
Tronox Community Consultative Committee	Delegate

- b. the portfolio of "Small Business and Economic Development" until 21 October 2017.**

2. Delete "Manager Human Resources" and replace with "Compliance Officer" on the following:

- a. Chittering Bushfire Advisory Committee; and**
b. Chittering Local Emergency Management Committee.

3. Appoint the Club and Community Development Officer as a "Deputy" to the Chittering Australia Day Advisory Group.

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

11. REPORTS OF COMMITTEES

Nil

12. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

15. MEETING CLOSED TO THE PUBLIC

The President asked the members of the public to leave the Chambers at 7.49pm

15.1 Matters for which the meeting may be closed

15.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 201016

Moved Cr King / Seconded Cr Rossouw

That Council moves into a confidential session to discuss items 15.1.1, 15.1.2 and 15.1.3 under the terms of the *Local Government Act 1995, Section 5.23(2)*:

- (a) *a matter affecting an employee or employees; and*
- (b) *the personal affairs of any person; and*
- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
- (e) *a matter that if disclosed, would reveal —*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,**where the trade secret or information is held by, or is about, a person other than the local government; and*
- (h) *such other matters as may be prescribed.*

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

15.1.1 Confidential Item: Appointment of Senior Employee

Report Date	19 October 2016
Applicant	Shire of Chittering
File ref	13/02/33
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Executive Summary

Council is requested to endorse the actions of the Chief Executive Officer in employing the new Executive Manager Corporate Services for a five (5) year period.

15.1.2 Confidential Item: Use of Common Seal on the Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon*

Report date	19 October 2016
Applicant	Shire of Chittering; Trustees of Edmund Rice Education Australia
File ref	04/18/65
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Deed of Variation of Agreement for Taking of Materials from Land – 3398 Bindoon-Dewars Pool Road, Bindoon

Executive Summary

Council is requested to endorse the actions of the Shire President and Chief Executive Officer in the use of the Common Seal on the Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon.

15.1.3 Confidential Item: Muchea Water Solutions Business Case*

Report date	19 October 2016
Applicant	Shire of Chittering
File ref	03/01/9
Prepared by	Alan Sheridan, Chief Executive Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Business Case for Muchea Water Solutions

Executive Summary

Council is requested to support, in principle, the proposed Muchea Water Solutions Project and is prepared to act as the project proponent.

15.2 Public reading of resolution that may be made public

The President reopened the meeting at 8.24pm and one member of the general public returned

15.1.1 **Confidential Item:** Appointment of Senior Employee

15.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 211016

Moved Cr King / Seconded Cr Rossouw

That Council endorses the actions of the Chief Executive Officer in employing Ms Rhona Hawkins as Executive Manager Corporate Services for a period of five (5) years from 3 January 2017 to 3 January 2022.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

15.1.2 **Confidential Item:** Use of Common Seal on the Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon*

15.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 221016

Moved Cr Rossouw / Seconded Cr Osborn

That Council:

1. Endorse the action of Chief Executive Officer in having the draft “Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon” prepared by McLeods.
2. Authorise the actions of the Shire President and Chief Executive Officer to sign and affix the Common Seal to the “Deed of Variation of Agreement for Taking of Material from Land – 3398 Bindoon-Dewars Pool Road, Bindoon”.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

15.1.3 **Confidential Item:** Muchea Water Solutions Business Case*

15.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 241016

Moved Cr Rossouw / Seconded Cr King

That Council endorse the recommendations as contained within report 15.1.3.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/0

16. CLOSURE

The Presiding Member declared the meeting closed at 8.25pm.

This page has been left blank intentionally



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

Office hours: Monday to Friday
8.30am - 4.30pm