

MINUTES FOR ORDINARY MEETING OF COUNCIL

Wednesday, 23 October 2013

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.02pm

Closure: 7.49pm



These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 20 November 2013.

SIGNED BY

 Person presiding at meeting which minutes were confirmed

DATE

Disclaimer

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

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

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

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

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1. SWEARING IN OF COUNCILLORS

Before the opening of the meeting Lee Martin, Justice of the Peace conducted the swearing in of the Councillors who were declared elected by the Returning Officer at the election held on Saturday, 19 October 2013.

Councillors Barni Norton, Don Gibson and Robert Hawes, in accordance with the *Local Government Act 1995, s2.29(1)* made the following declaration before acting in the office.

I of

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, fulfill 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*.

2. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Chief Executive Officer declared the meeting open at 7.02pm

3. ELECTION OF SHIRE PRESIDENT AND DEPUTY SHIRE PRESIDENT

3.1 Election of Shire President

The Chief Executive Officer advised that he had received four nominations for the position of Shire President prior to the Council meeting:

- Cr Clarke
- Cr Douglas
- Cr Hawes
- Cr Norton

There being no further nominations the Council members voted on the matter by secret ballot.

The Chief Executive Officer collected the votes and read aloud the result:

- Cr Clarke 1 vote
- Cr Douglas 2 votes
- Cr Hawes 2 votes
- Cr Norton 2 votes

As there was an equal vote, the Chief Executive Officer called an adjournment of the Council meeting.

All members of the gallery and shire staff left the chambers at 7.05pm.

At 7.07pm, the meeting was reopened to the public and the Chief Executive Officer conducted a second vote.

The Council members voted on the matter by secret ballot.

The Chief Executive Officer collected the votes and read aloud the result:

- Cr Clarke 0 votes
- Cr Douglas 2 votes
- Cr Hawes 3 votes
- Cr Norton 2 votes

The Chief Executive Officer declared Councillor Robert Hawes as elected Shire President.

Pursuant to Regulation 13(3) of the *Local Government (Constitution) Regulations 1998*, Councillor Robert Hawes made the following declaration as elected Shire President, witnessed by Lee Martin, JP:

I of

having been elected to the office of Shire President of the Shire of Chittering declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfill 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*.

The Chief Executive Officer handed the meeting over to the newly elected Shire President and Councillor Robert Hawes assumed the Chair.

3.2 Deputy Shire President

The Chief Executive Officer advised that he had received three nominations for Deputy Shire President prior to the Council meeting:

- Cr Clarke
- Cr Mackie
- Cr Rossouw

There being no further nominations the Council members voted on the matter by secret ballot.

The Chief Executive Officer collected the votes and the Shire President read aloud the result:

- Cr Clarke 1 vote
- Cr Mackie 2 votes
- Cr Rossouw 4 votes

The Shire President declared Councillor Michelle Rossouw as elected Deputy Shire President.

Pursuant to Regulation 13(3) of the *Local Government (Constitution) Regulations 1998*, Councillor Michelle Rossouw made the following declaration as elected Deputy Shire President, witnessed by Lee Martin, JP:

I of

having been elected to the office of Deputy Shire President of the Shire of Chittering declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfill 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*.

Lee martin congratulated the newly elected Councillors, Shire President and Deputy Shire President.

Councillor Robert Hawes, thanked Lee Martin for attending the meeting and conducting the swearing in of Councillors, Shire President and Deputy Shire President. He further expressed his thanks to the former Shire President, Councillor Alex Douglas and acknowledged his contribution as Shire President.

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

4.1 Attendance

The following members were in attendance:

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

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Mr Jim Garrett	Executive Manager Technical Services
Mrs Karen Parker	Manager Human Resources
Mr Brendan Jean	Senior Planner
Ms Danica Kay	Executive Support Officer (Minute Secretary)

The following guests were in attendance:

Lee Martin, JP	Freeman of the Shire
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There were 4 members of the general public in attendance.

4.2 Apologies

Nil

4.3 Approved leave of absence

Nil

5. DISCLOSURE OF INTEREST

Cr Douglas declared a Proximity interest in item 11.1.5 'Proposed Development Plan and subdivision WAPC 148162– Lot 7 Gray Road, Bindoon', as he is a neighbouring landowner.

6. PUBLIC QUESTION TIME

6.1 Response to previous public questions taken on notice

Nil

6.2 Public question time

6.2.1 Fire Suppression in the Shire

Mal Taylor, Wannamal asked the following question:

Is the Shire satisfied with the level of bushfire suppression and control within the Shire? This is asked on the basis that there is very little fire suppression done at the moment all over our shire and in other neighbouring shires. For example, in the Wannamal Hay Flat Reserve, there is 500 acres of bush land, with portions not having been burnt for 40-60 years. There is also 1000 acres on the corner Bindoon Moora Road and Waldeck West Road with high grass, no firebreaks and an absentee owner. This is also applicable for 2 paddocks near the Bindoon Hotel with wild oats. Binda Place is also a fire hazard with the Department of Environment and Conservation (DEC) owned land, behind the shops, with fuel build up and large tress hanging over the shops.

Response *The Shire President thanked Mr Taylor for identifying the areas that need attention and advised that the information will be passed onto the Community Emergency Services Manager to address prior to the fire season.*

The Chief Executive Officer further advised that DEC will be clearing the land behind Binda Place and that fire suppression and burn backs will be taking place in the Shire over the coming months.

7. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

Nil

8. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 Ordinary meeting of Council – Wednesday, 18 September 2013

OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 011013

Moved Cr Douglas / Seconded Cr Mackie

That the minutes of the Ordinary meeting of Council held on Wednesday, 18 September 2013 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

10. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

11. OFFICER'S REPORT

11.1 DEVELOPMENT SERVICES

11.1.1 Additional Dog Application – 57 Hereford Way, Lower Chittering*

Applicant	Michele Walker
File ref	A4071
Prepared by	Robert Butler, Acting Senior Ranger
Supervised by	Jamie O'Neill, Community Emergency Services Manager
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	One letter of support and one letter of objection from neighbours

Background

The Applicant currently owns two dogs registered within the Shire of Chittering, which are both sterilised Jack Russell breed dogs. The Applicant has made a Section 26 application to add a Mastiff X breed dog to her household for security reasons.

The property is on 2.7 hectares zoned "Rural Residential". The fencing is pine posts and star pickets with ringlock and sighter wire attached to a height of 1.2 to 1.4metre's.

The dogs are kept inside the house at night and when the owner is off the property.

There is no adverse history recorded for this property regarding any of these dogs.

Consultation

The Shire Ranger has sent letters to five (5) adjacent and adjoining land owners giving them the opportunity to comment on the additional dog application. Two submissions were received, where one objected to the application and one supported the application (see attachments).

The objecting neighbour states that previous neighbours with three dogs didn't control them and they were a problem, also considers three dogs will have a pack mentality. Rangers have tried to contact the objecting property owner and has been unable to speak directly to them. The objection is not against these dogs. The Applicant has been made aware that if these dogs become a nuisance, if granted approval it could be removed.

There is no record of three dogs being registered at this property previously. When attending the property the dogs barked a friendly greeting stopping on command from the owner. The dog owner when asked about barking said that they would not tolerate barking and would do whatever was necessary to resolve it if barking became an issue.

Statutory Environment

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

- 1) *The provisions of this Part shall not operate to prevent the keeping on any premises of 2 dogs over the age of 3 months and the young of those dogs under that age.*

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

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

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

may appeal in writing to the Minister who may, after such inquiry as he thinks fit, give directions to the local government concerned and effect shall be given to any such direction.
- 6) *An appeal under subsection (5) shall be lodged with the Minister not after that 28 days after the day on which a notice of the decision that it appealable is served on the person affected by that decision.*

Shire of Chittering Dogs Local Law 2011

3.2 Limitation on the number of dogs

- (1) *This clause does not apply to premises which have been—*
 - (a) *licensed under Part 4 as an approved kennel establishment; or*
 - (b) *granted an exemption under section 26(3) of the Act.*
- (2) *The limit on the number of dogs which may be kept on any premises is, for the purpose of section 26(4) of the Act—*
 - (a) *2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or*
 - (b) *3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.*

Policy Implications

Shire of Chittering Multiple Dog Policy

The Multiple Dog Policy ensures alignment with the Shire of Chittering Dog Local Law 2011 section 3.2(2) which allows for:

- (a) 2 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated within a townsite, small rural holding, rural retreat or rural residential; or
- (b) 3 dogs over the age of 3 months and the young of those dogs under that age if the premises are situated outside a townsite, small rural holding, rural retreat or rural residential.

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

Financial Implications

Nil, there is an application fee of \$165.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The Applicants have forwarded an application for the additional dog and paid the appropriate fee.

In determining the application the following processes were undertaken:

- 1) All adjoining and adjacent landowners were notified in writing giving them the opportunity to make comment to support or object to the application within a period of 21 days from the date of the letter.
- 2) The Shire Ranger attended the property and undertook a complete dog welfare check and a fencing check.
- 3) The Shire Ranger tried to contact the landowner who had made an objection however, contact could not be made.

The Applicant has shown to be a responsible dog owner and has complied with all requests made. There is adequate fencing and means to control the dogs, the dogs are kept inside at night and cannot roam.

The Chief Executive Officer has delegation (DA60) to deal with applications where no objection has been received. However, in this case one (1) objection has been received and therefore Council is now requested to consider the application.

11.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 021013

Moved Cr Mackie / Seconded Cr Clarke

That Council approve the Application by Michele Walker for the additional dog at 57 Hereford way, Lower Chittering subject to the following conditions;

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

Breed	Name
Jack Russell	Rusel
Jack Russell	Jacki
Mastiff X	Diesel

- 3. Should one of the current registered dogs under this application become deceased, the Applicant(s) cannot replace it with another dog without first reapplying and receiving approval from the Shire of Chittering for a third dog;**
- 4. The Applicant(s) must notify the Shire of Chittering if they move from the area or if there are any changes to the number of dogs listed above;**
- 5. The three (3) dogs must be registered at all times; and**
- 6. If at any time these requirements have been breached, Ranger Services may terminate the approval, and the dog (Mastiff X, Diesel) is to be removed from the premises within seven (7) days.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.1.2 Proposed Ancillary Accommodation – Lot 301 (RN 20) Tooday Glen, Chittering*

Applicant	Davley Building Pty Ltd
File ref	A10139 P274/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Aerial Photograph 4. Floor Plan 5. Elevation Plan

Background

Council's consideration is requested for a proposed ancillary accommodation (granny flat) at Lot 301 (RN 20) Tooday Glen, Chittering.

The total area of the proposed ancillary accommodation, being all habitable area, is 75m² which exceeds Council's policy requirement of 60m² maximum habitable floor space for ancillary accommodation.

Consultation

The proposal does not seek to vary any general development requirements under the *Town Planning Scheme No. 6* or Local Planning Policies with regard to siting and design that will impact adjoining/surrounding landowners. Therefore, it is unnecessary to refer the application to adjoining/surrounding landowners

Statutory Environment

Local: *Town Planning Scheme No. 6*

The subject property is zoned Rural Residential and the objectives of the zone are as follows:

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

Ancillary Accommodation is a 'D' use within Rural Residential zones which has the following meaning:

'D' means that the use is not permitted unless the Local Government has exercised its discretion by granting Planning Approval.

The following applies to ancillary accommodation

5.7 DWELLINGS IN THE AGRICULTURAL RESOURCE, RURAL RETREAT, RURAL SMALLHOLDINGS, RURAL CONSERVATION AND RURAL RESIDENTIAL ZONES

Local Government may permit ancillary accommodation providing it is located within the building envelope.

5.8 DEVELOPMENT PROVISIONS – RURAL RESIDENTIAL ZONE, RURAL RETREAT ZONE, RURAL SMALLHOLDINGS ZONE AND RURAL CONSERVATION ZONE

5.8.3 Planning Approval

Dwelling houses and ancillary buildings shall be constructed of non-reflective material (excluding glazed areas).

Policy Implications

Local Planning Policy 12 Additional Accommodation

The following of Local planning Policy 12 is relevant to this application:

5. POLICY STATEMENT

Council may permit the construction and occupation of:

5.2 ancillary accommodation for a member of the family of the primary dwelling in

Agricultural Resource, Townsite and Rural Residential Zones, in accordance with the following provisions:

- a) the accommodation is limited in size to a maximum of 60m²;*
- b) the accommodation is connected to the services of the primary dwelling (water, electricity and effluent disposal system);*
- c) the accommodation shares the same driveway access as the primary dwelling. No additional property access is permitted;*
- d) where a building envelope applies to the lot, the accommodation is contained within the envelope and permitted cleared area.*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social implications

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

Environmental implications

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

Comment

Consultation

As outlined above this application was not referred to adjoining surrounding landowners.

Shire of Chittering Town Planning Scheme No. 6

The objectives of the zone are as follows:

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

This application is consistent with the objections of the zone. 'Ancillary Accommodation' is a 'D' land use within Rural Residential zones allowing Council to use its discretion to approve ancillary accommodation on properties zoned Rural Residential.

As evident in Attachment 2 the ancillary accommodation is proposed within the current building envelope at the property. To be consistent with clause 5.7 of the Scheme (see statutory environment) it is recommended that this be a requirement of approval.

Pursuant to clause 5.8.3 of the Scheme, the ancillary accommodation, given it is an ancillary building, is required to be constructed of non-reflective materials (excluding glazed areas). Therefore, it is recommended this be a condition of approval.

Policy Implications

In order to be consistent with Council's *Local Planning Policy 12 Additional Accommodation* (see policy implications above) it is recommended that the proposed ancillary accommodation be approved subject to the following:

- *The Ancillary Accommodation is limited in size to a maximum of 60m²;*
- *The Ancillary Accommodation shall be connected to the services of the primary dwelling (water, electricity and effluent disposal system);*
- *The Ancillary Accommodation shall share the same driveway access as the primary dwelling. No additional property access is permitted;*
- *All development shall be within the building envelope.*

11.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 031013

Moved Cr Gibson / Seconded Cr Clarke

That Council:

- 1. Support the proposed ancillary accommodation at Lot 301 (RN 20) Tooday Glen, Chittering subject to an amended site plan being lodged with the Shire of Chittering reducing the habitable area of the ancillary accommodation to a maximum of 60m².**
- 2. Upon completion of condition 1 above, delegate authority to the Chief Executive Officer to grant Planning Approval for the proposed ancillary accommodation at Lot 301 (RN 20) Tooday Glen, Chittering subject to the following conditions:**
 - a. All development shall be within the building envelope;**
 - b. The Ancillary Accommodation is limited in size to a maximum of 60m²;**
 - c. The Ancillary Accommodation shall be connected to the services of the primary dwelling (water, electricity and effluent disposal system);**
 - d. The Ancillary Accommodation shall share the same driveway access as the primary dwelling. No additional property access is permitted.**
 - e. The Ancillary Accommodation shall be constructed of non-reflective materials (excluding glazed areas).**

Advice Notes:

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 7/0

11.1.3 Proposed Boundary Fence – Lot 881 (RN 9) Ghost Gum Ridge, Chittering*

Applicant	G & P Shemeld
File ref	A10835 P264/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Chittering Rise Development Plan 4. Fire Management Plan Appendix A – Access Gate Details 5. Property Boundary Photos

Background

Council's consideration is requested for a boundary fence at Lot 881 (RN 9) Ghost Gum Ridge, Chittering.

The Applicants are proposing a boundary fence with 7/90/60 Ringlock wire up to 1.1m high with a single strand wire 100mm above the Ringlock, giving an overall fence height of 1.2m. There are 80mm nominal bore galvanised strainers proposed with safety capped galvanised star pickets spaced 10m apart (refer to Attachment 2). The use of star pickets requires Council approval.

Five (5) access points are proposed along the boundary fences which can be seen in Attachment 2. Each access point utilises two (2) agricultural gates which are 3m long with 25mm galvanised pipe frame. The gates are 900mm high and are attached to the strainers with brooker hinges.

The subject property encompasses a 6m wide 'Alternative Strategic Fire Break' on the Eastern side of the property (refer to Attachment 3). The gates providing access to this Strategic Fire Break and the required 3m wide fire break on the Northern side of the property are proposed to be fitted with Shire approved locks to provide access for fire fighting purposes (refer to Attachment 2). Furthermore, at the very Northern end of the Eastern Boundary a Shire approved 4.8m wide gate with a lock is proposed to provide access from the Strategic Fire Break to the adjacent Eastern property for fire fighting purposes. To see photos of the site provided by the Applicants refer to Attachment 5.

The purpose of the proposal is to restrict unauthorised public access onto their property through the Alternative Strategic Fire Break.

Consultation

External

The application was referred to two (2) adjoining landowners who share boundaries with the Applicant where the boundary fence is proposed. No submissions were received.

Internal

The application was referred to the Shire's Community Emergency Services Manager for comment regarding fire safety. The comments provided were consistent with the relevant Fire Management Plan and the Shire's Fire Notice. Advice was for the Alternative Strategic Fire Break to be gated in accordance with the Fire management Plan to allow access for fire fighting purposes.

Statutory Environment

Local: Shire of Chittering Town Planning Scheme No.6

The subject property is zoned 'Rural Residential'. The objectives of this zone are:

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

The following of clause 5.8.4 of the Scheme is relevant to this fencing application:

5.8.4 Fencing

No fencing shall be permitted or undertaken within an area designated for vegetation protection as depicted on the Development Plan unless approved in writing by the Council. The Council may determine the type, height, materials and extent of any fencing.

Development Plan

The subject property is within the Chittering Rise Estate and is subject to the Chittering Rise Development Plan through a notification on the Certificate of Title. The following of the Land Management Provisions outlined on the Development Plan is relevant to this application:

- 3. Tree Preservation Area: Tree Preservation areas are defined on the Development Plan as all naturally vegetated areas.*
- 5. Fencing: No fences shall be permitted in tree preservation areas unless prior approval of the Council is granted. Approval is not required for the construction of a fence around the building clearing area or along a required firebreak.*

Fire Management Plan

The property is subject to a Fire Management Plan, through a notification on the Certificate of Title, which applies to the Chittering Rise Estate. The following of the Fire Management Plan is relevant to this application:

"Should the Shire of Chittering approve the erection of perimeter fencing on any lot within the estate that abuts, or is traversed by any portion of an alternative strategic firebreak, it is open to the Shire to require the installation of 4.8m wide gates, or as otherwise acceptable to the Shire, for the purpose of ensuring adequate access between the alternative strategic firebreak and the subject lot.

The structural details of access gates typically required by the Shire are illustrated in Appendix A (refer to Attachment 4). It is the responsibility of the individual lot owner to maintain in good order and condition the property fence and any gates. Future modifications to fences and gates may only be undertaken following consultation with and written approval from the Shire of Chittering.

If access gates are required to be locked, they may be fitted with a Shire of Chittering G1-3 security lock which may be purchased directly from the Shire. The Shire and Bush Fire Brigades will hold keys to G1-3 security locks."

Policy Implications

Local Planning Policy 22 Fences

The following provisions of Local Planning Policy 22 are applicable to this application:

5. POLICY STATEMENT

5.1 General Requirements

- b) *the erection of any fence or gate to prevent access to a strategic fire break is prohibited (see also Local Planning Policy No. 21 – Fire Management Plans);*

5.4 Rural Residential, Small Rural Holdings and Rural Retreat Zones

In the Rural Residential, Small Rural Holdings and Rural Retreat Zones, subject to the requirements of any Development Plan:

- a) *barbed wire and electric boundary fences are prohibited;*
c) *where natural vegetation adjoins a road reserve, no fence shall be constructed between the road reserve and the building clearing area;*
d) *all fences require planning consent, other than sufficient fences;*
(i) enclosing a building clearing area or other previously cleared area, which may contain trees and regrowth;
(ii) adjoining a fire break required as part of a fire management plan;
e) *a sufficient fence comprises the following:*
(i) height up to 1.25m;
(ii) ringlock or similar, post and rail or multiple strand single wire construction;

Note: Construction of fences, including boundary fences, in areas of uncleared natural vegetation require Council approval. Star picket fences are not recommended and require Council approval.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social implications

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

Environmental implications

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

Comment

Consultation

The application was referred to the two affected adjoining landowners sharing property boundaries with the Applicant. No submissions were received.

Policy Implications

The proposed fence meets the specifications of a sufficient fence (refer to policy implications) in accordance with *Local Planning Policy 22 Fences* except for the use of star pickets. The use of star pickets is “not recommended” by the Policy and requires Council approval. The use of star pickets will not produce a safety issue as the Applicants are proposing to use safety caps. To ensure the use of the safety caps it is recommended their use be a requirement of the approval. On the site visit the Applicants stated they wished to avoid using wood products as they have a high potential to be significantly damaged in the event of a fire.

Policy statement 5.1(b) of Local Planning Policy 22 prohibits the erection of any gate or fence to prevent access to a strategic firebreak. As the Shire of Chittering and local bush fire brigades will hold keys to the locked gates across the Alternative Strategic Fire break at the subject property, this proposal is seen not to prevent access.

To ensure no other variations to the provisions of Local Planning Policy 22 it is recommend the application be approved subject to the requirement to construct the fence to that specified in the proposal and *Local Planning Policy 22 Fences*.

Shire of Chittering Town Planning Scheme No. 6

The objectives of the zone are as follows:

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

The application does not undermine the objectives of the zone given the proposed fence is widely used throughout rural areas within the State.

With regard to clause 5.8.4 of the Scheme, all remnant vegetation is depicted on the Development Plan as tree preservation areas, restricting the fencing unless approved in writing from Council. However, Local Planning Policy 22 and the Development Plan allow for fences along the required fire breaks. As the property is larger than 2.2 hectares firebreaks are required under the Shires Fire Notice.

Fire Management Plan and Development Plan

In order to be consistent with the requirements of the Chittering Rise Fire Management Plan (refer to Fire Management Plan above) approval of the application is recommended subject to the following conditions:

- Gates shall be installed at either end of the Alternative Strategic Fire Break and on the Eastern Property Boundary, in accordance with Attachment 2, to allow access for fire fighting purposes;
- The gates outlined in condition 3 (see officer recommendation below) shall meet the minimum structural detail requirements of ‘Appendix A’ of the Chittering Rise Fire Management Plan, as illustrated in Attachment 4;
- The gates outlined in condition 1 shall be locked with G1-3 security locks, purchased at from the Shire of Chittering at the cost of the Applicant;
- It is the responsibility of the land owner to maintain in good order and condition the property fence and any gates;
- Any future modifications to the fence and/or gates shall require Council approval.

The Applicant’s proposal meets all the recommended conditions above. The Applicant has proposed most access points to exceed the minimum 4.8m width requirement of the structural details outlined in Appendix A to two 3m gates at access points, seeing 6m wide access points (refer to Attachment 2).

Similarly to clause 5.8.4 of the *Town Planning Scheme no. 6*, the Chittering Rise Development Plan identifies the proposed fence as being in a tree preservation area, therefore Council approval is required.

11.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 041013

Moved Cr Clarke / Seconded Cr Mackie

That Council grants Planning Approval for the proposed fence at Lot 881 (RN 9) Ghost Gum Ridge, Chittering subject to the following conditions:

- 1. The proposed fence shall be in accordance with the approved plan;**
- 2. The proposed fence shall be in accordance with the following specification:**
 - a. The fence shall not exceed a maximum height of 1.25m**
 - b. The fence shall not be constructed of barbed wire/s and/or electric wire/s.**
 - c. Star pickets shall be maintained with protective caps.**
 - d. The fence shall be constructed of 80mm nominal bore galvanised strainers, star pickets, 7/90/60 Ringlock wire and 1 single strand wire;**
- 3. Gates shall be installed at either end of the Alternative Strategic Fire Break and on the Eastern Property Boundary, in accordance with Attachment 2, to allow access for fire fighting purposes;**
- 4. The gates outlined in condition 3 shall meet the minimum structural detail requirements of 'Appendix A' of the Chittering Rise Fire Management Plan, as illustrated in Attachment 4;**
- 5. The gates outlined in condition 3 shall be locked with G1-3 security locks, purchased from the Shire of Chittering at the cost of the Applicant;**
- 6. It is the responsibility of the land owner to maintain in good order and condition the property fence and any gates;**
- 7. Any future modifications to the fence and/or gates shall require Council approval.**

Advice Notes:

- 1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.**
- 2. The Applicant is advised that the Shire of Chittering and local Bush Fire Brigades will hold keys to the G1-3 security locks required through Condition 5.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.1.4 Proposed Parking of One (1) Truck and Trailer (Retrospective) – Lot 209 (RN 54) Salmon Gum Crescent, Chittering*

Applicant	J and A Green
File ref	A10401 P248/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Locality Plan2. Site Plan3. Aerial Plan4. Consultation Plan5. Schedule of Submission6. Proposed Commercial Vehicle7. Recommended Revegetation8. Site Photographs

Background

Council's consideration is requested for the retrospective approval of the proposed parking of one (1) truck and one (1) trailer at Lot 209 (RN 54) Salmon Gum Crescent, Chittering.

The Applicants are proposing to park one (1) six wheeler rigid tipper truck and one (1) four axle dog trailer, which can be considered by Council for the parking of a 'Commercial Vehicle'. The total length of the combined vehicle is 18.7m. The proposed time the commercial vehicle will egress from the subject property is generally 5am to return at 5pm. The commercial vehicle will operate Monday to Friday with the possibility of operating on some Saturdays.

The application is just for the purpose of parking the single truck and trailer and would not involve loading the truck on the subject property or hauling any loads to and from the property. The Applicant has stated that in order to comply with Main Roads Western Australia's (MRWA) standards he would be required to undertake a small amount of minor maintenance. The Applicant mentioned the possibility of parking different truck and trailer combinations at the property with only one combination being parked at the property at one time.

The Applicant proposes to park the vehicle outside of the building envelope located at the property in a cleared area that involved the removal of dead and diseased vegetation (refer to attachment 2). Given the close proximity of the parking location to the property boundary the Applicant has proposed screening through revegetation.

Consultation

Initially the application was referred to ten (10) surrounding affected landowners for comment. A total of two (2) submissions were received, one supporting the application and one supporting the application subject to conditions.

Towards the end of the submission period the misuse of one of the Shire's letters came to Shire's attention. One of the letters sent out in the referral of this application had been modified with the letter head removed and titled with the following text:

"Warning Your Childs Safety May Be At Risk Please Read Letter Below. If You Are Concerned Please Contact The Shire Now."

The letter was posted at Bus stops within the Chittering Rise Estate. Subsequently a letter was sent out to all property owners within the Estate informing residents that the misuse of the Shire's letters will not be tolerated. The letter also informed residents of the extension of the referral period of the subject application for another week. Resultantly, two (2) more submissions were received, one supporting and one objecting to the application. All submissions received were from residents initially referred to. To view the submissions refer to Attachment 5.

Internal Consultation

Executive Manager Technical Services:

The application was referred to the Shire's Executive Manager Technical Services (EMTS) regarding the capacity of the local roads (refer to Attachment 1) and subject crossover to handle the commercial vehicle movements.

The Shire's EMTS advised that the roads are of sufficient capacity to handle the extra movements of the commercial vehicle, given that the vehicle would be empty. Further advice was given that the crossover at Lot 209 Salmon Gum Crescent, Chittering may potentially incur degradation over a long period from the trucks movements. Therefore, recommendation was made that the crossover be upgraded to an asphalt surface.

Principal Environmental Health Officer:

The application was referred to the Shire's Principal Environmental Health Officer who recommended that the operating hours of the truck be limited to 7am to 7pm Monday to Saturday and no operation on Sundays or Public holidays. Advice was also given that the 'Parking of Commercial Vehicle' is required to comply with the *Environmental Protection (Noise) Regulations 1997*. Compliance with these regulations gives a basis to the recommended operating hours above as these are the times when the most noise is permitted.

Statutory Environment

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

The subject property is zoned 'Rural Residential'. The objectives of this zone are:

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

The application proposes the parking of a truck and trailer. The Scheme defines a truck and trailer as a 'Commercial Vehicle':

Commercial Vehicle means a vehicle whether licensed or not which is used or designed for use for business, trade or commercial purposes or in conjunction with a business, trade or profession and without limiting the generality of the foregoing includes any utility, van, truck, trailer, tractor and any attachment to any of them or any article designed to be attached to any of them, and any bus or any earthmoving machine whether self propelled or not. The term shall not include a vehicle designed for the use as a passenger car or any trailer or other thing most commonly used as an attachment to a passenger car, or a van, utility or light truck which is rated by the manufacturer as being suitable to car loads of not more than 1.5 tonnes.

A 'Commercial Vehicle' is a 'Use not Listed' and is dealt with under Clause 4.4.2 of the Scheme:

- 4.4.2 *If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category the Local Government may-*
- (a) determine that the use is consistent with the objectives of the particular zone and is therefore permitted; or*
 - (b) determine that the use may be consistent with the objectives of the zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for Planning Approval; or*
 - (c) determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted.*

The Applicant mentioned the possibility of parking multiple trucks and trailers at the property with only one truck and trailer parked at the property at any one time. This would constitute a transport depot which is defined as the following:

Transport Depot means premises used for the garaging of two (2) or more motor vehicles, used or intended to be used for carrying of goods or persons for hire or reward, or for the transfer of goods or persons, and includes maintenance and repair of the vehicles, used but not for other vehicles.

The application has involved clearing to provide an access track for the truck and trailer, therefore the following clause 5.8.8 is applicable:

5.8.8 Protection of Vegetation and Tree Cover

In order to enhance the rural amenity of the land in areas, that the Council considers deficient in understorey and tree cover, it may require as a condition of any planning approval the planting of such understorey and trees and/or groups of trees and species as specified by the Council.

Areas of Vegetation Protection identified on the adopted Development Plan using Clause 5.8.1 of the Scheme shall not be cleared, felled or removed except where necessary in the following situations:

- (a) the vegetation is dead, diseased or poses a danger to humans or stock;*

The following of Clause 10.2 of the Scheme are applicable to this application:

10.2 Matters to be considered by Local Government

The Local Government in considering an application for Planning Approval, is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application-

- a) The aims and provisions of the Scheme;*
- o) The preservation of the amenity of the locality;*
- p) The relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- q) Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- r) The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- aa) Any relevant submissions received on the application;*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

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

Social implications

Four (4) submissions were received regarding the application. One submission objected to the application and one requested changes to the application, through conditions placed on approval, due to social issues raised.

Environmental implications

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

Comment

Consultation

Four (4) submissions were received over the total process of referring the application, with one objecting to the application, two supporting the application and one supporting the application subject to conditions. To view the submissions refer to Attachment 5.

Road Permit

As the total combination of the truck and trailer is 18.7m in length the commercial vehicle is an "as of right vehicle" and does not require a RAV permit to access the local roads.

Operating Hours

The Applicant proposes to leave the property at approximately 5am every morning Monday to Friday and return at 5pm, with the possibility of working some Saturdays. Minor maintenance is proposed in order to comply with Main Roads standards.

The Shire's Principal Environmental Health Officer recommended that the operating hours of the above activity be limited to the following:

- Monday to Saturday 7am – 7pm; and
- No operation on Sundays and Public Holidays.

The above operating times are based on the *Environmental Protection (Noise) Regulations 1997*. These regulations prevail over the conditions of approval determined by Local Government; therefore it is recommended that compliance with the Regulations be a condition of approval. Furthermore, given that other applications within the Shire regarding the presence of trucks on properties with nearby dwelling have been given similar operation restrictions, the above operating times are recommended to ensure such applications are treated with consistency.

Transport Depot Use

The Applicant mentioned the possibility of changing the truck and trailer parked at the property. It is recommended that approval be given only for the truck and trailer the subject of this application as it is the only combination that has been assessed and referred for comment as a part of this application. Furthermore, allowing the parking of different trucks and trailers constitutes a 'Transport Depot Use' which is not permitted in the zone. Although the trucks would not be parked at the property at the same time the premises would still be used for the "garaging of two (2) or more motor vehicles, used or intended to be used for carrying of goods or persons for hire or reward" as defined by the Scheme.

Shire of Chittering Town Planning Scheme No.6

Objectives of the Zone:

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

The property is well vegetated except for the presence of an access track on the Eastern portion of the property, surrounded by scattered dead and diseased remnant vegetation, making the truck and trailer visible from the road and Eastern adjoining property (refer to Attachment 2). Therefore, the visual presence of the truck and trailer somewhat impacts the amenity of the area. This was one issue raised in a submission received from an adjoining landowner affected by the visual presence of the truck. In strong contrast to the above, one adjoining landowner made a submission stating the visual presence of the truck and trailer improved the rural amenity of the area.

Given the clearing for the access track has occurred outside of the building envelope it is recommended that the Eastern portion of the property be revegetated in accordance with Attachment 7 to address concerns raised. Upon the site visit to the property the Applicants stated that they were already interested in revegetation to maintain privacy. The Applicant advised the rationale for the clearing was to remove the dead and diseased vegetation which was increasing the fire hazard at the property. The proposed clearing is relatively consistent with clause 5.8.8 of the Scheme allowing for the clearing of dead and diseased vegetation. The Applicant proposed the future planting of citrus trees, however as planting would occur outside of the building envelope native species are recommended to maintain vegetation protection in accordance with clause 5.8.8 and the Chittering Rise Development Plan.

The access track has been constructed to provide access and parking which involves no reversing to remove the potential for 'reverse beepers', thereby providing less of a noise impact on surrounding landowners. The proposed starting operation time does somewhat undermine the amenity of the 'Rural Residential' zone given that it has a strong residential aspect.

Use Not Listed:

Council has the ability to determine a use not listed based upon the provisions of the Scheme listed previously.

Matters to be considered by Local Government:

- a) *The aims and provisions of the Scheme;*

The aims and provisions of the Scheme have been addressed above.

- o) *The preservation of the amenity of the locality;*

The truck and trailer are visible from the road and Eastern adjoining property, therefore revegetation is recommended as outlined above.

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

The truck and trailer are 18.7m long and would be parked in accordance with Attachment 2.

As the truck and trailer are not a permanent structure and would predominantly be parked at night time, the scale and appearance of the truck and trailer cannot be seen to have a large effect on adjoining properties.

- q) *Whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*

An internal access track has been cleared within the site, through the clearing of dead and diseased vegetation, to allow efficient manoeuvring and parking without degrading the environment. The Applicants have relocated their crossover to a position which provides less degradation. Upon the site visit there appears to be little damage to the crossover. However, advice from the Shire's Executive Manager Technical Services still recommends that the crossover be upgraded to an asphalt surface to ensure no degradation occurs to the crossover in the future.

The application does not entail the loading and unloading of any materials and is only for the parking of the commercial vehicle.

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

The application proposes two extra traffic movements a day with the truck and trailer leaving the property in the early morning and returning in the late afternoon.

The Applicant mentioned the possibility of changing the vehicle parked at the property, as they own two different combinations of trucks and trailers and are interested in purchasing a third. This potentially increases the traffic movements per day.

- aa) *Any relevant submissions received on the application;*

All submissions have been provided in Attachment 5.

11.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 051013

Moved Cr Douglas / Seconded Cr Gibson

That Council:

1. Support the proposed 'Parking of Commercial Vehicle' on Lot 209 (RN 54) Salmon Gum Crescent, Chittering subject to the construction of an asphalt crossover in accordance with the Shire of Chittering specifications, to the satisfaction of the Chief Executive Officer;
2. Upon completion of condition 1 above, delegates authority to the Chief Executive Officer to grant Retrospective Planning Approval for the proposed 'Parking of Commercial Vehicle' on Lot 209 (RN 54) Salmon Gum Crescent, Chittering subject to the following conditions:
 - a. Approval shall include the parking of one (1) six wheeler rigid tipper truck and one (1) four axle dog trailer the subject of this application, as shown in Attachment 6 'Proposed Commercial Vehicle';
 - b. The hours of operation shall be restricted to:
 - i. Monday to Saturday 7am – 7pm
 - ii. No operation on Sundays and Public Holidays;
 - c. Truck movements outside of the prescribed hours as detailed in Condition 2 (b) above, shall be in accordance with the assigned noise level of the *Environmental Protection (Noise) Regulations 1997*. No other operations/activity (Maintenance) shall be undertaken outside of the prescribed hours;
 - d. Compliance with the *Environmental Protection (Noise) Regulations 1997*;
 - e. Minor maintenance shall be limited to the Applicants vehicle on site including:
 - i. The change of oil;
 - ii. The change of tyres; and
 - iii. Shall only be carried out during the times outlined in condition 2 (b) and between 9am – 7pm on Sunday;
 - f. The parking location of the Commercial Vehicle on the property shall be in accordance with Attachment 2 'Site Plan'; and
 - g. The property shall be revegetated in accordance with Attachment 7, utilising native species of varying heights and shall be undertaken within three (3) months of the date of this approval to the satisfaction of the Chief Executive Officer.

Advice Notes:

1. The Applicant has a right of review to the State Administrative Tribunal should the Applicant be aggrieved by Council's decision. Such a review should be lodged to the State Administrative Tribunal within twenty-eight (28) days of Council's decision.
2. The hours of operation listed in Condition 2(b) does not apply to the egress to and from the subject property. Any egress to and from the property outside of those hours, Monday to Saturday, is required to comply with the *Environmental Protection (Noise) Regulations 1997*, as per condition 3.

THE MOTION WAS PUT AND DECLARED CARRIED 5/2

The Chief Executive Officer advised that this item has been withdrawn at the request of the applicant.

11.1.5 Proposed Development Plan and subdivision WAPC 148162– Lot 7 Gray Road, Bindoon*

Applicant	Dynamic Planning
File ref	18/07/6 18/03/81 P213/13
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Proposed Development Plan 3. Schedule of Submissions

Background

Council is requested to consider the proposed Development Plan and subdivision for Lot 7 Gray Road, Bindoon.

The Western Australian Planning Commission (WAPC) granted final approval to the rezoning of Lot 7 Gray Road from 'Agricultural Resource' to 'Rural Residential', 'Residential R2' and 'Parks and Recreation' on 20 November 2012.

The Applicant has now submitted a Development Plan application concurrent with a subdivision application to the Western Australian Planning Commission. Subdivision approval can only be granted once the Development Plan is endorsed.

Lot 7 Gray Road is 44.7 hectares located approximately 4.5km from Bindoon Townsite. The property contains a watercourse along the frontage of the property. The property slopes upwards to the south and is more densely vegetated in the southwest section where conservation vegetation has been identified.

In brief the Development Plan proposes the following:

- Total of forty-one (41) lots:
 - o 23 'Residential R2' lots;
 - o 18 'Rural Residential' lots (1 is a "Bush Conservation" lot);
- Three (3) portions of Public Open Space (POS) totalling 5.4 hectares;
- 20m wide road reserves; and
- 10m road widening of Gray Road.

Council has also been referred the subdivision application for opportunity to provide comment to the Western Australian Planning Commission.

Consultation

The Development Plan application was advertised for a period of fourteen (14) days in the following ways:

- Letters to likely affected landowners;
- Letters to relevant agencies;
- Advertising sign at property; and
- Advertisement in the Advocate.

Within this period a total of four (4) public submissions were received and six (6) agency submissions. The submissions have been included in a Schedule of Submissions (Attachment 3).

Public consultation is not required for subdivision.

Consultation was undertaken with the Shire's Executive Manager Technical Services to obtain advice regarding access and road layout of the proposal and has been incorporated in the comments section of this report.

Statutory Environment

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

The subject property was recently rezoned to the following:

Residential R2:

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

Rural Residential:

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

The property also contains a Local Reserve for the purpose of 'Parks and Recreation'.

Clause 5.8.1 of the Scheme makes requirement for a Development Plan.

Clause 5.8.5 of the Scheme outlines the requirement for lots within the Bindoon Townsite Consolidation Area to be connected to a reticulated water supply.

Local: *Shire of Chittering Delegated Authority Register*

DA47 Subdivision

The proposed subdivision is greater than five (5) lots and therefore there is no delegated authority to determine the application.

Policy Implications

State: *Planning for Bush Fire Protection Guidelines Edition 2*

In essence, there are five general principles which underpin the guidelines:

2.2 General principles underpinning the guidelines

Principle 1

Bush fire hazards must be considered in planning decisions at all stages of the planning process to avoid increased fire risk to life and property through inappropriately located or designed land use and development.

Principle 2

Local governments are to identify bush fire hazard levels in their structure plans, local planning strategies and local planning schemes, based on the bush fire hazard assessment methodology in the guidelines. A detailed assessment is to be undertaken to review the accuracy of a 'broad brush' assessment, as a basis for determining land use and zoning for specific development proposals. The advice of FESA is to be sought in this regards.

Principle 3

Subdivision and development in areas with an extreme bush fire hazard level or a bush fire attack level between BAL-40 and BAL-FZ, is to be avoided unless certain fire protection requirements can be implemented to the satisfaction of the WAPC, FESA and/or the local government.

Principle 4

In areas with an extreme bush fire hazard level where more intensive subdivision/development, such as residential, rural-residential, hobby farms, tourist and industrial developments, is considered unavoidable, permanent hazard reduction measures need to be implemented to the satisfaction of the decision-making authorities (ie FESA, the WAPC, and/or the relevant local government) to reduce the hazard level to low or moderate or bush fire attack levels between BAL-Low and BAL-29.

Principle 5

Structure plans, subdivision and development in areas with a moderate to extreme (or BAL-12.5 to BAL-FZ) bush fire hazard level needs to be supported by an assessment of the bush fire risk and compliance with the performance criteria and acceptable solutions set out in these guidelines. If such development cannot achieve compliance with the performance criteria and acceptable solutions, any alternative acceptable solutions have to be jointly endorsed by FESA, the WAPC, and the relevant local government.

2.3 Guidance statements for strategic plans, planning strategies, planning schemes, planning scheme amendments and structure plans

Guidance statement A1

Bush fire hazard assessment and analysis required

Unless it is clear to the decision-making authority that the land in question is not in an area that has a moderate or extreme bush fire hazard level¹, any new proposals or proposals which will effect a change of land use or design resulting in the introduction of, or an intensification of development should:

- include a bush fire hazard assessment based on the fire hazard assessment methodology and classifications set out in appendix 1 of these guidelines;*
- identify any bush fire hazard issues arising from that assessment; and*
- address those issues, in accordance with the general principles that underpin these guidelines, in a statement or a report which demonstrates that all fire protection requirements can be achieved to the satisfaction of the WAPC.*

Guidance statement A2

Areas with extreme bush fire hazard levels

Any change of zoning/planning provisions or design resulting in the introduction of, or an intensification of, development in an area that has an extreme bush fire hazard level will normally not be approved.

Guidance statement A3

Areas with extreme bush fire hazard levels where the introduction of, or intensification of land use is unavoidable

Any new proposals or proposed land use, zoning or design change that will result in the introduction of, or an intensification of development in an area that has an extreme bush fire hazard level, but which are considered unavoidable, will only be approved where it can be demonstrated that acceptable, permanent hazard reduction measures can be implemented at some subsequent stage in the planning process to reduce the hazard level to an acceptable level, and that the development can be undertaken in accordance with the general principles and building construction standards that underpin these guidelines. This may include an appropriate building protection zone, hazard separation zone and construction to an appropriate standard as specified in AS 3959 and as supported by a satisfactory risk assessment and analysis.

Guidance statement A4

Areas with moderate fire hazard levels

Any new proposals or proposed changes of zoning or design that will result in the introduction of, or an intensification of, development in an area that has a moderate bush fire hazard level will only be approved where the development can be undertaken in accordance with the general principles that underpin these guidelines. In the case of structure plans, where the bush fire hazard was addressed at the time of the zoning of the land, the information on that hazard may be re-used, if the information is still relevant.

Guidance statement A5

Incorporating bush fire hazard controls in local planning schemes and local planning strategies

Consideration is to be given to providing measures in local planning schemes and their amendments, and local planning strategies to identify bush fire hazard areas and ensure that development in these areas addresses bush fire hazard issues. Special control areas can be linked to the boundaries of the bush fire hazard areas established through a strategic bush fire hazard assessment.

Guidance statement A6

Consult with FESA for planning matters and strategic bush fire hazard assessments

The advice of FESA is to be sought where compliance with the guidelines is unlikely to be achieved or additional/alternative measures are proposed to achieve the objectives. FESA is also to be consulted to provide advice on a strategic bush fire hazard assessment and the selection of areas suitable for more intensive development from a bush fire safety point of view.

Guidance statement A7

Referral to DEC and other decision-making authorities

Where the land that is the subject of a new proposal or proposed changes of zoning or design that will result in the introduction of, or an intensification of, development in an area that abuts vegetated land managed by DEC or other relevant management agency, the application is to be referred to the DEC (or relevant agency) for advice, regarding the potential impact of their fire management practices on the amenity of the future occupants, prior to a decision being made by the decision-making authority.

Guidance statement A8

Matters to be taken into consideration

In addition to the matters normally required to be taken into consideration, any advice received from FESA, the DEC (regarding potential impacts of their fire regime on amenity) or other relevant authority regarding fire management practices is to be taken into consideration before a decision is made by the decision-making authority on that application. When assessing new proposals or proposed changes of zoning or design that will result in the introduction of, or an intensification of, development that abuts land vested in the DEC, FESA will consider input from DEC on bush fire management prior to providing final advice on fire management practices to the decision-making authority.

Local: *Local Planning Policy No. 1 Bindoon Townsite*

Lot 7 Gray Road is located within Development Precinct D.

4.6 Development Precinct D (Gray Road-Crest Hill Road) (Figure 14)

4.6.1 Location and Description

Gray Road bounds this small precinct to the south, Precinct A to the west, Crest Hill Road to the north and Brockman River to the east.

For the most part the landform is very steep with the lowest part being by the Brockman River floodplain at 130 metres AHD and rising to over 240 metres AHD to the west.

There is a very low vegetation cover over the precinct with the only remains of natural vegetation being along a streamline along Gray Road and the floodplain to the east. The rest has been extensively cleared for pasture and some isolated citrus orchard. Other land uses include deer farming and hobby farms.

Strong ridgelines with associated steep gradients are the main landform characteristics as seen from both Gray Road and Crest Hill Road.

Drainage is totally to the Brockman River. Three main streamlines run from the hillsides to the Brockman River and are subject to run off erosion.

4.6.2 Land Holdings and Capability

There are five large lots the largest being 85 hectares. Smaller lots of under two hectares are located along Gray Road. An area of public open space (10.09 ha) covers the downstream portion of the Gray Road streamline.

The EEP DR3 covers the whole of the development precinct. Coolakin soils dominate the higher landforms with the heavier Bindoon soil types on the eastern slopes towards the floodplain. Nooning soils occupy the main streamline along Gray Road and the Brockman River floodplain.

Where the land has been cleared on the Bindoon soils, there is a high capability for horticulture and grazing providing adequate measures are taken to control erosion.

The steepness of the hillsides limits accessibility for rural living and horticulture, although some of the more gentle slopes could accommodate these uses. It is also recommended that such developments be limited to revegetate the ridge tops and steeper slopes to stabilise the soils.

4.6.3 Objectives and Policies

Objectives

- a. *To protect the natural landform from development and rehabilitate the ridgelines and streamlines as part of any development proposal;*
- b. *To acquire part of the floodplain of the Brockman River as part of any subdivision for its protection from further degradation;*
- c. *to permit some development for rural living and hobby farms on the lower slopes and flat area.*

Policies

The policies shall include the following considerations for any development proposal:

- a. *To allow for rural living development at a minimum lot area of 5000m², providing scheme water is connected to each lot;*
- b. *To encourage clustering of lots and only on the lower and flatter land;*
- c. *To set aside the ridgelines and watercourses for revegetation;*
- d. *To require the fencing and rehabilitation of the Brockman River floodplain;*
- e. *To acquire part of Lot 484 and Lot 1285 (floodplain) as part of the extension of the Clune Park Reserve;*
- f. *To allow for hobby farms on some of the productive land at minimum lot areas of five hectares.*

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

Local Planning Policy No. 32 – Development Plans requires the endorsement of a Development Plan prior to the subdivision of land. The Applicant has submitted a Development Plan consistent with Section 5.2 of the Policy.

Local: *Local Planning Policy No. 16 – Roads and Drainage*

The Policy requires rural road reserve widths to be 30m and constructed to the standards prescribed in the Subdivision Development Requirements. The proposed road reserves are 20m, consistent with the urban road reserve width in the Policy.

Financial Implications

Nil

Strategic Implications

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

The Strategy identifies Lot 7 as being a “Priority Development Area” within the “Bindoon Townsite Consolidation Area”.

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

The proposed development of Lot 7 will create an additional forty-one (41) rateable residential lots to the benefit of the Shire and further consolidate the expansion of the Townsite Consolidation Area.

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. The extent of clearing for the proposed lots is reduced by the location of the building envelopes and clustered vegetated areas depicted on the Development Plan. The Development Plan indicates Public Open Space resulting in the protection of the watercourse and a Conservation Lot which shall retain a significant amount of remnant vegetation adjoining conservation value vegetation to the west.

Comment

Town Planning Scheme No. 6

The Development Plan has been submitted to comply with the requirements of the Scheme to permit subdivision of the site. The property was rezoned to 'Rural Residential' and 'Residential R2' and includes the provision of Public Open Space. The lot sizes depicted on the Development Plan meet the minimum lot size requirements.

The proposed subdivision creates lots that are consistent with the objectives of the zone. The lots proposed in the Residential R2 zone are greater than 5,000 square metres and Rural Residential lots are 1 hectare and greater. The proposed lots are within the Townsite Consolidation Area and, as required by Clause 5.8.5 of the Scheme, are required to be connected to a reticulated water supply. The only circumstance for this development that the provision of reticulated water supply is not to be provided is if the Applicant demonstrates that it is not possible or feasible. The Applicant proposes that the development will be connected to a reticulated water supply. This is recommended to be revised on the Development Plan to stipulate lots require connection to a reticulated water supply and not 'if available'.

Local Planning Strategy

Lot 7 is identified as a 'Priority Development Area' and is located within the Townsite Consolidation Area, which reflects the Bindoon Water Supply Area. The Strategy also identifies the watercourse on the property as 'Vegetation Protection'. It is considered the proposed Development Plan achieves the objectives of the Local Planning Strategy by promoting residential development in the Consolidation Area which will facilitate economic activity in the Bindoon Townsite.

The proposed subdivision provides lots of 5,000 square metres requiring reticulated water supply within the Townsite Consolidation Area. The subdivision will also result in the ceding of the Public Open Space protecting the watercourse. A recommended condition of subdivision is to have the Public Open Space revegetated to enhance the quality of the watercourse to help achieve the outcomes of the 'Vegetation protection Area' identified in the Strategy. It is considered the subdivision achieves the aims and objectives of the Strategy.

Local Planning Policy No. 32 Development Plans

The Development Plan has been submitted as required by Local Planning Policy No 32 Development Plans prior to subdivision. It is considered the Development Plan will require some minor modifications to be consistent with the Policy such as modifying the Adoption Panel to include the Shire President. These modifications and additional modifications mentioned in the report have been reflected in the Officer's Recommendation.

Consultation

Public consultation was undertaken for the proposed Development Plan. The Shire received four (4) public submissions for the application of which one (1) objected to the proposal. The main concerns raised by the public were the likely increase in dogs as a result of new lots which could impact rural landowners nearby by way of dog attacks on livestock and road safety for pedestrians on Gray Road from creating additional intersections.

During the consultation period the Shire also received six (6) submissions from agencies. The submission from the Chittering Landcare Group outlines a number of concerns and likely impacts the development would cause. This included concerns regarding excessive clearing of vegetation required for fire protection, the land capability of the smaller lots close to the watercourse area and the impact of stocking of grazing animals of a more intense nature. The Shire has consulted the Applicant on the land capability of lots in close proximity to the watercourse and the Applicant has provided a response from a qualified consultant proposing modifications to the Development Plan. The Development Plan (Attachment 2) has recently been modified to address these concerns. It is considered that the concerns raised by the Chittering Landcare Group have been addressed in the proposed modifications to the Development Plan and conditions of subdivision.

Land Capability

The Applicant prepared an Environmental Land Capability Assessment for the purpose of the rural residential development initially proposed for the site with the scheme amendment. The Land Capability of the site is important at the Development Plan stage, particularly given the modification to the rezoning to include 'Residential R2', since Council last viewed and determined the scheme amendment application. The Land Capability Assessment was prepared for the purpose of the 'Rural Residential' development. The correspondence from the environmental consultant supports the intensification of development on the site of lots to 5,000 square metres.

Particular reference is made to the land capability of effluent disposal in the document which notes "*Nn3 and the Ga2x soil type are not suitable to effluent disposal*". The document also mentions "*To be conservative, it is recommended no effluent disposal systems be located within the Nn3 or Ga2x soil groups*". As mentioned earlier the Applicant's environmental consultant provided further information regarding effluent disposal in these soil types and smaller lots and has advised that with slight modifications (i.e. relocation of building envelopes) the concerns raised can be addressed. The Applicant has made these modifications to the Development Plan (Attachment 2).

The Land Capability Assessment notes a minimum buffer of 20m from the watercourse to be sufficient. It is the Shire's Policy and a requirement of the Department of Water that the minimum setback distance be 30m and a requirement of Local Planning Policy No 32 that the reservation/protection of the watercourse be a minimum width of 40m. It is considered the Development Plan allows for sufficient buffer to development.

Public Open Space

The proposed Public Open Space on the Development Plan is approximately 5.38 hectares, being located along the frontage of Lot 7 Gray Road, containing the watercourse which dissects the property.

The Applicant has proposed to cede the Public Open Space to the Shire as part of the subdivision process.

Roads/Access

As mentioned in the report *Local Planning Policy No. 16 Roads and Drainage* states rural roads reserves to be 30m and urban road reserves to be 20m. The Development proposes residential and rural residential lots. The Shire's Executive Manager Technical Services has been consulted and supports the 20m road reserve width.

Conservation

The Development Plan identifies one (1) lot notated as "*Proposed Bushland Conservation*". This lot is predominantly vegetated and is situated adjacent to a large area of vegetation identified as 'High Conservation Value' on the Shire's Local Biodiversity Strategy.

It is recommended a conservation covenant on this lot be required as a condition of subdivision.

Fire hazard

The Applicant has provided a draft Fire Management Plan, including a bush fire hazard assessment of the site. The assessment of the site identifies some areas of extreme fire hazard, predominantly in the proposed Bush Conservation Lot and north-east lot adjoining the Public Open Space. It has been a recent approach by the Western Australian Planning Commission to not support development in extreme bushfire hazard areas, as per the *Planning for Bush Fire Protection Guidelines*. The draft Fire Management Plan (FMP) identifies the Bushfire Attack Level (BAL) of the proposed building envelopes, with one building envelope being identified as BAL-29 (referred to as high).

The FMP mentions that dwellings on all lots with a BAL of 12.5 or higher are to be constructed to the relevant construction requirements as per Australian Standards (AS) 3959-2009. It should be noted that these Standards cannot be enforced by the Shire unless the site is designated by the Town Planning Scheme as Bush Fire Prone. As this is not the case for Lot 7, it is considered appropriate that the Development Plan and Fire Management Plan be amended so all proposed lots with an extreme bush fire hazard risk rating are removed.

Concluding Comments

In light of the above comments, it is considered the Development Plan requires several minor modifications to be acceptable. Some of these modifications have been undertaken by the Applicant prior to the finalisation of the agenda report. In brief the previous modifications and recommended modifications include the following:

- New lots with an extreme bushfire hazard risk rating to be removed.
- Justify proposed lots within the 'very low' to 'low' capable soil types to be suitable for effluent disposal.
- Remove proposed lots 39-41 due to lack of achievable gazetted road access.
- Modify the Development Plan Provision to stipulate the requirement of AS3959-2009 (construction standards for dwellings in bushfire-prone areas).
- Amend the Adoption Panel to be consistent with the layout of the Policy.

11.1.5 OFFICER RECOMMENDATION

1. That Council:
 - a. Endorses the Development Plan for Lot 7 Gray Road, Bindoon with the following modifications:
 - i. Modify the Development Plan to remove lots in areas with an extreme bushfire hazard risk rating.
 - ii. Modify Endorsement Panel to include Shire President as a signatory.
 - iii. Modify 'Building Envelope' Provision by removing reference to Building Protection Zone.
 - iv. Modify 'Potable Water' Provision to state all lots to be connected to a reticulated water supply.
 - v. Modify 'Fire Control' Provision to remove date of Fire Management Plan and revise to state landowners to comply with the approved Fire Management Plan.
 - b. Authorises the Chief Executive Officer and Shire President to sign and affix the Common Seal on the Development Plan.
 - c. Forwards the endorsed Development Plan to the Western Australian Planning Commission for approval and endorsement.
2. That Council advise the Western Australian Planning Commission of its support for the proposed subdivision (WAPC 148162) of Lot 7 Gray Road, Bindoon subject to the following conditions:
 - a. All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.
 - b. Uniform fencing being constructed along the boundaries of all of the proposed lots to the satisfaction of the local government.
 - c. Prior to commencement of subdivisional works, a detailed plan identifying building envelope(s) on all lots on the approved plan of subdivision is to be prepared in consultation with the local government to ensure the appropriate siting of development, to the satisfaction of the local government.
 - d. Drainage easements and reserves as may be required by the local government for drainage infrastructure being shown on the diagram or plan of survey (deposited plan) as such, granted free of cost, and vested in that local government under Sections 152 and 167 of the *Planning and Development Act 2005*.
 - e. A fence restricting vehicle and stock access to the Public Open Space is to be constructed on the Public Open Space boundaries to protect native vegetation to the satisfaction of the local government.
 - f. A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the land to protect areas identified for conservation. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan).
 - g. A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a restriction on the land. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows:
"No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government."
 - h. A fire management plan being prepared, approved and relevant provisions implemented during subdivisional works, in accordance with the WAPC's *Guideline Planning for Bushfire Protection Edition 2, May 2010 (in particular Appendix 3)* to the specifications of the local government and/or the Department of Fire and Emergency Services.

- i. A notification, pursuant to section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
"The lot(s) is/are subject to a fire management plan."
- j. The landowner/applicant shall make arrangements to ensure that prospective purchasers of lots subject of a Development Plan are advised in writing that Development Plan provisions apply.
- k. A foreshore reserve in accordance with the plan dated 7 October 2013 (attached); as established by survey, being shown on the diagram or plan of survey (deposited plan) as a reserve for waterway management and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without any payment of compensation by the Crown.
- l. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, to ensure that those lots not fronting an existing road are provided with frontage to a constructed road(s) connected by a constructed road(s) to the local road system and such road(s) are constructed and drained at the landowner/applicant's cost to the satisfaction of the local government.

As an alternative, and subject to the agreement of the Local Government the Western Australian Planning Commission (WAPC) is prepared to accept the landowner/applicant paying to the local government the cost of such road works as estimated by the local government and the local government providing formal assurance to the WAPC confirming that the works will be completed within a reasonable period as agreed by the WAPC.
- m. Engineering drawings and specifications are to be submitted, approved, and subdivisional works undertaken in accordance with the approved plan of subdivision, engineering drawings and specifications, for the provision of shared paths through and connecting to the application area to the satisfaction of the local government.

The approved shared paths are to be constructed by the landowners/applicant to the satisfaction of the local government.
- n. Gray Road being widened in accordance with the approved plan of subdivision/plan dated 14 June 2013 (attached) by the landowner/applicant transferring the land required to the Crown free of cost for the purpose of widening Gray Road.
- o. All local streets within the subdivision being truncated in accordance with the Western Australian Planning Commission's *Liveable Neighbourhoods policy/DC 2.6 Residential Road Planning*.
- p. Suitable arrangements being made with the local government for the provision of vehicular crossover(s) to service the lot(s) shown on the approved plan of subdivision.
- q. Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to all lots shown on the approved plan of subdivision.
- r. The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body.
- s. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
"A reticulated sewerage service is not available to the lot/s."
- t. Rural numbering shall be provided for each lot to the satisfaction of the local government.

11.1.6 Proposed Subdivision – Lodgement of Application – Lots 5 & 62 Great Northern Highway, Bindoon*

Applicant	Shire of Chittering
File ref	A9502
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Subdivision Plan

Background

The proposed subdivision has been prepared by the Shire of Chittering staff to rationalise and allocate separate lots predominantly for the development of the Independent Living Units and Health Centre on Lot 62 Great Northern Highway in Bindoon. The purpose of this agenda item to Council is to present the proposed subdivision for Council's consideration and gain authorisation to lodge the application with the Western Australian Planning Commission for its determination.

The proposed subdivision seeks to implement the following objectives:

- Allocate a separate lot for a future Independent Living Units development, such that the lot can be controlled as a separate entity to the remainder of the site;
- Subdivide a separate lot for the Shire's Health Centre;
- Subdivide Lot 5 containing the Respite Centre into 3 lots to improve the functionality of the location for medical/community related purposes which will include the St Johns Ambulance and potential future Community Housing; and
- Create a Right of Way 20m wide from Chinkabee Road along the rear of existing Townsite lots to provide access to proposed lots A to E, as per the proposed subdivision plan.

There are currently two (2) lots in the proposed subdivision, being Lots 5 and 62 Great Northern Highway, Bindoon. Three (3) additional lots and a Right of Way will be created as a result of the proposed subdivision.

The lots of the proposed subdivision have been orientated and aligned based on the following factors:

- To provide an area of 3.651 hectares for the Independent Living Units which will cater for a potential of 80 units identified in discussions with the Council;
- To provide an area for the Health Centre. The lot containing the future Health Centre is proposed as being the remainder of current Lot 62 (11.8459 hectares) to simplify the lot configuration and minimise costs on the Shire associated with subdivision i.e. construction of road access, provision of services etc.; and
- To contain the existing Respite Centre building into one lot and allow for future services on separate lots, such as St Johns Ambulance. The configuration of the Lot 5 area maximises the utilisation of this land and allows for access to be directed off the highway.

The proposed subdivision aims to facilitate development of the site for the retirement village, Health Centre and potential future residential subdivision of the remainder of the site.

Consultation

A number of Councillor Workshops have been held over the past 12 months to determine the preferred site layout.

Prior to the disposal of any property public consultation will be undertaken in accordance with the *Local Government Act 1995*.

Statutory Environment

Shire of Chittering Town Planning Scheme No.6

The land is zoned 'Townsite' with an R-Code of R10/30 by the Shire of Chittering Town Planning Scheme No.6.

The objectives of the 'Townsite' zone in the Scheme are

To provide for a range of compatible uses within the Bindoon and Muchea townsites to provide for a high range of services, residential types, community and recreation facilities in a village with rural character;

To prohibit land uses which may adversely effect the living and visual amenity of the location;

To provide for the protection of a natural environment;

To protect or enhance any local reserves.

Clause 5.3 outlines the special application of the Residential Planning Codes. In relation to the proposal it states that:

In the area coded R10/30, the R10 code shall apply unless:

- a) a connection to a reticulated sewer network is available or otherwise in accordance with the provision of any relevant Government Sewerage Policy;*
- b) the proposed development satisfies the design requirements of the Council for the development at the higher code.*

Policy Implications

Shire of Chittering Local Planning Policy No.1 – Bindoon Townsite

The site is included in Development Precinct G (Town Centre Area) by the Shire of Chittering Local Planning Policy No.1 – Bindoon Townsite. The following objectives and policies are applicable to Precinct G.

"Broad Objectives

- a) To designate areas suitable for the expansion of the townsite for residential, commercial and community uses;*
- b) To retain the ridgelines to the east and Lake Needoonga foreshore to the west as natural containment to the town setting;*
- c) To examine the town road system and make recommendations for improvements in traffic circulation and control;*
- d) To allow for expanded commercial, cultural, residential and recreational uses;*
- e) To prepare a detailed structure plan for the cohesive development of the town.*

Broad Policies

The policies shall include the following considerations for any development proposal:

- a) To preserve the remnant bushland on the steeper slopes to the east of the townsite as part of the natural backdrop of all townsite development;*
- b) To coordinate development and conservation measures along the Lake Needoonga foreshore in liaison with CALM to enhance the outlook and accessibility of the public areas;*

- c) *To set aside land for residential purposes with large lots on the undulating land on the perimeter of the development area, standard lots for normal residential purposes and special residential development nodes for aged persons unit/accommodation and rental accommodation;*
- d) *To make allowance for a centralised recreation and cultural centre as the focal point of the local community;*
- e) *To designate land for the expansion of the primary school or to provide a larger site elsewhere in the town centre;*
- f) *To designate land for a sports arena and associated recreation centre/community facilities;*
- g) *To plan a road pattern to service the proposed development to provide safe and efficient access to all parts of the town, particularly the primary school;*
- h) *To design a comprehensive drainage plan to ensure protection of existing and future urban development and control and prevent nutrients from entering Lake Needoonga;*
- i) *To ensure equitable distribution of development costs for all landowners and the Shire of Chittering;*
- j) *To provide guidance through policy statements for all buildings and structures to meet the overall theme of presentation."*

Figure 19 of the Policy is a Structure Plan for the Bindoon Townsite and is only indicative of future development.

Financial Implications

The subdivision aims to facilitate and progress the development of the Independent Living Units and Chittering Multipurpose Health Centre, consistent with the Shires investment into developing the site.

Substantial costs will be incurred with the development of the property, ~~details of which have been provided by Cardno BSD~~. further detailed costings will be provided prior to development.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

The proposed subdivision will progress the development of Independent Living Units and Health Centre in Bindoon, stimulating the local economy and resulting in a more viable use of the land.

Social implications

The future development of the land as a result of the subdivision will provide services of great benefit to the community.

Environmental implications

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

Comment

The proposed subdivision seeks to facilitate the future development of Lot 62 (formerly known as Lot 979) for the Shire of Chittering. The subdivision will simplify future matters regarding the landholding, specifically the development of the Independent Living Units and Health Centre.

With regards to the statutory and policy implications of the proposed subdivision, the proposed subdivision is considered to comply with these requirements. The proposed lots meet the minimum lot size requirements for R10 and road frontage is provided for all the proposed lots, removing the need for highway access. The Local Planning Policy for Bindoon identifies Lot 62 for residential development and the expansion of recreational and community facilities. It is considered the proposed subdivision will facilitate the development of community facilities and residential lots, should the demand make it viable in the future.

Lot A on the Plan (Attachment 1) not only allows for the future procurement of the land for the Independent Living Units development, but should any Restrictive Covenant or other Title restriction be placed on the lot for its use, which is typical for these type of developments, it won't impact or restrict the use on the remainder of the Shire's land.

It is recommended that Council authorise the Chief Executive Officer and Shire President to affix the Common Seal of the Shire of Chittering and sign the Form 1A – Application for Approval of Freehold or Survey Strata Subdivision.

11.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 061013

Moved Cr Douglas / Seconded Cr Mackie

That Council:

- 1. endorses the proposed subdivision of Lots 5 and 62 Great Northern Highway, Bindoon;**
- 2. Authorises the Shire President to sign and affix the Common Seal to Form 1A – Application for Approval of Freehold or Survey Strata Subdivision; and**
- 3. Authorises the Chief Executive Officer to sign and lodge the subdivision application for Lots 5 and 62 Great Northern Highway, Bindoon to the Western Australian Planning Commission for its determination.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.2 TECHNICAL SERVICES

11.2.1 Extension to Bindoon Medical Centre – Lot 14 Binda Place, Bindoon – Tender Acceptance

Applicant:	Shire of Chittering
File ref:	A9531
Prepared by:	Rick Choules, Building Coordinator
Supervised by:	Jim Garrett, Executive Manager Technical Services
Voting requirements:	Absolute Majority
Documents table:	ASIC Documents, Tender Submissions, Option B Plan
Attachments:	Nil

Background

Earlier in the year the Binda Medical Group had received funding under the Primary Care Infrastructure Grant scheme from the Department of Health & Ageing (DHA) to undertake a small extension being a treatment room to Council's current medical centre in Bindoon. Several changes were made to the position and layout of the proposed treatment room to reduce the impact of works disrupting the daily running of the medical centre.

At the Ordinary meeting of Council held on 21 August 2013, Council resolved to accept the funding of \$132,293 to undertake this project.

Two options were tendered on:

- Option A included existing toilet modifications to cater for disabled persons.
- Option B did not include the toilet modifications.

The scope of works proposed is:

- Construction of a new double brick, sheet metal roofing treatment room (55m²)
- Window reconfiguration to consult room.
- Disability access to treatment room.
- Improved access to front entry.
- Pergola Repair.

The conditions of Tendering, contract requirements, specification of works and other relevant details were provided in the Shire's request for Tender documents. The Shire follows the code of tendering AS4120 and contract management framework.

Tenders were called on 14 September 2013 for the Bindoon Medical Centre Extensions. Tenders closed at 4pm on Friday 27 September 2013.

Tenders were received from:

1. ECLAT Building Pty Ltd	Option A - \$116,956	Option B - \$102,352
2. Robert Parker Homes	Option A - \$126,75	Option B - \$107,864
3. Connolly Building Company	Option A - \$142,156	Option B - \$100,757

Note: it was noted by the Building Coordinator that in the Connolly Building Company tender on Option B, that a nil amount was entered for floor coverings. A follow up phone call and email confirming this was made to Connolly Building Company and an adjustment was made and agreed with, adding an amount of \$6,050 to the Tender amount for Option B changing the Tender amount for Option B from \$100,757 to \$106,807.

Under the scope and period of the contract the contract shall be at practical completion within twelve (12) weeks from the date of signing.

Consultation

Gary Tuffin, Chief Executive Officer
Jim Garrett, Executive Manager Technical Services
Kelly Ford, Principal Building Surveyor

Statutory Environment

State: Local Government Act 1995 s3.57 – Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
- (2) Regulations may make provision about tenders.*

State: Local Government (Function and General) Regulations 1996, Part 4, Division 2 – Tenders for providing goods or services (s3.57), Regulations 11-24.

Policy Implications

Purchasing Policy

Financial Implications

Funding of \$132,293.00 excluding GST has been offered by the Department Health & Ageing for the proposed extensions, and minor medical/office equipment. From this amount \$113,093 has been allocated for proposed extensions. These funds are yet to be received by the Shire subject to executing the Deed of Novation.

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

Triple Bottom Line Assessment

Economic Implications

There are no known significant economic implications with this proposal.

Social Implications

The completion of extensions to the Medical Centre Building will provide additional room to effectively perform its function.

Environmental Implications

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

Comment

The tenders submitted must fulfil the requirements of the Tender Selection Criteria, as described below:

- (i) Experience on Similar work within the last two years (50%)
- (ii) Capacity to undertake this contract (30%)
- (iii) Management Systems (20%)
 - Only Connolly Building Company and Robert Parker Homes addressed the management systems in terms of the organisational values, methodology used to manage relationships with customers, company's continuous improvement methodology and organisational personnel performance from a non-financial aspect.

Scorecard for: Tender Bindoon Medical Centre Extensions		Rating Scale: 10 = Outstanding , exceeds criterion 8 = Very good , exceeds criterion 6 = Good offer, no deficiencies, meets criterion 4 = Fair offer, few deficiencies, almost meets criterion 2 = Marginal offer, some deficiencies, partly meets criterion 0 = Non-conforming criterion		
Tenderer	Eclat Building Pty Ltd	Robert Parker Homes	Connolly Building Company	
Evaluation Criterion	Score (out of 10) and weighted score (%)			
Prices submitted	A - \$116,956 B - \$102,352	A - \$126,750 B - \$107,864	A - \$142,156 B - \$106,807	
Experience on similar work on past 2 years (50%)	8 (50%)	8 (40%)	8 (40%)	
Capacity to undertake this contract (30%)	5 (15%)	8 (24%)	8 (24%)	
Management system, values, methodology, performance (20%)	5 (10%)	8 (16%)	8 (16%)	
Total	18 / 75%	24 / 80%	24 / 80%	

The Department of Health and Ageing funding has budgeted \$113,093.00 for the addition of new treatment room, the proposed option B (no toilet modification) will be achievable within that budget.

The lowest tender, Eclat Building Pty Ltd scored the lowest of the three (3) Tenders received on compliance and selection criteria. The Australian Securities and Investments Commission website (www.asic.gov.au) was checked for any insolvency and other notice issues that may be relevant for all three (3) Tenders received. It was found that Eclat Building Pty Ltd had two (2) recent items listed. Refer to Documents Table information.

Connolly Building Company and Robert Parker Homes both scored the same on compliance and selection criteria with the difference between the Tenders being \$1,057.00.

In this respect it is recommended that the Tender be awarded to Robert Parker Homes \$107,864.00. This contractor has previously carried out contract works for the Shire of Chittering, recently completing the Chinkabee Complex Playgroup Extensions on time and within budget.

11.2.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 071013

Moved Cr Gibson / Seconded Cr Mackie

That Council:

- 1. Subject to the signing and receiving of Federal Government, Department of Health and Ageing Funds accept the Tender submitted by Robert Parker Homes for \$107,864 inclusive of GST to complete the Bindoon Medical Centre extensions.**
- 2. Authorise the Shire President and Chief Executive Officer to sign and affix the Shire's Common Seal to the tender contract with Robert Parker Homes.**

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

11.2.2 Asphalt and Cement Stabilising Road Construction Works*

Applicant	Shire of Chittering
File ref	28/03/0002
Prepared by	Jim Garrett, Executive Manger Technical Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments:	Asphalt matrix Stabilising matrix

Background

As part of the Council's annual road construction program, quotes were requested through the WALGA Preferred Suppliers arrangement, to supply and lay approximately 1,000 tonne of asphalt. Quotes were also requested for the application of approximately 25,000m² of cement stabilization to increase the strength of the road base and reduce the volume of gravel needed for the road construction.

The roads that works will be carried out on are;

- Chittering Road
- Chittering Valley Road
- Muchea South Road (Carried over funds from the 2012/2013 financial year)
- Archibald Street

Quotes were received from the following suppliers;

Downer	\$192 per tonne for asphalt	\$251,975 for the cement stabilisation
Roads 2000	\$196 per tonne for asphalt	\$205,880 for the cement stabilisation
Boral	\$189 per tonne for asphalt	\$ 0.00 - service not provided
Fulton and Hogan	\$195 per tonne for asphalt	\$ 0.00 - service not provided

All quotes received are GST exclusive.

Due to the amount on the quotes received and the threshold of any purchases over \$100,000 in the Shire of Chittering purchasing policy, the Chief Executive Officer requires Council approval to sign the purchase orders for the supply and lay of approximately 1000 tonne of asphalt and the cement stabilisation of 25,000m² of road base.

A qualitative criterion was conducted to assess both asphalt and stabilising quotes as can be seen in the attachments.

Roads 2000 received higher scores in the asphalt matrix due to works carried out in previous years for the Shire of Chittering and experience of staff and contractors to carry out the work. They also received a higher score for the stabilising works due to the price received and the experience of the contractor that they will use (WA Stabilizing). By using the same contractor to carry out the two road building activities, programing and scope of works can be scheduled more effectively.

Consultation

Nil

Statutory Environment

State: Local Government Act 1995 s3.57 – Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

State: Local Government (Function and General) Regulations 1996, Part 4, Division 2 – Tenders for providing goods or services (s3.57), Regulations 11-24.

Policy Implications

Purchasing Policy

Financial Implications

In the 2013/2014 budget for road construction the funds have been allocated to;

Chittering Road	\$332,580
Chittering Valley Road	\$228,292
Archibald Street	\$170,000
Muchea South Road	\$ 94,596
Total	\$825,468

The estimated value of works under this contract is **\$401,880**. This value may change subject to the final total areas (m²) completed.

Strategic Implications

Nil

Site Inspection

Yes

Triple Bottom Line Assessment

Economic implications

Reconstruction of the roads will assist in the asset preservation of the Shire of Chittering Road network reducing maintenance costs.

Social implications

Reconstruction of the roads will improve road safety for all road users.

Environmental implications

The use of cement stabilisation will reduce the amount of gravel used in the road construction reducing the need to remove top soil and vegetation to excavate gravel.

Comment

Core testing and soil sampling has been carried out on the roads to see what depth of gravel is in the road base and types of soil for the application rate of cement to be applied.

When roads have been stabilised they will be water bound and sealed. The asphalt seal is scheduled to be laid in the New Year.

It is recommended that Roads 2000 be awarded the contract for the supply and lay of approximately 1,000 tonne of asphalt and cement stabilising of approximately 25,000m² of road base.

11.2.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 081013

Moved Cr Gibson / Seconded Cr Douglas

That Council:

- 1. Award Roads 2000 the contract to supply and lay approximately 1,000 tonne of asphalt at \$196 per tonne.**
- 2. Award Roads 2000 the contract to cement stabilise approximately 25,000m² for \$205,880.**
- 3. Authorise the Chief Executive Officer to sign a purchase order for Roads 2000 to supply and lay approximately 1,000 tonne of asphalt and cement stabilise approximately 25,000m².**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.3 CORPORATE SERVICES

11.3.1 Financial statements for the period ending 30 September 2013*

Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Financial Statements for period ending 30 September 2013
Attachments	<ol style="list-style-type: none">1. Statement of Financial Activity for period ending 30 September 20132. Bank reconciliation for period ending 30 September 20133. List of accounts paid for September 2013

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 2013, financial statements, bank reconciliation and list of accounts paid for the period ending 30 September 2013 are hereby presented for council's information.

Consultation

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

Statutory Environment

State: *Local Government Act 1995*

Local Government (Financial Management) Regulations 1996

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

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

11.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 091013

Moved Cr Gibson / Seconded Cr Rossouw

That Council:

1. endorse the list of payments:
 - PR3163
 - PR3174
 - EFT 8565 - EFT 8678
 - Municipal Fund Vouchers 13407 - 13426
 - Direct Debits as listed
 - BPV32 to BPV32
 - Trust Vouchers 356-361

Totalling \$615,828.39 for the period ending 30 September 2013.
2. receive the bank reconciliation for the period ending 30 September 2013.
3. receive the financial statements for the period ending 30 September 2013.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.3.2 Registration Fees for Cats & Dogs

Applicant	Shire of Chittering
File ref	19/02/1; 19/04/0003
Prepared by	Jean Sutherland, Executive Manager Corporate Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	Nil

Background

The Department of Local Government and Communities has recently completed a review of the registration fees prescribed under the *Dog Act 1976* and developed the registration fees to be prescribed under the *Cat Act 2011*.

These fees were gazetted on 23 August 2013.

Consultation

Acting Senior Ranger

Statutory Environment

Dog Act 1976

Cat Act 2011

Policy Implications

Nil

Financial Implications

Revenue from registrations of dogs and cats has been included in the 2013-2014 budget.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There are no known economic implications associated with this proposal

Social implications

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

Environmental implications

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

Comment

As from 1 November 2013, all domestic cats in Western Australia, over six months of age, will need to be sterilised, microchipped and registered with their local government as the full *Cat Act 2011* comes into effect.

It is to be noted that all new dog registrations require the dog to be microchipped as of 1 November 2013. Dogs that are already registered have until 1 November 2015 before they are required to be microchipped.

The Circular from the Department of Local Government and Communities made the following points when developing the fee structures.

Annual Registration

The base fee for the annual registration of a sterilised cat or dog is \$20. While this does not cover the local government's costs, the principles of social fairness and affordability have been applied to encourage people to register their pets. The fee for an unsterilised dog is \$50, covering a local government's cost of registration while encouraging sterilisation.

Three year registration period

The three year registration fee for both sterilised cats and dogs is \$42.50. The principle of user pays has been applied in arriving at this figure, based on the average administration costs per dog for registration, determined through feedback from the Sector. The fee for an unsterilised dog is \$120, covering a local government's cost of registration while contributing to the enforcement of the Act and encouraging sterilisation.

Lifetime registration period

A \$100 fee for lifetime registration of cats has been introduced. This covers the registration costs to local government and contributes to annual enforcement costs over the life of the animal.

Concessions

Pensioners are entitled to a 50% concession for annual, three year and lifetime registration.

Breeders

An annual fee of \$100 per breeding cat has been introduced. This is less than the cost of sterilising the cat but does encourage the sterilisation of cats in the longer term – a key objective of the *Cat Act 2011*.

Cat Registration Fees		
Item 1	Description of Fee	Fee
1.	Fee for an application for grant or renewal of the registration of a cat for one year – (a) if application is for grant of registration and is made after 31 May for registration until the next 31 October (b) otherwise	\$10.00 \$20.00
2.	Fee for application for grant or renewal of the registration of a cat for 3 years	\$42.50
3.	Fee for application for grant or renewal of the registration of a cat for life	\$100.00
4.	Fee for application for grant or renewal of approval to breed cats	\$100.00 per breeding cat (male or female)

If the owner of a cat is a pensioner, the fee payable for an application for the grant or renewal of the registration of the cat is 50% of the fee that would otherwise be payable.

Dog Registration Fees		
Item 1	Description of Fee	Fee
1.	Registration of unsterilised dog for one year (unless owned by pensioner) Note: s.15(4), (5) and (6) of Act	\$50.00
2.	(a) Registration of unsterilised dog owned by pensioner for one year	\$25.00
	(b) Registration of sterilised dog for one year – (i) for dog owned by pensioner (ii) otherwise	\$10.00 \$20.00
	(c) Registration of sterilised dog for 3 years (i) for dog owned by pensioner (ii) otherwise	\$21.25 \$42.50
	(d) Registration of unsterilised dog for 3 years (i) for dog owned by pensioner (ii) otherwise	\$60.00 \$120.00
	(e) Concessional rate of registration fee for dogs to which section 7(3)(e) of the Act applies (paid in lieu of a separate registration fee in respect of each dog) Note: s 15(5) and (6) of Act	\$200.00 per establishment

Pensioner means an eligible pensioner as defined in the *Rates and Charges (Rebates and Deferments) Act 1992* section 3(1)

Council is requested to amend the registration fees that were adopted at the Ordinary Meeting of Council held 15 May 2013 and adopt the new cat registration fees.

11.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 101013

Moved Cr Gibson / Seconded Cr Mackie

That Council:

- 1. Amends the Dog registration fees in the Schedule of Fees and Charges to be effective from 1 November 2013; and**
- 2. Adopts the Cat registration fees and includes them in the Schedule of Fees and Charges to be effective 1 November 2013.**

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

11.4 CHIEF EXECUTIVE OFFICER

11.4.1 Update Delegations Register – Cat Act 2011*

Applicant	Shire of Chittering
File ref	13/05/0001
Prepared by	Danica Kay, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	Updated DA34 Appointment of Authorised Officers DA62 Cat Registration DA63 Cat Control Notice

Background

In accordance with Section 5.46 of the *Local Government Act 1995*, delegations are to be reviewed at least once every financial year. At the Ordinary Meeting of Council 19 June 2013, Council resolved as follows:

“Moved Cr Gibson / Seconded Cr Mackie

That Council endorse the Delegated Authority Register as attached.”

The Cat Act 2011 comes into effect on 1 November 2013.

Consultation

Chief Executive Officer

Statutory Environment

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

Cat Act 2011 sections 9, 9 (5), 10, 11, 12, 13, 26 and 48

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Not Applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

On 1 November 2013, phase 2 of the implementation of the Cat Act 2011 comes into effect. This is the final phase of the commencement of the act. Prior to 1 November 2013, Local Governments should be prepared to administer and enforce the new legislation.

Below is a table of functions or duties under the act which may be delegated and how the Shire will administer them:

Section/ Regulation	Relevant Power or Duty	Action
Section 3	A local government may approve in writing an operator of a cat management facility	Require Council approval,
Section 9	A local government may grant, renew or refuse and application for cat registration	Delegation DA 62
Section 9 (5)	A local government may require and Applicant to give documents or information relating to registration, within a specified time of not more than 21 days and may require information to be verified by statutory declaration	
Section 10	A local government may cancel the registration of a cat	
Section 11	A local government is to issue a registration number, certificate and tag, including a replacement certificate or tag	
Section 13	A local government must notify the owner of cat the outcome of a decision	
Section 12	A local government must keep a cat register	
Section 26	A local government may issue a cat control notice	Delegation DA63
Section 37	A local government may grant, renew or refuse an approval to breed application	Require Council approval and forms part of the internal procedures for cat breeder applications
Section 37 (3)	A local government may require an Applicant to give document or information relating to a breeder application, within a specified time of not more than 21 days and may require information to be verified by statutory declaration	
Section 38	A local government may cancel and approval to breed	
Section 39	A local government must issue a certificate to an approved breeder	
Section 40	A local government must notify the person affected by the decision in writing of the outcome	
Section 37, reg 22	A local government may refuse an application to breed if the Applicant has had an infringement in the past 12 months	
Section 42	A local government is to administer local laws	Requires Council approval
Section 47	A CEO needs to keep a register of delegations	All ready part of the CEO duties
Section 48	A local government may appoint, in writing, authorised persons	DA34 to be amended

Section 49	A local government may recover the costs of having to destroy a cat	Add to fees and charges
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Council are now requested to endorse amending delegation DA34 and including additional delegations DA62 and 63 in accordance with the Cat Act 2011

11.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 111013

Moved Cr Mackie / Seconded Cr Clarke

That Council amends its Delegation Register by:

- 1. Including DA 62 Cat Registration, as attached;**
- 2. Including DA 63 Cat Control Notice, as attached; and**
- 3. Amending DA 34 Appointment of Authorise Officers, as attached.**

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

11.4.2 Nominations to Committees

Applicant	Shire of Chittering
File ref	13/02/29
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Absolute majority
Documents tabled	Nil
Attachments	Nil

Background

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.

Portfolios are established for matters that are of particular interest to Council. An Elected Member may be delegated by Council the function of monitoring and providing Elected Members reports to Council on items of interest to Council.

On occasions Council is requested to nominate a Council member to represent the Council on committees of external organisations. Sometimes the constitution of the external organisation requires Council to nominate a representative.

Consultation

Nil

Statutory Environment

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

Policy Implications

Code of Conduct – Elected Members

Elected Members' Fees, Allowances, Reimbursements and Benefits

Certificate of Recognition

Financial Implications

Costs associated with Council authorised committees or representation to those groups is at the cost of Council and varies from time to time dependent on claims for costs received.

Strategic Implications

Representation to external organisations or authorised committees provides Council additional information and input into community issues.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The Shire's Executive Support Officer contacted all the external organisations to discuss Council representatives.

The following amendments have been made:

1. Mucea Employment Node Steering Committee has been deleted. The Shire has created the Mucea Employment Node Industry Reference Group, which has representatives from external industries that include local and Department of Planning. The Shire's Executive Manager Development Services coordinates these meetings.
2. Sandown Park ("South Midlands Polocrosse Club") has been deleted as the club has representation on the Shire's Chittering Community Planning Advisory Group and have advised that they no longer require Council representation at any meetings.
3. North East Reference Group has been deleted as the reference group has been disbanded.

11.4.2 OFFICER RECOMMENDATION

1. That Council appoint the following Elected Members as nominated representatives on Council committees:

Committee	Delegate	Deputy
Chittering Bush Fire Advisory Committee		
Audit Committee	All councillors	Nil

2. That Council appoint the following Elected Members as nominated representatives on Council Advisory Groups:

Committee	Delegate	Deputy
Chittering Australia Day Advisory Group		
Chittering Community Planning Advisory Group		
Chittering Community Support Funding Group		
Chittering Education Scholarship Group		
Chittering Health Advisory Group		
Chittering Mining Advisory Group		

3. That Council nominate the following Elected Members as representatives on the following external organisations:

Name	Delegate	Deputy
Avon Midland Zone (WALGA)	Shire President	Deputy Shire President

Avon Regional Organisation of Councils (AROC)	Shire President	Deputy Shire President
Bindoon & Districts Agricultural Society Inc		
Bindoon Community Progress Association Inc		
Bindoon & Districts Historical Society		
Bindoon Sport and Recreation Association		
Central Midlands Voluntary Region Organisation of Councils (CMVROC)	Shire President	Deputy Shire President
Chittering Tourist Association		
Chittering Valley Land Conservation District Committee		
Chittering Valley Progress and Sporting Association		
District Health Advisory Council (WA Country Health Service Wheatbelt)		
Ellen Brockman Integrated Catchment Committee		
The Livestock Centre Muchea Consultative Group		
Tiwest Community Consultative Committee		
Wannamal Community Centre Inc		
Wheatbelt Development Assessment Panel		
Wheatbelt North Regional Road Group		

4. That Council appoint the following Elected Members with the following portfolios:

Area	Delegate
Education	
Environment	
Health	
Heritage	
Tourism and Culture	
Light Industry and Waste Management	
Sport and Recreation	
Water	
Works	

5. That the Committee Booklet be amended accordingly.

COUNCILLOR MOTION / COUNCIL RESOLUTION - 121013

Moved Cr Gibson / Seconded Cr Norton

That the item 'Nominations to Committees' lay on the table to enable a Councillor Workshop to be held.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

11.4.3 Major Land Transaction - Lot 62 Great Northern Highway*

Applicant:	Shire of Chittering
File ref:	A9502
Prepared by:	Gary Tuffin, Chief Executive Officer
Supervised by:	Gary Tuffin, Chief Executive Officer
Voting requirements:	Simple Majority
Documents table:	Nil
Attachments:	Business Plan under s3.59 of the Local Government Act 1995 – (proposed Lot A) Great Northern Highway, Bindoon.

Background

Over a period of time, and especially recently, local residents have made demands on Council to provide, or have provided, alternative residential building blocks within the townsite of Bindoon.

The need for alternative residential blocks comes from existing residents who would like to relocate from their existing 2 to 5 hectares to a much more manageable property for their retirement. Continual enquiries are also received from persons desirable to move to the area for lifestyle and the rural ambience so close to the metropolitan area.

Council is fully aware of the acute shortage of residential land and its obligations to their ratepayers in providing infrastructure and community. With this in mind, and a perceived demand for residential land in mind, the Council intends to sell part (36,510m²) of Lot 62 Great Northern Highway, Bindoon for the purpose of developing Independent Living Units only.

The funds received from the sale will be placed in a reserve fund for future use for the further development of Lot 62, residential estate.

A number of informal workshops have been held by Council to examine the options available to develop the site, Council has elected to pursue the layout as identified in the business plan on Page 10.

Consultation

Councillors
Executive staff
Wheatbelt Development Commission

Statutory Environment

Section 3.59 – Commercial enterprises by local governments – business plans for major land transactions;

Section 3.59 of the Local Government Act 1995 requires a local government to prepare and advertise for public comment a 'business plan' for a 'major trading undertaking or land transaction' before entering into the transaction. This is not a commercial business plan, but rather an assessment of the capacity of the local government to perform the transaction and of its likely impact on the Shire and other parties. Major land transactions are defined as those where the consideration involved is greater than a prescribed amount (\$2 million or 10% of the operating expenditure in the last completed financial year), and includes 'disposal' of an interest in land by way of a lease. Section 3.59(3) provides that:

The business plan is to include an overall assessment of the major trading undertaking or major land transaction and is to include details of–

(a) its expected effect on the provision of facilities and services by the local government;

- (b) its expected effect on other persons providing facilities and services in the district;
- (c) its expected financial effect on the local government;
- (d) its expected effect on matters referred to in the local government's current plan prepared under section 5.56;
- (e) the ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) any other matter prescribed for the purposes of this subsection.

A draft business plan complying with these requirements is attached to this report. Section 3.59(4) requires the plan to be advertised for public comment for a 6 week period, so assuming adoption by Council on 23rd October 2013 and appearance of the advertisement on 26th October 2013, the public comment period would close on Monday 9th December 2013 and be considered by Council on 12 December 2013.

Policy Implications

Not Applicable

Financial Implications

The revenue provided by the disposal of portion of Lot 62 (proposed Lot "A), will placed in a reserve fund to assist with the future development of the proposed residential development on Lot 62. Any cost associated (transfer & legal costs) with the disposal will be offset from the income received on sale.

There may also be significant future rateable income once the ILU site is fully developed.

Strategic Implications

Built environment: Infrastructure for Future Lifestyle Choices

Outcome	Strategies	Measurable results	Timeframe
Housing Choice	Plan for the provision of residential growth and changing needs	Facilitate the development of an independent living units site	0 to 5 years

Site Inspection

Site inspection undertaken: N/A

Triple Bottom Line Assessment

Economic implications

There are significant economic implications associated with this proposal that will be further explored during the development of commercial business plan.

Social implications

It is intended that this proposal will assist with the provision of suitable aged accommodation (over 55s).

Environmental implications

There are no known significant environmental implications associated with this proposal. Further environmental investigation will be undertaken as the property is developed.

Comment

Council is requested to consider the Business Plan for the proposed disposal of a portion of Lot 62 Great Northern Highway, Bindoon.

11.4.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 131013

Moved Cr Mackie / Seconded Cr Norton

That Council adopt the attached Business Plan (The proposed disposal of a portion of Lot 62 (Proposed Lot A) Great Northern Hwy, Bindoon) for advertising for public comment in accordance with s3.59 of the Local Government Act 1995.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

12. REPORTS OF COMMITTEES

Nil

13. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

14. MOTIONS, OF WHICH NOTICE WAS GIVEN DURING THE MEETING, TO BE CONSIDERED AT A LATER MEETING

Nil

15. URGENT BUSINESS

Nil

16. CONFIDENTIAL ITEMS

Nil

17. CLOSURE

The Presiding Member declared the meeting closed at 7.49pm



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