

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

Wednesday, 16 September 2015

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 6.00pm

Closure: 6.35pm



Shire of
Chittering

These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 28 October 2015.

SIGNED BY

 Person presiding at meeting which minutes were confirmed

DATE

Disclaimer

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

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

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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

Commissioner, Graham Partridge OAM declared the meeting open at 6.00pm.

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

2.1 Attendance

Commissioner:

Mr Graham Partridge OAM Presiding Person

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 |
| Miss Bronwyn Southee | Executive Manager Development Services |
| Mr Brendan Jeans | Senior Planning Officer |
| Ms Karen Dore | Economic Development / Communication Officer (Minute Taker) |

There were 25 members of the public in the Gallery at the commencement of the meeting.

2.2 Apologies

Mrs Karen Parker Manager Human Resources

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 Barni Norton, Bindoon

Question 1: *(as supplied)* The Councillors that resigned have distributed various allegations directed against myself as a Chittering Shire Councillor and included then Councillor Don Gibson in those allegations.

These allegations have been distributed on Facebook, newspaper, and in email, and supposedly present the position of the four councillors that resigned from Council. The allegations ignore the facts of the series of issues that faced the previous Chittering Shire Council members, and as such represent the opinion of those resigned councillors.

This mischievous set of unsupported and untrue allegations bears the imprimatur of Council and taints the many good works of Council and as such I request to know what the current Council management plans to do about retracting and correcting the misinformation that has been distributed?

Answer 1: As the statement made by the resigning Councillors was not a Council endorsed or released document, it is not possible for management to retract the comments made by members of the public.

Question 2: *(as supplied)* Without the current Council management taking action to address the misinformation to the public, should I, and the ratepayer public, assume that the current Council management supports the misinformation?

Answer 2: Shire management has not provided any comments in relation to the concerns you have raised, nor is it appropriate for management to do so. Had your concerns about these public allegations been expressed to the President prior to the Governor's Orders being released, direction could have been provided to administration on this matter, it is now not appropriate for management to comment on the matter any further.

4.1.2 Chris Waldie, Bindoon

Question 2: With regard to the previous meeting, I am surprised that the Chief Executive Officer was aware of the Councillors actions and did nothing. I would like to move a motion of no confidence in the Chief Executive Officer.

Answer 2: As recorded the Commissioner advised that he felt that the comment was unfair, and confirmed that he had heard what they had to say and would take it on notice.

Response: As soon as the Chief Executive Officer became aware of the resignations he advised the President accordingly. Furthermore, the Chief Executive Officer has no ability or official capacity to influence the intentions of Councillors that may wish to resign. Public Question Time is reserved for members of the public to ask questions of the Council/Commissioner, not to attempt to pass motions which cannot be legally actioned.

4.2 Public question time

The following questions were submitted prior to the Council meeting and a response is provided below:

4.2.1 David Barnard, Lower Chittering

Question 1: *(as supplied)* In reply to my first question put to Council on 19/08/2015, Mr Tuffin stated that LGIS undertook assessment of the Targa West Risk Management Plan and Safety Plan. Also in 2014 I recall that LGIS did similar work. It is my understanding that LGIS that serves exclusively public authorities derive their income from charges for this work by periodic subscription or ad hoc, and that Chittering Local Authority meet their share of these costs out of income derived from taxes/rates levied on the public including residents and land holders in Chittering Shire. Therefore it is in the public's interest and expectation of transparency to be able view correspondence and the reports made to Council generated by this work.

Where can the record of LGIS recommendations that you claim ensured public safety during Targa West Rally tarmac road racing in Maryville Downs be viewed?

Answer 1: In part, the reply to your question (19/08/15) stated "Council had LGIS Risk undertake an assessment of the Risk Management Plan for the event. In addition, the Safety Plan for the event had various public safety requirements and procedures, which included spectator exclusion zones, which were monitored by the Safety cars and marshals on the day..."

Further comment: Assessment comments provided by LGIS had been included in the report to Council.

Question 2: *(as supplied)* Council has been made aware of the high incidence, as assessed using ISO 31000 the International Standard adopted by Australia, of deaths and injuries – at the very least seventeen in 2014 and 2015 - and also damage to private property resulting from tarmac road racing events, even those sanctioned in WA by the governing body CAMS.

In consultation with LGIS did Council specify the Risk Level tolerance deemed acceptable and did LGIS make the misleading claim to Council that if the Targa rally is run in Maryville Downs for two years without incident, the "Almost Certain" assessed risk of death, injury and property damage is successfully averted, as suggested in correspondence from Mr Tuffin?

Answer 2: Council made an assessment of the risk based on the information provided from both the applicant and the risk assessment undertaken by LGIS Risk Services.

No, LGIS did not make a claim to Council that if the Targa Rally is run in Maryville Downs for Two years without incident, the "Almost Certain" assessed risk, injury and property damage would be averted. Furthermore, Mr Tuffin never suggested this would be the case, rather that after the identified risk treatments had been applied there were no identified event activities still rated as "Almost Certain".

The following questions were asked during the Council meeting:

4.2.2 Barni Norton, Bindoon

Question 1: *(as supplied)* On the 16th [date corrected following meeting] July, former Councillors Rossouw, Douglas and Clarke, announced in a media release, the reasons they resigned were because the Council has been deliberately destabilised by the inappropriate actions of two of the Councillors who bring the Council into disrepute by persistently denigrating Councillors and Council Officers and questioning the integrity of both: Abusing their position to conduct personal vendettas, both verbally and in the social media and in particular against the Local Medical Practice, which has now closed down as a result, thus causing great distress and hardship to the Community that they were elected to represent: Generally misleading and misinforming the public concerning various Local Government activities, thus generating unrest and disaffection within the Community for their own political purposes and completely ignoring any obligation of fidelity to Council in the process.

On July 17th [date corrected following meeting] Cr Gibson & Myself as Cr Norton requested the President Cr Hawes to respond to these issues and he declined.

Will the council now respond to these accusations?

Answer 1: The Commissioner advised to the negative, as this was not a Council matter.

4.2.3 John Curtis, Bindoon

Question 1: *(as supplied)* Can the Chief Executive Officer, on behalf of the Ratepayers, write to the Minister of Transport and request a weekly bus service? And can the letter, and response, be published in the local paper?

Answer 1: The Chief Executive Officer clarified the request with Mr Curtis, and then confirmed that he would undertake to write a letter to the Minister of Transport requesting, on behalf of the community, an indication of bus services that might be made available in Chittering.

Question 2: *(as supplied)* Can the Shire find out what the Main Roads departments excuse is in not resealing the Highway through Bindoon?

Answer 2: The Chief Executive Officer explained that as Great Northern Highway was a State / Federal Highway the Shire actually had little input into the timeline of works undertaken on the Highway. He further advised that a request had been made to Main Roads Western Australia for the part of the Highway that would be handed over to the Shire, should the Heavy Haulage Route be undertaken, to be upgraded before a handover took place. The Chief Executive Officer further informed that the Executive Manager Technical Services was in the process of organising a meeting with Main Roads Western Australia in order for the Shire's understanding of the situation to be increased.

Question 3 *(as supplied)* **Does anyone know, in the Shire's Planning Department, where the sewage line is going to go and when?**

Answer 3: The Chief Executive Officer advised that he had met with a Water Corporation representative today in relation to issues generally around 'Water Corp' services. He further reiterated, as advised at the August Ordinary Council Meeting, that the State Government had made an announcement of a \$4.8m allocation of funds to Chittering under the 'STED' [Septic Tank Effluent Disposal] program and that the Shire had been attempting to seek further clarification of what the proposed works are and when they might take place. He advised that, to date, the Water Corporation were unable to give any indication as to what works might be proposed as they were currently in the process of undertaking further investigation. It was suggested that the project might be included in the 2017 Capital Works Program.

The Chief Executive Officer further advised that the Shire had undertaken a pre-feasibility study which indicated a budget of \$8m to \$12m, meaning that this version must be very different.

Mr Curtis questioned why the Shire Planning Department didn't know where the line was going to run.

The Chief Executive Officer explained that a Local Government Planning Department deals with statutory planning issues in relation to the Planning and Development Act. In regard to State infrastructure Local Government have little direct influence, we can simply comment and lobby.

4.2.4 Don Gibson, Bindoon

Question 1: What incentives and amendments were made to the draft lease to accommodate Jupiter, and were these amendments or incentives offered to the losing bidders for the medical centre lease?

Answer 1: The Chief Executive Officer advised that, as detailed in the report, an amendment made was, as requested, regarding the ability for the Lessee to sub-lease rooms at the Centre. In relation to any subsidies, or otherwise, there have been no offers made.

Question 2: I believe that Bullsbrook Family Practice offered to provide a medical service in the old medical centre to insure we had a doctor in town. Why was this offer ignored?

Answer 2: The Chief Executive Officer clarified that this question had been raised at the last Council meeting, and that as previously advised he was not aware of the offer that Mr Gibson was referring to.

Question 3: Now that Jupiter has defaulted, with no doctor available in Bindoon, have you offered the lease to the next highest scoring practice, Bullsbrook Family Practice?

Answer 3: The Chief Executive Officer advised to the negative explaining that Jupiter Health and Medical Services were currently in the process of finalising provider numbers and phone lines. He further advised that two nurses and two administrative staff had recently been employed by Jupiter Health and Medical Services. He clarified that the timeline was out of their control with regards to the issue of provider

numbers. They had planned initially to be currently providing a minimal service in the interim, however circumstances had prevented that. In the meantime a Nurse Practitioner would be available at the Centre on Monday's.

The Chief Executive Officer further commented that Jupiter's target is to be open in the first week of October.

Question 4: Just an observation, I do not feel that the Policy on Sea Containers is appropriate for consideration without a Council. I think this is a matter for the local people.

Answer 4: The Commissioner agreed with Mr Gibson's statement and advised that he was proposing an amendment to the Officer's recommendation, to ensure that it goes out seeking comment.

4.2.5 Patricia Tabor, Mooliabeenee

Question 1: Further to the meeting that you had with myself and other members of the community in August, can you please advise what is happening with the medical, and other equipment donated by the community for the community from the old Medical Centre?

Answer 1: The Commissioner thanked Mrs Tabor for the question and confirmed that he had followed up on the information received. He advised that he had requested that the Chief Executive Officer recover the equipment that had been removed from the old Centre.

An interjection from the Gallery questioned - at whose cost this recovery would be?

The Commissioner advised that he hoped that there would be no cost involved in retrieving the equipment, which he agreed belonged to the community and therefore should remain in the premises.

4.2.6 Derek Tabor, Mooliabeenee

Question 1: On behalf of Lee Martin, I would like to ask, when are we getting a Doctor?

Answer 1: The Chief Executive Officer advised that, as per his previous response, Jupiter Health and Medical Services had committed to commencing services during the first week in October.

Mr Tabor indicated that he felt this was just an excuse.

The Chief Executive Officer further clarified that it wouldn't matter which service was moving into the building the same delays would be occurring as all that was being provided by Council was an empty building, meaning that equipment, and technology needed to be sourced and sorted by the leaseholder. He also advised that they were awaiting provider numbers and had no medical records, clarifying that they could not seek these until the lease was signed and the process was out of their control.

An interjection from the gallery suggested that the Chief Executive Officer had said at the last Council meeting that the services would be running in mid-September.

The Chief Executive Officer clarified that he had said “ideally”.

Due to ongoing interjections from the Gallery the Commissioner reminded those present that questions should be asked through the Chair.

Question 2: You removed the sub-letting clause which we pushed to have put in due to the problem with the last doctor. Do you realise what you’ve done? Those three medical people who are moving into the new building are going to be charged around \$120 per day, which is about \$18,000 per year. Jupiter is only paying \$10,800, there’s a difference of \$8,000 or something, handed to them on a plate. Do you think that’s a sensible decision?

The Commissioner requested that speakers keep to questions and remember that it’s not an argument.

Answer 2: The Chief Executive Officer advised that he was happy to answer the question, clarifying that if Mr Tabor had concerns with the removal of the clause he could have asked the question at the August Ordinary Council Meeting, at which the report was presented to the Commissioner and the item in question was part of the recommendation.

Mr Tabor stated that they were not allowed to ask questions until a month later as the removal of the clause was brought up after Public Question Time.

The Chief Executive Officer further clarified that the removal of the sub-letting clause was part of the report presented which was available to the public, through the Agenda, on the Friday prior to the meeting.

The Commissioner stated that he understood that Mr Tabor was not satisfied with the answers he had been given but that did not change those answers.

Question 3: The public are not allowed to bring a no confidence vote. On things like this that are happening, why do you think we are bringing up these no confidence votes? I will sit down, but I am not happy with you [directed at the Commissioner] or him [directed at the Chief Executive Officer].

Answer 3: The Commissioner thanked Mr Tabor.

4.2.7 Barni Norton, Bindoon

Question 1 In the past questions that have been asked during Public Question Time have all been minuted. Is there a reason why they are not in Agenda but my questions from the last meeting are printed in this Agenda? How does that work? Can you explain that for me?

Answer 1 The Chief Executive Officer advised that as Ms Norton’s questions were ‘taken on notice’ at the last meeting the replies to those questions appeared in this evening’s Agenda in order that they be included in the Minutes of this meeting. This has always been the process for ‘Question Taken on Notice’.

4.2.8 Derek Tabor, Mooliabeenee

Question 1: You said it was mentioned last time in the meeting. The report I got I didn't get until a week ago, so how can I ask a question a month ago?

Answer 1: The Chief Executive Officer advised that the Agenda was available on the Friday prior to the meeting and that the details were all included within the report contained within the Agenda.

Question 2: So I am supposed to get my magic wand and get all my questions? I didn't learn about what was happening until a week ago. Now you're telling me I am supposed to know this and ask my questions that same evening.

Answer 2: The Chief Executive Officer advised that he was not telling Mr Tabor what he should or shouldn't know, he was merely explaining that the Agenda was available five (5) days prior to the meeting and that the reports were available for review.

Question 3: Mr Tabor stated that as ratepayers of this community he felt that the Chief Executive Officer was expecting them to get so involved and do his job for him, which he [Mr Tabor] felt that they had been doing for the last five (5) months.

Answer 3: The Commissioner confirmed that this was an accepted procedure and had been for some time.

4.2.9 John Nagel, Bindoon

Question 1: *(as supplied)* Mr Commissioner at the first meeting we had with you, you asked us on two occasion to encourage Dr James from Bullsbrook to submit an expression of interest or Quote "you could not help him". After the way he had been treated by this shire he was hesitant to do so but relented, giving him some hope that you would treat him with respect. All this did was give (CEO) Garry Tuffin the chance to kick him in the guts one more time. At the July meeting there was a request from the local chemist to ask the shire to provide a locum for the interim period we did not have a doctor. CEO Mr Garry Tuffin said at that meeting that he had been in contact with numerous organisations and had it in hand and that he was exploring options, which turns out to be untruthful as noting has eventuated. On July 27th an approach was made to the CEO, Mr Garry Tuffin by the manager of Binda Medical Services for Dr Janet Haywood and Dr James to meet with the CEO Mr Garry Tuffin to work out an arrangement for locum services until permanent doctor services were available. CEO Mr Garry Tuffin said he was not interested in meeting with both doctors as he said quote "things are falling into place and it is not necessary". The community has been without a service for 2 months which could be 3 months by the time we get a full time doctor which was totally unnecessary and he should be ashamed of treating the community in this manner.

Mr Commissioner do you feel it is acceptable for a CEO to act in this manner when he clearly does not use these services and does not care about the ratepayers who rely on this service for their ongoing health?

Answer 1: The Commissioner advised that he felt that, under the circumstances, the Chief Executive Officer was trying to do his best.

Mr Nagel interjected that he disagreed.

The Commissioner stated that Mr Nagel had asked him a question which was 'fairly loaded' and that he was standing by his reply that the Chief Executive Officer had done his best for the community.

Mr Nagel continued to reiterate his disagreement and highlighted that it was on the Commissioners recommendation that Dr James had risked getting another kick in the guts.

The Commissioner agreed that he had absolutely recommended that Dr James submit a Registration of Interest as that was the process being undertaken. Without a submission he could not have been considered at all. He further advised that the advice was given with the best intentions.

Question 2: *(as supplied)* **Mr Commissioner in regard to 2012 minutes you are saying it was a clerical error and should have read "principals daughter" and not managers daughter, in regards to Mr Robert Hawes declaration of interest.**

I would like to know what you are going to do I regard to the minutes in June 2012 which have been passed as true and correct which is not the case?

Answer 2: The Chief Executive Officer read the original declaration made by Cr Robert Hawes at the June 2012 Ordinary Council Meeting.

"Practice Principals daughter shares a house with my daughter"

Question 3: Mr Nagel asked where that left the Shire now as they were passed and moved and were incorrect.

Answer 3: The Chief Executive Officer advised that advice had been sought and as such no further action was to be taken. He further explained that in this case the Declaration is the important document and the clerical error in the form of a note attached to the Minutes is not of any major significance. Furthermore, the error will be noted in these minutes.

Question 4: Mr Nagel interjected that he disagreed. He felt that a major organisation if this one thing was wrong within a set of Minutes how many other things were wrong that the community didn't know about. You're responsible for this.

Answer 4: The Chief Executive Officer accepted the comment and further reiterated that the error was within a note attached to the Minutes, not with the actual Minutes of the meeting.

The Commissioner thanked Mr Nagel and asked if there were any further questions from the Gallery.

4.2.10 Graham Belgrove, Lower Chittering

Question 1: Can you please explain why the answer to Barni Norton's first question was a direct "no", it's not a Council issue?

Answer 1: The Commissioner advised that as he understood the situation, the release made was outside of a Council meeting by former Councillors and as such the Shire Administration has no power to act outside these boundaries.

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Special Meeting of Council – 14 July 2015

7.1 OFFICER RECOMMENDATION / RESOLUTION 010915

The Commissioner endorsed:

"That the minutes of the Special Meeting of Council held on Tuesday, 14 July be confirmed as a true and correct record of proceedings."

THE COMMISSIONER DECLARED THE MOTION CARRIED

The declaration of interest made by Councillor Hawes at the 27 June 2012 Ordinary Council meeting has been investigated. There was an administrative error in the Minutes where they state 'practice manager', and should state 'practice principal' as per Councillor Hawes declaration of interest form.

7.2 Ordinary Meeting of Council – 19 August 2015

7.2 OFFICER RECOMMENDATION / RESOLUTION 020915

The Commissioner endorsed:

“That the minutes of the Ordinary Meeting of Council held on Wednesday, 19 August 2015 be confirmed as a true and correct record of proceedings.”

THE COMMISSIONER DECLARED THE MOTION CARRIED

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Parkwood Springs Subdivision, Renewal of Subdivision*

| | |
|----------------------------|---|
| Report date | 16 September 2015 |
| Applicant | Urban and Rural Perspectives |
| File ref | 18/03/114; WAPC 152449 |
| Prepared by | Brendan Jeans, Senior Planning Officer |
| Supervised by | Bronwyn Southee, Executive Manager Development Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | 1. Approved Development Plan – Parkwood Springs 2. Subdivision Plan – Parkwood Springs |

Background

The Shire has received correspondence from the Western Australian Planning Commission requesting comment in relation to the subdivision of Lot 9502 Tea Tree Road, Bindoon (Parkwood Springs Estate).

The subdivision proposes 27 separately titled rural residential blocks, each with a lot area of no less than 4ha in accordance with the approved Development Plan (See Attachment No. 1).

The applicant has requested that the existing conditional subdivision approval be re-approved to enable the applicant to complete the subdivision of the estate.

The original subdivision was conditionally approved in 2008, with a re-approval granted in March 2012. The applicant has advised that Stages 1, 2 and 3A have been completed. The applicant now seeks an additional extension to complete Stages 3B and beyond, which is due to expire in March 2016 which has occurred as a result of slow market conditions.

The Commissioner's consideration is requested to support the re-approval of the subdivision of Lot 9502 Tea Tree Road, Bindoon.

Consultation

Nil

Statutory Environment

State: Planning and Development Act (2005)

Town Planning Regulations (1967)

Planning for Bushfire Guidelines Edition 2

Local: Shire of Chittering Town Planning Scheme No. 6

Local Planning Policy No. 21 – Fire Management Plans

The property is zoned 'Rural Residential' with the objectives of the zone is:

- *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 subdivision of Lot 9502 Tea Tree Road is consistent with the approved Development Plan and the objectives of the Rural Residential zone.

Policy Implications

State: State Planning Policy - 2.5 Land Use Planning in Rural Areas
WAPC Model Subdivision Conditions Schedule 2012

Local: Shire of Chittering Local Planning Policy No. 32
Shire of Chittering Delegated Authority Register

LPP No 32

Objectives

- *To provide a rational and consistent basis for the preparation and amendment of required development plans.*
- *To integrate the various Local Planning Policies prepared by the Shire.*
- *To preserve the rural character of the Shire as it accommodates metropolitan expansion.*

Delegated Authority Register

DA47 Subdivision

The Shire has, the ability to:

approve or refuse the Subdivision referral which complies with all relevant legislation and policies involving:

- The boundary realignment of a property which is not creating additional lots;*
- The creation of a maximum of five (5) lots.*

Financial Implications

Nil

Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001 - 2015

Site Inspection

A site inspection has been undertaken by the Senior Planning Officer. On his inspection, he observed that the portion of the property yet to be developed is predominantly cleared with portions of bush and grass land. The adjacent land is part of the completed subdivision for the estate Parkwood Springs and residential development has begun to occur.

Triple Bottom Line Assessment

Economic implications

If supported by the Commissioner the applicant would be able to complete the subdivision of Lot 9502 Tea Tree Road, generating additional Rural Residential properties and potential residents into the Shire.

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 environmental aspects pertaining to this development have been previously addressed through the endorsement of the Development Plan for Lot 9502 Tea Tree Road in 2008.

Comment

The Western Australian Planning Commission has provided correspondence to the Shire of Chittering requesting the renewal of the conditional approval of Lot 9502 Tea Tree Road, Bindoon.

The original subdivision was approved in 2008, with an extension granted in 2012. The applicant has completed Stages 1,2 and 3A and now wishes to be granted an additional extension in order to finalise Stage 3B and beyond. The proposal is consistent with the endorsed Development Plan approved in 2008.

The request therefore to grant a re-approval of the subdivision of Lot 9502 Tea Tree Road, Bindoon to enable the completion of Stage 3B and beyond as per the endorsed Development Plan should be supported by the Commissioner.

9.1.1 OFFICER RECOMMENDATION / RESOLUTION 030915

That the Commissioner:

- 1. supports the renewal of the conditional approval for Lot 9502 Tea Tree Road, Bindoon subject to the following conditions:**
 - a. Tea Tree Road is to be constructed to the satisfaction of the Chief Executive Officer.**
 - b. Appropriate easement(s) necessary to protect access to the “central watercourse” for drainage purposes being registered on the Certificate of Titles of the applicable lots.**
 - c. The land being filled and/or drained at the subdivider’s cost to the satisfaction of the Western Australian Planning Commission.**
 - d. All buildings having the necessary clearance from the new boundaries as required by the Shire of Chittering’s *Town Planning Scheme No 6*.**
 - e. The subdivider making arrangements to the satisfaction of the Western Australian Planning Commission to ensure that prospective purchasers are advised in writing that no reticulated water supply can be provided by the Water Corporation and the purchasers will be obliged to make their own arrangements to provide an adequate supply of water.**
 - f. 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 mains potable water supply is not available to the lot/s.’ and ‘A reticulated sewerage service is not available to the lot/s.’**
 - g. Provision and implementation of a Bushfire Management Plan in accordance with the Guidelines to the satisfaction of the Chief Executive Officer.**
 - h. Such easement and/or reserves necessary for drainage and fire fighting purposes being granted free of cost to the Local Government.**
 - i. Suitable arrangement 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.**
 - j. Rural numbering for all new lots at a cost to the proponent.**
 - k. Revegetation of local native species to be undertaken by the developer prior to the clearance of subdivision and to be maintained at all times to the satisfaction of the Western Australian Planning Commission.**
 - l. Fencing of the “central watercourse” is to be undertaken by the developer to the satisfaction of the Western Australian Planning Commission.**

- m. **Section 70A notifications on Certificate of Titles on all lots advising potential purchasers of the existence of the Fire Management Plan, in accordance with *Local Planning Policy No 21 Fire Management Plans*.**
 - n. **The subject land falls within the new Water Scheme Boundary as provided by the Water Corporation and that reticulated water will become available. It is advisable that the owner/developer liaise with the licensed water service supplier for this service.**
2. **The Western Australian Planning Commission be advised of the conditional approval for the subdivision (WAPC 152449 formerly 145348) at Lot 9502 Tea Tree Road, Bindoon.**
 3. **Authorise the Chief Executive Officer and Commissioner to sign and affix the Common Seal for easements and notifications for the purpose of subdivision clearance.**

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.1.2 Proposed Extractive Industry – Lot M1920 Great Northern Highway, Muchea*

| | |
|----------------------------|--|
| Report date | 16 September 2015 |
| Applicant | Sweetman Excavations |
| File ref | A3263; P037/15 |
| Prepared by | Brendan Jeans, Senior Planning Officer |
| Supervised by | Bronwyn Southee, Executive Manager Development Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | 1. Locality Plan 2. Application Report 3. Traffic Impact Statement 4. Schedule of Submissions |

Background

The Commissioner's consideration is requested for a proposed extractive industry at Lot M1920 Great Northern Highway, Muchea.

The subject property is 78 hectares and is subject to a current approval for an inert landfill facility. Approximately 7 hectares is proposed for the sand and gravel excavation which will occur in 4 stages. The applicant envisages approximately 50,000 tonnes per year will be extracted for sand and 30,000 tonnes per year for gravel with average excavation depths from 2 to 4 metres. The excavation area is located in front of the inert landfill operation on Great Northern Highway, but is not visible from Great Northern Highway due to remnant vegetation, considerable distance (over 500m) and topography.

The applicant proposes to use the existing driveway access to Great Northern Highway, which has been upgraded for the purposes of the inert landfill. The Traffic Impact Statement (TIS) submitted indicates an approximate traffic generation of 8 heavy vehicle movements (6-wheel tippers) per day and 2 light vehicle movements per day from Monday through to Saturday. The TIS also outlines that all heavy vehicle movements are to only turn south onto Great Northern Highway.

An Inert Landfill Facility currently operates at the rear of the property and is subject to conditions of Planning Approval for that use. The area approved for the inert landfill can be seen on the far right of the aerial staging plan (Attachment 2). The proposed excavation activities are to be undertaken separate to the inert landfill operations with only the driveway access being shared.

Consultation

Consultation was undertaken in accordance with Clause 9.4.3 of the Shire of Chittering Town Planning Scheme No. 6. The proposal was advertised for a period of 21 days, commencing on 15 April and concluding 6 May 2015, in the following ways:

- Referral letters to relevant state agencies:
 - o Department of Planning
 - o Main Roads WA
 - o Ellen Brockman Integrated Catchment Group
 - o Department of Mines and Petroleum
 - o Department of Environment Regulation
 - o Department of Agriculture and Food WA
 - o Department of Water
 - o Department of Lands
 - o Department of Parks and Wildlife;

- Referral letters to adjoining and nearby landowners;
- Advertisement in the Advocate newspaper;
- Advertisement on the Public Notice board;
- Copies of application at Shire Administration;
- Advertisement on the Shire's Website 'Have Your Say'; and
- Advertisement on other Shire media release avenues.

The Schedule of Submissions has been attached to this report (Attachment 4).

The Ellen Brockman Integrated Catchment Group (EBICG) lodged a late submission and made the following comments which have not been incorporated into the Schedule in Attachment 4 but are noted with consideration:

- Consultants (STASS Environmental Group) has been very efficient in checking for phytophthora species and for PASS testing.
- The Group would recommend a Closure Plan be part of the documentation. Currently the Land End Use at 2.4 is lacking detail with a generalized opinion that the landholder (Westmores) and not Sweetmans would have the overall responsibility for rehabilitation decisions. This can lead to confusion about which company will be responsible for the closure plan. The companies should be requested to clarify the responsibilities in their legal excavation agreement and the Council should be informed as to the ultimately responsible party.
- Rehabilitation Program (Section 6) Statements are made that rehabilitation will be achieved by planting '200 trees per acre' in clumps and that top soil will be spread to facilitate return of pasture and other species. This is lacking detail and the Ellen Brockman Group would recommend that a more biodiverse approach should be made with some understorey added to the five species of trees recommended for the clumps.
- There is no mention of any bond to ensure that rehabilitation occurs. If the bond on the Westmore group is to cover this further excavation this needs to be made clear in the agreement document between the companies.
- All stormwater needs to be managed on site by infiltration and may not be shed to local waterways particularly towards the Rocky Creek. This will prevent any possible spills (hydrocarbons) accidentally entering the Ellen Brook. Any dewatering of pits should be contained on site.

Statutory Environment

State: Planning and Development Act 2005

Local: Shire of Chittering Town Planning Scheme No. 6

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

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

The proposed use is an 'Industry – Extractive', which is defined by the Scheme as:

"means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry-mining."

'Extractive- Industry' is an 'A' use in the Zoning Table:

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

The proposed excavation area is located within the Basic Raw Materials and Military Considerations (RAAF) Special Control Areas (SCA). The aims of the Basic Raw Materials SCA is to protect the identified areas for excavation of resources from residential development. The aim of the Military Considerations SCA is to minimise and control residential development within the RAAF flight path areas.

Local: *Extractive Industries Local Law 2014*

An Excavation Licence is required for the excavation of a basic raw material. An Excavation Licence can only be issued once Planning Approval for an 'Industry-Extractive' is granted for the property.

Policy Implications

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

EPA Guidance Statement No. 3 outlines the generic buffers between Industrial Land Uses and Sensitive Land Uses. The document stipulates a 300-500m buffer for excavation of sand and a 'case-by-case' for gravel extraction. Due to the nature of the proposed gravel excavation not requiring blasting or screening, a 500m buffer would be considered appropriate.

Local: *Shire of Chittering Local Planning Policy No. 10 Basic Raw Materials and Extractive Industries*

4. OBJECTIVES

The objectives of this policy are:

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

The proposed extractive industry meets the general objectives of the Policy. The excavation site is located in a position which maintains the rural character and is sited to retain remnant vegetation. Further to this the site is appropriately located within the Basic Raw Materials Special Control Area, designated to protect the operation of excavation of basic raw materials.

5.4 Preferred Development

a) *Council prefers extractive industries that:*

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

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

- i) *are situated in a visually significant location, such as on a ridge or along an unscreened section of regional or tourist road*

- ii) *involve major disturbance of high value remnant bushland or natural areas, following detailed environmental assessment*
- iii) *remove material below the winter groundwater table*
- iv) *are located on any lot where dieback is present*
- v) *are situated within 500m of the nearest house*
- vi) *are located in the Chittering Valley or require access from Chittering, Chittering Valley, Julimar, Blue Plains or Maddern (North) Roads.*

The proposal meets all of the 'preferred development' criteria with the exception of 5.4 a) v). The proposal does however not meet any of the points of 5.4 b) to 'not support' the proposal.

Financial Implications

Nil

Strategic Implications

Local: Shire of Chittering Local Planning Strategy 2001-2015

The Strategy further consolidates the importance of protecting land identified for basic raw materials within the Basic Raw Material Special Control Area.

Site Inspection

Site inspection undertaken: Yes

The proposed excavation site is mostly cleared of remnant vegetation and is of poor condition. The site is contained well by the inert landfill operations to the rear of the property and remnant vegetation (noted for landscape protection on the plan) to the front of the property, screening it from Great Northern Highway.

Triple Bottom Line Assessment

Economic implications

The proposal will result in a product and service to the benefit of the local community.

Social implications

Objections to the proposal were received raising concerns of adverse impact on lifestyle and possible health implications. It is considered that the proposal has satisfied these concerns through locating the excavations within the Basic Raw Materials SCA, limiting excavation to stages and proposing a maximum of 8 truck movements a day. The associated impacts of dust on public health has been covered in the application through appropriate dust suppression measures on the access road and excavation pit and the proposed gravel excavation method (gravel being a known dust nuisance) does not involve crushing, screening or blasting, which aids in minimising dust emissions.

Environmental implications

There are no known significant environmental implications associated with this proposal. The pocket of remnant vegetation on the property is proposed to be retained and the excavation area proposed in a previously cleared area. A requirement of extractive industries is for rehabilitation to be undertaken and that a rehabilitation bond be required. A condition of approval for a detailed rehabilitation plan is recommended to ensure these expectations are clearly documented.

Comment

Town Planning Scheme

The application has been advertised in accordance with the Town Planning Scheme requirements for an 'A' use. It is considered the proposed development and use of the land meets the objectives of the zone to allow for the extraction of basic raw materials where environmentally and socially acceptable. The application retains a portion of remnant vegetation for landscape protection and the proposed excavation areas are pasture cleared with no significant environmental, biodiversity or ecological values. The consultation process did result in one objection being received raising concerns of social impact. The concerns raised are covered in the Schedule of Submissions and Consultation comments section below.

The development is proposed within the Military Considerations and Basic Raw Materials Special Control Areas (SCA). The Military Considerations SCA is not considered to relate to the proposed development.

The Basic Raw Materials SCA aims to designate appropriate extractive industry locations of state significance and protect these areas from development. The proposal is for local gravel and sand material however is still considered an appropriate location due to the Basic Raw Materials SCA being identified in the Shire's Town Planning Scheme and Scheme Map and the proposed use not differing to state basic raw material extraction.

Local Planning Policy No 10

The application has been submitted following the layout guided by the Shire's *Local Planning Policy No 10* (LPP10). Whilst parts of LPP10 are outdated with the gazettal of the more recent *Extractive Industries Local Law 2014*, the information required in the LPP for a planning application for an extractive industry use is still relevant. The proposal meets all but one of the 'Council preferred criteria' in 5.4a) of the Policy and does not involve any of the criteria for Council to not support the extractive industry in 5.4b) of the Policy.

Traffic/Access

The applicant submitted a Traffic Impact Statement as required by Main Roads WA for access to Great Northern Highway. The access onto Great Northern Highway has been upgraded for the Inert Landfill Facility, which has approximately 20 truck movements. The applicant proposes an average of 8 daily truck movements which is considered to be minimal in addition to the movements of the inert landfill facility and likely not to be noticeable due to the trucks proposed being 6-wheel tippers.

Main Roads WA have reviewed and accept the TIS format.

Dust Management

The application outlines water sources on the property within the landfill void which are available for use and the presence of a water tanker on site for dust suppression of the gravel access road and excavation operations when necessary. The applicant also proposes covering of loads to prevent dust. It is considered that with on-site water available, the presence of a water tanker on-site at all times, the low number of movements and the 500m buffer to sensitive land uses, dust emissions can be managed appropriately.

Rehabilitation

A rehabilitation program is detailed in the application (Part 6) and outlines the intent to replant with local native species found on the property following the replacement of top soil at a level approximately 2-3m below the current land surface. Rehabilitation is proposed to occur on completion of the stages.

The Ellen Brockman Integrated Catchment Group (EBICG) raised concerns that more detail is required for the rehabilitation works of the site. It is a recommendation of the approval that a detailed Rehabilitation Plan be submitted as required for the issue of an excavation licence.

Submissions

The proposal was advertised as detailed in the 'Consultation' section of this report. The Shire received three objections from the public and four agency submissions providing comments within the advertising period. As previously mentioned the Ellen Brook Integrated Catchment Group (EBICG) made a late submission providing comments regarding concerns of lack of detail with rehabilitation. The Schedule of Submissions details the Applicant's and Shire's responses to comments made. It is considered the reasons of objection have been addressed accordingly.

Officer Recommendation

It is the Officer's Recommendation that the Commissioner support the proposed extractive industry at Lot M1920 Great Northern Highway, Muchea for the following reasons:

- The extractive industry is located within the Basic Raw Materials Special Control Area.
- The proposal meets the criteria of Local Planning Policy No 10.
- The site has existing upgraded access directly onto Great Northern Highway.
- The proposed truck movements are considered low and not a substantial increase from existing movements from the inert landfill site.
- The objections raised in the public consultation process can be addressed through the proposed management measures and conditions of approval.

9.1.2 OFFICER RECOMMENDATION / RESOLUTION 040915

That the Commissioner grant Planning Approval for the extractive industry for sand and gravel at Lot M1920 Great Northern Highway, Muchea subject to the following conditions:

- 1. The terms of this approval shall be for the period from the date of issue until 30 June 2020. The proponent may apply for an extension of the approval for a further period of up to five (5) years. This application is to be made no later than three (3) months prior to the expiry of the current consent.**
- 2. The Applicant must obtain an Extractive Industry Licence which complies with the Shire of Chittering Extractive Industries Local Law 2014 prior to commencing operations onsite.**
- 3. All Extractive Industry operations and development is to be in accordance with the approved plans and Excavation Management Plan document.**

Conditions to be satisfied prior to commencement

- 4. Prior to the issue of an excavation licence a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in the Shire of Chittering Schedule of Fees and Charges.**
- 5. Prior to the issue of an excavation licence the Applicant shall submit to the satisfaction of the Chief Executive Officer evidence of currency of public liability insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the Applicant. The Applicant shall ensure that he/she and/or the excavating contractor and/or transportation contractor hold sufficient public liability insurance cover for any claim against them.**
- 6. Prior to the issue of an excavation licence a detailed Rehabilitation or Land Management Plan**

shall be submitted and approved by the Chief Executive Officer incorporating:

- a. Statement of end use;
- b. Final contouring plan, rehabilitation and land management;
- c. Demarcation of surface water catchments, excavation pit hydrology and water balance;
- d. Weed management;
- e. Revegetation and landscaping; and
- f. Ongoing monitoring/maintenance requirements.

Dust

7. Dust must be managed and monitored in accordance with the Excavation Management Plan.
8. The applicant is to maintain and update as required a record of complaints received and of the action taken by the applicant in response.
9. If a dust related complaint is received by the applicant it must, within 4 hours of receiving the complaint, notify the Shire of the complaint and the action taken by the applicant in response;
 - a. The record kept by the applicant pursuant to this clause must be provided to the Shire upon request.
10. Internal access road shall be maintained to a standard that minimises dust emissions from machinery and traffic, to the satisfaction of the Chief Executive Officer.
11. All vehicle loads leaving the site shall be fully covered and secured prior to leaving the site to prevent the spread of material.

Equipment

12. Where practicable, all static and other equipment will be located on the floor of the quarry to provide visual and acoustic screening.
13. No trucks are to be parked on any public road after hours.

Water

14. All stormwater shall be retained on site and no discharge of pit-water shall occur.

Biodiversity – Land Restoration

15. Upon completion of extraction of each stage, rehabilitation shall be undertaken.

Reporting

16. An annual report shall be submitted to the Chief Executive Officer prior to 30 June each year that includes:
 - a. The progress of excavation;
 - b. Depth to groundwater from each pit floor;
 - c. The amount of materials extracted;
 - d. Monitoring program results and findings;
 - e. Progress of rehabilitation;
 - f. Contingency actions and outcomes;
 - g. Community complaints and responses; and
 - h. Failure to submit the annual report prior to the close of business 30 June each year will result in the immediate suspension of the excavation licence.

Compliance

17. Any amendments or variations to the rehabilitation or land management plan associated with the excavation shall be approved in writing by the Chief Executive Officer.
18. Breach of any conditions may result in cancellation of this approval.
19. Stockpiles shall be located on the floor of the pit to reduce visual impact.

20. Acid Sulphate and Dieback testing and management shall be undertaken in accordance with the Excavation Management Plan.
21. Fire Management shall be in accordance with the approved plans and Excavation Management Plan.
22. Refuelling shall be undertaken in accordance with the approved plans and Excavation Management Plan.

Delegation

23. Delegate authority to the Chief Executive Officer to issue an excavation licence for the first stage of sand and gravel at Lot M1920 Great Northern Highway, Muchea in accordance with the planning consent specified in 1. above, on satisfaction of conditions 4, 5 and 6.

Advice Notes:

1. Should the Applicant be aggrieved by a decision of Council, the State Administrative Tribunal can be requested to review the decision. Such a request should be lodged within twenty-eight (28) days of Council's decision.
2. The development shall comply with the provisions of Council's Town Planning Scheme No. 6, Extractive Industries Local Law 2014, Health Act 1911, Building Code of Australia and any other relevant Acts, Regulations, Local Laws and Council Policies, except where varied by this approval;
3. The Department of Environment Regulation (DER) may require a permit for the clearing of native vegetation.
4. Applicant shall be aware of the compliance of any Works Approval and/or DER Licence applicable to this approval.
5. The excavation licence shall only remain valid while there is the appropriate planning approval in place to support the extraction of materials.
6. The operations shall comply with the requirements of the Environmental Protection (Noise) Regulations 1997 in respect to noise but, notwithstanding, the operations to have due regard to the health and amenity of any person in the vicinity.

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.1.3 Proposed Public Events – Lot 325 Cook Road, Mooliabeenee*

| | |
|----------------------------|---|
| Report Date | 16 September 2015 |
| Applicant | Bindi Bindi Investments |
| File ref | A1090; P146/15; P274/15 |
| Prepared by | Brendan Jeans, Senior Planning Officer |
| Supervised by | Bronwyn Southee, Executive Manager Development Services |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | <ol style="list-style-type: none">1. Locality Plan2. Site Plan3. Event Cover Letter4. Safety measures list5. Fire Safety Plan UBC6. Fire Safety Plan BB7. Emergency Management Plan UBC8. Emergency Management Plan BB9. Risk Management Plan UBC10. Risk Management Plan BB11. Traffic Management Plan diagram |

Background

Council has received a Planning Application from Bindi Bindi Investments seeking approval to conduct two 'burnout' events at Lot 325 Cook Road, Mooliabeenee. The first burnout event 'Ultimate Burnout Challenge' is to be held 3 October 2015 and the second burnout event 'Bindoon Burnouts', which was conducted last year, is proposed to be held 7 November 2015.

The Ultimate Burnout Challenge – 3 October 2015

This event is proposed to be conducted in a similar way to the annual Bindoon Burnouts event. The applicant has advised the event may cater up to a maximum of 100 entrants from Australia and envisages approximately 1500 people to attend. The burnouts are proposed to commence at 10am and conclude at 10pm on the Saturday 3 October 2015. The applicant proposes the option for attendees to camp overnight and has indicated a food van will be on site.

Bindoon Burnouts – 7 November 2015

This event is proposed to be held on Saturday, 7 November 2015 from mid-morning until 11:30pm. This is the second 'Bindoon Burnouts' event however the Bindoon Dirt Drags event has been held at this site for more than ten (10) years. The applicant intends to mirror last year's Bindoon Burnouts event which included the sale of food and beverages carried out by (and proceeds to) a local community group, DJ music and option for overnight camping. The applicant has also advised directional fans to dissipate smoke will be trialled and an acoustic survey to assess noise levels will be undertaken to improve the overall management of possible nuisances.

Consultation

In past event applications for the site from 2008, the Shire has notified nearby landowners of receipt of an event application. No submissions or objections have been received in this process. Due to the reoccurrence of the same or similar type events being applied for and the additional use rights for 'short term entertainment events' in the Town Planning Scheme, the Shire considers public advertising unnecessary for the two proposed events. However the Shire would require the event holder to notify all

nearby/affected landowners of the proposed events, if approved, and provide adequate event and contact information.

The Shire's Principal Environmental Health Officer and Community Emergency Services Manager were also consulted on this application.

In the days prior to the event a meeting will be held involving all relevant agencies; including St John Ambulance, WA Police and the local Voluntary Bush Fire Brigades.

Statutory Environment

Local: Shire of Chittering Town Planning Scheme No 6

Lot 325 Cook Road, Mooliabeenee is an "Agricultural Resource" zone with an additional use attached to the land. Under Schedule 3 of *Town Planning Scheme No 6* the additional uses for Lot 325 Cook Road (A10) is for 'short term entertainment events' and the condition for this use is subject to Planning Approval being granted for each event. The two proposed events are to be held over one day periods and are considered to be 'short term', fitting with the additional use permitted on the site.

Policy Implications

As of 16 May 2012 Council endorsed the use of the Department of Health Policy *Guidelines for Concerts, Events and Organised Gatherings*. This Policy is more up to date and relevant than the Shire's Policy relating to Concerts and Events which has been used in the past.

Any health requirements to be met for the event date, such as sufficient potable water supply and adequate toilet facilities, will be addressed by the Shire's Principal Environmental Health Officer prior to the event day, which has been common practice for all the past events at the site.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Site inspections are carried out prior to the event being held. Site inspections of previous events have shown the property to be well maintained and organised.

Triple Bottom Line Assessment

Economic implications

It is perceived that events can have 'flow-on' effects for local business through additional people entering the region and having the opportunity to purchase goods and/or services.

Social implications

There are no known significant social implications associated with this proposal and previous applications and events have not resulted in formal complaints being lodged to the Shire. Neighbouring property owners will be advised of the proposed date of the event.

Environmental implications

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

Comment

Town Planning Scheme

The Additional Use for 'short term entertainment events' on the property is subject to Planning Approval. The applicant has lodged the appropriate documentation for the Shire to consider the proposed event in accordance with the Guidelines for Concerts, Events and Organised Gatherings. Due to the Additional Use approval on the land, it is recommended that a condition be imposed requiring the applicant to notify all nearby landowners of the proposed events. It is envisaged in the near future the applicant will supply the Shire with a comprehensive application covering all the proposed events on an annual basis to then determine the appropriate number, types and times of events proposed to be held on the site. This process would be publicly advertised prior to Council consideration.

Event details

The proposed events will be held similar to the previous events held at the property. The site layout for events has not been altered and the operations of a food van/area, music band and option to camp overnight are provided in the same way as the Bindoon Dirt Drags events. The difference of the proposed events to the Bindoon Dirt Drags is the predominant activity of the burnouts held on the burnout pad area. The expected number of spectators is between 1000 to 1500. The applicant is providing amenities and services which well exceeds the expected number of spectators. Ambulance and voluntary Fire Brigade members have been arranged for permanent use of events with the applicant.

Consultation

As mentioned earlier in the report, it is considered the proposed events are consistent with the additional use for 'short term entertainment events' on the property. It is considered an appropriate process of prior event notification to nearby affected landowners be undertaken by the Applicant should the event be granted Planning Approval. The notification would provide information to the landowners about the event being conducted and provide contact information of the event holders to address any concerns or issues.

Risk Management

The applicant has submitted Risk Management Plans to cover each event. Due to the similarities between the events and the landowners managing both events, both Plans raise and address the same risks. Further to this the applicant has progressively revised the Risk Management Plan submitted for previous Bindoon Burnout events taking into account notable risk management identified from carrying out the events. The changes made include:

- Supply of PPE to spectators;
- Improvement to construction standard of burnout pad;
- Training of staff for fire mitigation;
- Implementation of fans to direct and dissipate accumulation of smoke;
- Carrying out of acoustic survey during event; and
- Allocating 'jaws of life' equipment with trained personnel to operate.

Guidelines for Concerts, Events and Organised Gatherings

The Shire has assessed the proposed event with regard to the Guidelines. The Shire has advised the Proponent to ensure the event is to be undertaken in line with the requirements set out in the Guidelines such as, but not limited to, risk management, emergency management, insurance and amenities. The applicant has demonstrated compliance with the Guidelines with the following:

- Existing provision and labelling of potable water sites;
- Provision of existing ablution blocks and delivery of portable ablution blocks;
- Progressive revision of a Risk Management Plan document and implementation of these changes;
- Implementation of an Emergency Management and Fire Safety Plan; and
- A history of compliance to meet these requirements.

Recommendation

It is the Officer's Recommendation that the proposed events for the Ultimate Burnout Challenge and Bindoon Burnouts be supported by the Commissioner. The applicant has held multiple events on the property over the past decade, mainly the annual dirt drags and burnout events, with no known significant implications. The events have provided opportunities for engagement with local residents, tourist attraction and alternative funding opportunities for community groups. The applicant has also revised the Risk Management Plan to accommodate possible risks identified from previous events.

9.1.3 OFFICER RECOMMENDATION / RESOLUTION 050915

That the Commissioner approve the 'Bindoon Burnouts 2015' and 'The Ultimate Burnout Challenge' public events at Lot 325 Cook Road, Mooliabeenee subject to the following conditions:

- 1. That this approval shall only apply for:
 - a. The Ultimate Burnout Challenge event on 3 October 2015; and**
 - b. Bindoon Burnouts on 7 November 2015.****
- 2. The Applicant shall comply with the approved documentation supplied for the event.**
- 3. The Applicant shall update the Emergency Management Plan to note correct contact information of emergency services.**
- 4. That the applicant notify all landowners within a 1km radius of the site of the proposed events with information setting out the event and contact information a minimum ten (10) days prior to the date of the events to the satisfaction of the Chief Executive Officer.**
- 5. That the following adequate fire prevention measures include:
 - a. No fires being lit on site for the Bindoon Burnout event held 7 November 2015;**
 - b. All boundaries of the subject property shall be cleared at a minimum 3 metre firebreak; and**
 - c. Each event shall be in accordance with the *Fire Safety Plan*.****
- 6. That all motor racing events shall be supervised by the event organisers and all safety measures shall be the responsibility of the proponent.**
- 7. That satisfactory arrangement being made for:
 - a. Ingress and egress of emergency vehicles; and**
 - b. Emergency escape routes (in the event of fire) available for attendees.****
- 8. That no additional clearing of land takes place and that the drainage lines are maintained in their current condition.**
- 9. Prior to the event, provide evidence of adequate public liability insurance to the satisfaction of the Chief Executive Officer.**
- 10. That all temporary signage to be placed so as to cause no traffic hazard.**
- 11. That the site clean-up shall be completed within one (1) week of the event and appropriate recycling undertaken.**
- 12. The Applicant shall comply with the Risk Management Plan for each event.**

13. The Applicant shall comply with the *Caravan Parks and Camping Grounds Act 1995* and associated Regulations.
14. Appropriate traffic management measures shall be taken at all times, including event signage, so as to cause no traffic hazard.

Advice Notes

1. The Proponent to be advised that compliance will be expected with the *Environmental Protection (Noise) Regulations 1997*.
2. All structures should be in accordance with the Building Code of Australia or otherwise as determined by Council, and all ablution facilities should be provided in accordance with Health Department Guidelines and constructed in accordance with Council requirements.
3. The Proponent to be advised that compliance will be expected with the Department of Health Policy *Guidelines for Concerts, Events and Organised Gatherings*.
4. Vehicular barriers should be provided around the plastic leach drains to both septic systems prior to the commencement of the event.
5. All potable water outlets should be marked 'drinking water'.
6. All non-potable water supplies i.e. ablution blocks should be marked 'water unfit for drinking'.
7. All portable ablutions should be serviced regularly throughout the event period.
8. Electrician to provide electrical certification forms.
9. The stage lighting providers to apply on a 'Form 2'.
10. With regards to condition 11, all waste should be delivered to the Bindoon Landfill and Recycling Centre.
11. Any temporary structures requiring certification being provided prior to the event.
12. Adequate crowd control measures should be undertaken in accordance with and to the satisfaction of the Western Australian Police.
13. Penalties for breach of Planning Approval are described under Section 233 of the *Planning and Development Act 2005 (as amended)*.
14. The Applicant has the right of review to the State Administrative Tribunal should they be aggrieved by Council's decision. Such a review should be lodged within twenty-eight (28) days of Council's decision.

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.1.4 Policy Review - Local Planning Policy 29 Sea Containers*

| | |
|----------------------------|---|
| Report date | 16 September 2015 |
| Applicant | Shire of Chittering |
| File ref | 18/06/0029 |
| Prepared by | Janice Billen, Compliance Officer |
| Supervised by | Bronwyn Southee, Executive Manager Development Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | 1. Proposed Local Planning Policy 29 Sea Containers 2. Current Local Planning Policy 29 Sea Containers |

Background

The Shire has undertaken a review of its *Local Planning Policy 29 – Sea Containers*. The original policy was approved by Council in 2006 and is now considered to be outdated and in need of review.

In addition to the outdated policy, in recent years there has been a significant increase in the use and numbers of sea containers within the Shire, predominantly used by residents for storage during the construction stages of building a dwelling and in some cases as an alternative method of housing construction.

In many instances, the sea containers have been placed on properties in locations which are full view of the neighbouring properties, adjacent roads and directly alongside boundary fences.

The common complaint regarding sea containers is based around the condition of the containers which some believe affect the amenity of the rural nature of the Shire.

Local Planning Policy 29 at present, allows shire officers to have due regard to the document in assessing and guiding decision making regarding development applications pertaining to the temporary and ongoing use of sea containers within the Shire. The draft Local Planning Policy is considered to be able to better address current needs of residents and guide applicants in identifying the suitable placement of sea containers.

Consultation

Under the *Shire of Chittering's Town Planning Scheme No. 6*, an amendment to a local planning policy is required to be advertised through publishing a notice of the proposed policy once a week for two consecutive weeks. Subsequent submissions may be made to the Shire regarding the policy for a minimum period of 21 days in accordance with Section 2.4.1 of the Scheme.

Statutory Environment

Shire of Chittering Town Planning Scheme No. 6

2.1 SCHEME DETERMINATIONS TO CONFORM WITH LOCAL PLANNING STRATEGY

Except to the extent that the Local Planning Strategy is inconsistent with the Scheme, determinations of the Local Government under the Scheme are to be consistent with the Local Planning Strategy. (A Local Planning Strategy has been prepared and endorsed under the Town Planning Regulations 1967.

2.2 LOCAL PLANNING POLICIES The Local Government may prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme Area so as to apply-

- (a) Generally or for a particular class or classes of matters; and*
- (b) Throughout the Scheme Area or in one or more parts of the Scheme Area, and may amend or add to or rescind the Policy.*

2.3 RELATIONSHIP OF LOCAL PLANNING POLICIES TO SCHEME

2.3.1 If a provision of a Local Planning Policy is inconsistent with the Scheme, the Scheme prevails.

2.3.2 A Local Planning Policy is not part of the Scheme and does not bind the Local Government in respect of any application for Planning Approval but the Local Government is to have due regard to the provisions of the Policy and the objectives which the Policy is designed to achieve before making its determination. Note: Local Planning Policies are guidelines used to assist the Local Government in making decisions under the Scheme. Although Local Planning Policies are not part of the Scheme they must be consistent with, and cannot vary, the intent of the Scheme provisions, including the Residential Planning Codes. In considering an application for Planning Approval, the Local Government must have due regard to relevant Local Planning Policies as required under clause 10.2.

2.4 PROCEDURE FOR MAKING OR AMENDING A LOCAL PLANNING POLICY

2.4.1 if a Local Government resolves to prepare a Local Planning Policy, the Local Government-

(a) is to publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area, giving details of-

(a) where the draft Policy may be inspected;

(b) the subject and nature of the draft Policy;

(c) in what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made;

(b) may publish a notice of the proposed Policy in such other manner and carry out such consultation as the Local Government considers appropriate.

2.4.2 After the expiry of the period within which submissions may be made, the Local Government is to –

(a) review the proposed Policy in the light of any submissions made; and

(b) resolve to adopt the Policy with or without modification, or not to proceed with the Policy.

2.4.3 If the Local Government resolves to adopt the Policy, the Local Government is to-

(a) publish notice of the Policy once in a newspaper circulating in the Scheme Area; and

(b) if, in the opinion of the Local Government, the Policy affects the interests of the Commission, forward a copy of the Policy to the Commission.

2.4.4 A Policy has effect on publication of a notice under clause 2.4.3 (a).

2.4.5 A copy of each Local Planning Policy, as amended from time to time, is to be kept and made available for public inspection during business hours at the offices of the Local Government.

2.4.6 Clauses 2.4.1 to 2.4.5, with any necessary changes, apply to the amendment of a Local Planning Policy.

Policy Implications

State: Nil

Local: The proposed Local Planning Policy (LPP No. 29 Sea Containers), if approved, would supersede the current LPP 29

Financial Implications

There will be advertising costs associated with advertising of the Local Planning Policy 29 Sea Containers.

Strategic Implications

Since the original LPP No 29 was approved by Council, the Shire has experienced a significant increase in residents and landowners utilising sea containers as an alternative means for storage.

These containers in varied states of quality, colour, size and location have created issues for residents with many citing the visual impact of the containers as greatly affecting the rural landscape and character of the area.

The draft revised policy allows for greater control and clearer guidelines for the use and placement of sea containers which in turn may mitigate issues regarding sea containers and amenity within the Shire

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

Proposed changes to Local Planning Policy No 29 would allow a more flexible approach to temporary storage and the use of Sea Containers within the Shire. It will give greater guidance and direction to those proposing an application.

Environmental implications

By updating the Shire's Local Planning Policy No 29 Sea Containers, there is an opportunity to provide the residents of the Shire of Chittering with the guidance and knowledge as to how to site sea containers in locations on a property which are not in full view of the neighbouring properties and the road, by giving clear guidelines to the placement of sea containers

Comment

The proposed Local Planning Policy No 29 enables a more clear and concise outline of the expectations of utilising sea containers as a means of storage within the Shire, particularly in relation to the appropriate siting and location on differently zoned properties.

Additionally provision has been made to address safety concerns pertaining to door closure from only the exterior of the container.

9.1.4 OFFICER RECOMMENDATION

That the Commissioner:

1. Resolves to endorse the amended Local Planning Policy No 29 Sea Container.
2. In accordance with Clause 2.4 of the Shire of Chittering's Town Planning Scheme No 6, publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area, giving details of the following:
 - a. Where the draft Policy may be inspected;
 - b. The subject and nature of the draft Policy; and
 - c. In what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made.
3. Pursuant to Clause 2.4 of the Shire of Chittering's *Town Planning Scheme No 6*, after the expiry of the period within which submissions may be made, all submissions will be tabled at the next available Council Meeting for its consideration.

AMENDMENT

The Commissioner requested that recommendation 1 be amended as follows:

"Resolves to endorse the amended Local Planning Policy No 29 Sea Container for advertising purposes only, to allow for consideration by a future Council."

THE COMMISSIONER DECLARED THE AMENDMENT CARRIED

9.1.4 SUBSTANTIVE MOTION / RESOLUTION 060915

That the Commissioner:

1. Resolves to endorse the amended Local Planning Policy No 29 Sea Container for advertising purposes only, to allow for consideration by a future Council.
2. In accordance with Clause 2.4 of the Shire of Chittering's Town Planning Scheme No 6, publish a notice of the proposed Policy once a week for 2 consecutive weeks in a newspaper circulating in the Scheme Area, giving details of the following:
 - a. Where the draft Policy may be inspected;
 - b. The subject and nature of the draft Policy; and
 - c. In what form and during what period (being not less than 21 days from the day the notice is published) submissions may be made.
3. Pursuant to Clause 2.4 of the Shire of Chittering's *Town Planning Scheme No 6*, after the expiry of the period within which submissions may be made, all submissions will be tabled at the next available Council Meeting for its consideration.

THE COMMISSIONER DECLARED THE SUBSTANTIVE MOTION CARRIED

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 August 2015*

| | |
|----------------------------|---|
| Report Date | 16 September 2015 |
| Applicant | Shire of Chittering |
| File ref | 12/03/4 |
| Prepared by | Jean Sutherland, Executive Manager Corporate Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting requirements | Simple Majority |
| Documents tabled | Financial Statements for period ending 31 August 2015 |
| Attachments | Statement of Financial Activity for period ending 31 August 2015 Bank reconciliation for period ending 31 August 2015 List of accounts paid for August 2015 |

Background

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

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

The statement of financial activity for the period ending 31 August 2015, financial statements, bank reconciliation and list of accounts paid for the period ending 31 August 2015 are hereby presented for the Commissioner'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

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

9.3.1 OFFICER RECOMMENDATION / RESOLUTION 070915

That the Commissioner:

- 1. endorse the list of payments:**
 - a. PR3599**
 - b. PR3609**
 - c. EFT 11377 - EFT 11494**
 - d. Municipal Fund Cheques 13944 – 13958**
 - e. Direct Debits and Transfers as listed**
 - f. Trust Fund Cheques 469 - 472**

Totalling \$798,392.45 for the period ending 31 August 2015.
- 2. receive the bank reconciliation for the period ending 31 August 2015.**
- 3. receive the financial statements for the period ending 31 August 2015.**

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.3.2 Education Scholarship 2016

| | |
|----------------------------|---|
| Report date | 16 September 2015 |
| Applicant | Shire of Chittering |
| File ref | 15/01/4 |
| Prepared by | Lisa Kay, Community and Club Development Officer |
| Supervised by | Jean Sutherland, Executive Manager Corporate Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Nil |

Background

The Commissioner is requested to consider the review of Policy 6.2 Education Scholarship Award.

Changes to education arrangements within all public and private schools within Western Australia now means graduation from primary school occurs at the completion of year 6. This change necessitates a review of the existing *Shire of Chittering Policy 6.2 Education Scholarship Award* to reflect primary school graduation occurring at the completion of year.

Amendments are also required to the advertising section of the policy to bring it in line with the Shire of Chittering Communication Plan. A timeline for the period that applications are accepted also needs inclusion to the policy.

Consultation

Nil

Statutory Environment

Nil

Policy Implications

6.2 Education Scholarship Award

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

To ensure that the policy reflects the change to the education arrangements it is recommended that the Commissioner accept these amendments.

9.3.2 OFFICER RECOMMENDATION / RESOLUTION 070915

That the Commissioner accept the proposed changes to *Policy 6.2 Education Scholarship Award* including:

1. Responsible officer title amended to Community and Club Development Officer.
2. Primary school graduation year amended to Year 6.
3. Inclusion to advertising section of the policy:
 - a. "in line with the Shire Communication Plan in September each year" and;
 - b. "Applications open first week of September and close on the first Friday of November each year."

THE COMMISSIONER DECLARED THE MOTION CARRIED

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Notice of Council Meetings

| | |
|----------------------------|--|
| Report date | 16 September 2015 |
| Applicant | Shire of Chittering |
| File ref | 13/02/31; 13/02/32 |
| Prepared by | Natasha Mossman, Executive Support Officer |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Nil |

Background

The Local Government Elections are scheduled to be held on Saturday, 17 October 2015.

Council set its Ordinary Council meeting dates for 2015 in November 2014, setting the October Ordinary Council meeting for Wednesday 21st October 2015.

Consultation

Not applicable

Statutory Environment

State: *Local Government Act 1995, Section 1.7 Local Public Notice*

Local Government Act 1995, 2.29.Declaration

- (1) *A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.*
- (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*
- (3) *A declaration required by this section is to be taken or made before a prescribed person.*
- (4) *A person who acts in an office contrary to this section commits an offence.*

Policy Implications

Nil

Financial Implications

There will be a cost for the placement of the local public notice in the newspapers, which will be charged against account GL1040820.

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The Commissioner is requested to hold a Special Council Meeting on Monday, 19 October to allow for the swearing in of the new Elected Members and to elect the Shire President and Deputy President.

To assist the new Councillors to settle into their roles it is recommended that the date for the October Ordinary Council meeting (21/10/15) be moved to the following week, **Wednesday, 28 October 2015, commencing 7:00pm.**

9.4.1 OFFICER RECOMMENDATION / RESOLUTION 080915

That the Commissioner:

- 1. Schedule a Special Meeting of Council on Monday, 19 October 2015 commencing at 6:00pm for the purpose of Swearing in the new Council and conducting the election of the President and Deputy President.**
- 2. Re-schedule the 21 October 2015 Ordinary Council Meeting to now be held on Wednesday, 28 October 2015, commencing 7:00pm.**
- 3. Authorise the relevant local public notices in *The Advocate* and *Northern Valleys News*.**

THE COMMISSIONER DECLARED THE MOTION CARRIED

10. REPORTS OF COMMITTEES

Nil

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

Nil

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

Nil

14.2 Public reading of resolution that may be made public

Nil

15. CLOSURE

The Commissioner, Graham Partridge OAM, declared the meeting closed at 6.35pm.



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