

MINUTES FOR ORDINARY MEETING OF COUNCIL

Wednesday, 18 September 2013

Council Chambers
6177 Great Northern Highway
Bindoon

Commencement: 7.01pm

Closure: 8.40pm



Shire of
Chittering

These minutes will be confirmed at the Ordinary Meeting of Council to be held on Wednesday, 23 October 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.

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1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7.01pm.

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

2.1 Attendance

The following members were in attendance:

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

The following staff were in attendance:

Mr Gary Tuffin	Chief Executive Officer
Ms Jean Sutherland	Executive Manager Corporate Services
Mr Azhar Awang	Executive Manager Development Services
Mr Jim Garrett	Executive Manager Technical Services
Ms Danica Kay	Executive Support Officer (Minute Secretary)

There were ten members of the general public in attendance.

2.2 Apologies

Mrs Karen Parker	Manager Human Resources
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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

Nil

4.2 Public question time

4.2.1 Item 9.1.8: Reconsideration for Proposed Respite Retreat – Lot 111 (RN 138) Valley View Drive, Chittering

Peter Moloney, 3208 Chittering Road, Chittering made the following statement

Since the adoption of the Buddhist Monastery, lots of properties in the area have sold; one property has sold four times, and all at reduced prices. One property has even paid \$30,000 to reposition their house out of the view of the Buddha statue. Our property sees reflection from the statue which makes it impossible for us to use out front patio in summer. This development has caused many problems, including construction continuing for eight years, Lewis Road not yet being sealed and gravel wash over the weekend making the road very dangerous.

If the drug rehab development goes ahead, more property will be put on the market and the property values will decrease again. Who is going to benefit from this, as there will be problems if this development does go ahead.

The Shire President asked Mr Moloney whether he had a specific question to ask. Mr Moloney replied he had but he could not remember it.

4.2.2 Kay Road, Bindoon

Chris Sour, Kay Road, Bindoon asked the following question

I sent a letter to Council on 27 August 2013 regarding the scrap on Kay Road, why have I not yet heard a response and why is nothing happening about this issue, which has been going on for many years.

Response The Shire President advised that Council is currently obtaining legal advice on the matter and is awaiting a response. We will look into the letter you refer to and provide a response to you.

4.2.3 Item 9.1.8: Reconsideration for Proposed Respite Retreat – Lot 111 (RN 138) Valley View Drive, Chittering

Tuarn Brown, 473 Blue Plains Road, Chittering asked the following questions

On page 38 of this agenda, the Social Implications section states:

“The have been concerns raised by the adjoining properties and nearby owners regarding the social issues such as safety and security and the overall amenity of the proposed development which have been adequately addressed through the Management Plan.” Do you consider this to be a true and correct statement?

Response Shire President advised that yes, he does consider this to be correct.

Were the answers to concerns raised by the community forwarded back to the community?

Response *The Executive Manager Development Services advised that the schedule of submissions form part of the report presented to Council. The Applicant, and those who made a submission have been advised of the outcome.*

I put in two submissions and have not received a response.

Response *The Shire President advised that the Management Plan has been discussed as part of the State Administration Tribunal (SAT) process, furthermore SAT doesn't operate debate with third parties.*

The Chief Executive Officer further advised that the process for public submission is that when the application is received, it is advertised for a public submission period. All submission are then acknowledged and form part of the schedule of submissions presented to Council which the reporting officer makes comment on.

The Executive Manager Development Services advised that the reporting officer comments can only be considered on planning validity. Where an officer has stated 'noted', they cannot make a planning comment on that particular submission.

At what stage does the community and social issues get considered in the process then?

Response *The Chief Executive Officer advised that if those who have submitted a response are not happy with the officer's comments, they can raise their further concerns during 'Public Question Time'.*

With regard to the second round of submissions, the officer's report only noted them as 'no new issues raised'. What about these issues and the issues raised in the first round of submissions. Do you believe the social implications stated on page 38 as quoted in my first to be correct?

Response *The Shire President advised that all submissions have been provided to Councillors and Councillors will consider both rounds of submissions in the decision. These were also available at the SAT hearings.*

Rin Rutherford, 201 Leschenaultia Drive, Chittering asked the following question

Given the community opposition and conditions placed on the Buddhist temple, who monitors these conditions? The rehab centre will cause similar problems and who is going to enforce and police the conditions. This type of development is not safe in our community.

Response *The Shire President advised that as we set the conditions, they are our responsibility to enforce. Where we cannot enforce them, other authorities can. If we are made aware of someone being a threat, we can ask for them to be removed.*

Carol Moloney, 3208 Chittering Road, Chittering made the following statement

The building approvals for the Buddhist Monastery have been going for eight years. We were told that the positives for the Buddhist monastery would be 'good for tourism and retail'. In regards to the proposed respite retreat, we have heard no positive reasons for this development to go ahead. 100% of the community are against this development, why don't 100% of councillors stand by their community.

David Foulkes, Valley View Drive, Chittering asked the following question

Who wants this development to go ahead, the owner of the property or Northern Compassion? All of our submissions have not been answered, how is this proposal going ahead? Why are we here?

Response The Shire President advised that the applicant has exercised their right to appeal Council's decisions to SAT. Mediation was held with SAT, where Council has demanded extra conditions which have now been applied. The only people present at SAT are the applicant and Council. In this case, the applicant and SAT both agreed for this item to open to the public and therefore the Shire has written to everyone who has made a submission advising that this item is being discussed by Council tonight.

Carol Moloney, 3208 Chittering Road, Chittering asked the following question

Which Councillors attended the SAT mediation?

Response The Shire President advised that he and Cr Norton attended the mediation.

Peter Moloney, 3208 Chittering Road, Chittering asked the following question

Has the property been sold to the church? When SAT requests Council to reconsider an item, does this mean they have requested Council to change their mind or consider the item again?

Response The Shire President advised that it means they request Council to consider the item again, with the results from the mediation applied. He further advised that yes, the property has recently sold.

5. PETITIONS / DEPUTATIONS / PRESENTATIONS / SUBMISSIONS

5.1 Petition – Use of Gas Guns

This petition was presented to Council at the Ordinary meeting held 21 August 2013 and this issue was discussed during item 9.1.7 at this meeting. Since then Shire officers have written to the Applicant and those that sent in formal letters or emails of complaint. As the petition did not state a name and address of the organiser of the petition, no correspondence has been sent specifically in relation to the petition.

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

7.1 Ordinary meeting of Council – Wednesday, 21 August 2013

OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 020913

Moved Cr Mackie / Seconded Cr Rossouw

That the minutes of the Ordinary meeting of Council held on Wednesday, 21 August 2013 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

7.2 Special meeting of Council – Monday, 9 September 2013

OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 030913

Moved Cr Clarke / Seconded Cr Rossouw

That the minutes of the Special meeting of Council held on Monday, 9 September 2013 be confirmed as a true and correct record of proceedings.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

8. ANNOUNCEMENT BY PRESIDING MEMBER WITHOUT DISCUSSION

Nil

9. OFFICER'S REPORT

9.1 DEVELOPMENT SERVICES

9.1.1 Proposed Shed – Lot 163 (RN 6) Corella Close, Lower Chittering*

Applicant	AE Crawford
File ref	A11109; P215/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Elevation Plan 4. Rosa Park Development Plan 5. Applicant's Covering Letter 6. Site Photos

Background

Council's consideration is requested for a proposed shed at Lot 163 (RN 6) Corella Close, Lower Chittering.

The applicant is seeking to develop a shed on the above property which is currently vacant. The shed is 12m wide and 15m long, being 180m² in floor space (see attachment 3). Attached to the shed is a lean-to which is 10m long and 3m wide, being 30m².

A signed Statutory Declaration has been provided with the application outlining the following:

- *"the reason for immediate construction of the shed is for storage purposes for myself and to collect rainwater from the roof of the shed.*
- *It is not my intention to reside in the shed now or at any time in the future.*
- *It is my intention to build a house on the land in the near future."*

A covering letter from the Applicant has been provided outlining further justifications for the proposed shed (see attachment 5). Personal details have been removed in accordance with confidentiality requirements.

Consultation

The application does not propose to vary any general development requirement of the Shire's *Town Planning Scheme No 6* or Local Planning Policies with regard to the design or siting of the shed. Therefore, the referral of the application to adjoining/surrounding landowners is unnecessary.

Statutory Environment

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 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;*
- f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under 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.*

Development Plan

The Rosa Park Estate Development Plan applies to the property, as outlined to the Applicant on their certificate of title through a Section 70A notification under the *Transfer of Lands Act 1893*.

The following Land Management Provision of the Development Plan applies to the proposed shed:

(12) Permitted Uses: A single house and associated outbuildings are the only permitted uses. Other uses specified in the Town Planning Scheme may be permitted at the discretion of Council.

Policy Implications

Local Planning Policy 7 – Outbuildings and Swimming Pools

In regard to *Local Planning Policy 7 – Outbuildings and Swimming Pools* the following is applicable:

- (5.2) Planning Consent Requirements for Outbuildings and In-ground Swimming Pools*
 - (b) Outbuildings appurtenant to a dwelling will not be approved on vacant Townsite or Rural Residential properties unless a simultaneous Building Licence Application for a dwelling has been lodged with the Local Government.*

Local Planning Policy 27 – Living in Sheds

In regards to *Local Planning Policy 27 – Living in Sheds* the following is applicable:

- (4) Objectives*
 - *To ensure an adequate standard of residential accommodation.*
- (5) Policy Statement*
 - (5.1) Living in Sheds is prohibited.*

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Site inspection undertaken: Yes

During the site visit an unauthorised prime mover, trailer and sea container were witnessed at the property (see attachment 7).

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.

Policy implications

Local Planning Policy 7 – Outbuildings and Swimming Pools clearly states that:

“Outbuildings appurtenant to a dwelling will not be approved on vacant Townsite or Rural Residential properties unless a simultaneous Building Licence Application for a dwelling has been lodged with the Local Government.

A building license application has not been lodged; therefore it is recommended that Council do not approve the proposed shed as it is inconsistent with the provisions of *Local Planning Policy 7*.

Furthermore, *Local Planning Policy 27 – Living in Sheds* has been adopted by Council in an effort to prevent people from living in sheds for the objective of ensuring “an adequate standard of residential accommodation” whereby living in sheds is prohibited.

The Applicant has signed a Statutory Declaration assuring Council that the shed will not be for the purpose of human habitation. However, currently there are numerous examples within the Shire where Statutory Declarations have been signed leading to similar application gaining approval only to have the applicants reside in the approved shed. These numerous examples have now become on-going compliance issues for the Shire.

Approving this application leaves the Shire open to the possibility of another on-going compliance issue in the event that the Applicant was to reside in the proposed shed that does not meet the appropriate habitable standards. Furthermore, the Applicant’s omission of the presence of the unauthorised truck, trailer and sea container makes their intentions on the property unclear as no mention was given in the statutory declaration or covering letter provided.

Development Plan

Land Management Provision 12 ‘Permitted Uses’ of the Rosa Park Estate Development Plan, applicable to the property, states that “a single house and associated outbuildings are the only permitted uses”. The property is vacant, meaning the proposed shed, as a type of outbuilding, is not ‘associated’ with a single house (dwelling). Therefore the shed is not a permitted use under the Land Management Provisions of the Development Plan without the planning approval of a single house.

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 zone is predominantly for residential purposes, therefore the development of a shed on a vacant property detracts from the rural character and amenity of the locality. The Applicant has stated the purpose of the proposed shed is for the storage of machinery (e.g. a tractor) to maintain the property. This should be questioned given the Applicant has omitted details of the present unauthorised truck, trailer and sea container at the property. If it is the Applicant's intention to park the truck and trailer and store the sea container in the shed then the predominant land use of the property changes to the parking of a 'Commercial Vehicle' and 'Storage' which is not consistent with the objectives of the zone.

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.

- (f) *any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*

The proposed shed on a vacant property has been assessed to undermine the provisions of *Local Planning Policy 7 Outbuildings and Swimming Pools* as stated above.

Furthermore, the approval of this application results in the potential for the provisions of *Local Planning Policy 27 – Living in Sheds* to be undermined, if so, resulting in a compliance issue.

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

As stated previously, the presence of such a large single shed on a Rural Residential Property, given that the property is almost entirely cleared, will detract visually from the rural character and 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;*

The proposed shed is quite visually prominent to adjoining landowners. However this is generally the case in the Estate as the area is extensively cleared making all building visually prominent. The height, bulk and scale of the shed is quite large given that the total area of the shed is 210m². There are numerous sheds in the area which have been developed to a similar size subsequent to the establishment of a dwelling.

9.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 040913

Moved Cr Clarke / Seconded Cr Gibson

That Council refuses to issue Planning Approval for the proposed shed at Lot 163 (RN 6) Corella Close, Lower Chittering for the following reasons:

- (1) The application does not meet the objectives of the zone as it detracts from the rural character and amenity of the area;
- (2) The application is not consistent with *Local Planning Policy 7 Outbuildings and Swimming Pools*, which states: *“outbuildings appurtenant to a dwelling will not be approved on vacant Townsite or Rural Residential properties unless a simultaneous Building Licence Application for a dwelling has been lodged with the Local Government”*;
- (3) The application is not consistent with Land Management Provision 12 of the Rosa Park Estate Development Plan as the proposed shed is not an associated outbuilding of a dwelling.

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

9.1.2 Proposed Shed, Granny Flat and Shed Relocation – Lot 10 (RN 24) Dear Street, Muchea*

Applicant	E Rawson
File ref	A9153; P226/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	1. Locality Plan 2. Site Plan 3. Granny Flat Floor and Elevation Plan 4. New Shed Elevation Plan 5. Consultation Plan 6. Aerial Photograph

Background

Council's consideration is requested for a proposed shed, granny flat and shed relocation at Lot 10 (RN 24) Dear Street, Muchea.

The proposed new shed is 12m wide by 20m long, being 240m² in floor space. The location for the new shed is proposed in the North Western corner of the property with rear and side setbacks of 2m. The proposed wall height of the shed is approximately 4.2m with a ridge height of approximately 5.25m (see attachment 2). The degree of roof pitch is 11 degrees with a gable style roof (see attachment 4). The purpose of the shed is for the storage of antique vehicles, one of which is approximately 3.6m tall.

The proposed granny flat (ancillary accommodation) is 6m wide by 14m long, being 84m² in total floor space. Approximately 24m² of this total floor space is for a veranda, leaving 60m² of floor space as habitable area.

The current location of the shed proposed to be relocated can be seen on the site plan (see attachment 2). This shed is 6m wide by 6m long, being 36m² in total floor space. The new location for the existing shed is proposed in the North Eastern corner of the property at rear and side setbacks of 2m.

Consultation

External

The application was referred to six surrounding landowners for their comment (see attachment 5).

The land owners were provided the following details in accordance with the R-codes:

- site and general nature of the proposal;
- nature of the proposal involved;
- availability to view details of the proposals; and
- due date by which any comments are to be lodged with the decision-maker, being at least fourteen (14) days after date of posting of notification, or as specified within the scheme, and invited to comment on that part of the proposed development that does not meet the deemed-to-comply provisions of the R-Codes.

No submissions were received.

Internal

Internal consultation was undertaken with the Shire's Principal Building Surveyor regarding the requirement for the pad height and degree of the roof pitch of the new shed given the large wall and ridge height proposed.

The Shire's Principal Building Surveyor advised that the sand pad has to be a minimum of 400mm above the centre point of the road. However, if the soil type possesses a high moisture level the pad height requirement may be 600mm or even higher to provide a greater stability for the shed.

With regard to the degree of roof pitch, the Shire's Principal Building Surveyor advised that most pre-painted (colourbond) roofing materials can be constructed to 5 degrees for gable type roofing. For a skillion type roof most pre-painted materials can be constructed to a 7.5 degree roof pitch.

Statutory Environment

Shire of Chittering Town Planning Scheme No 6

The subject property is zoned 'Townsite'. The objectives of this zone 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 recreational 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 the natural environment;*
- *To protect or enhance any local reserves.*

The residential density code of the subject property is R2.5, allowing for minimum property sizes of 4,000m².

Clause 5.2 Residential Planning Codes

(5.2.2) Unless otherwise provided for in the Scheme, the development of land for any of the residential purposes dealt with by the Residential Planning Codes is to conform with the provisions of those Codes.

(5.2.3) The Residential Planning Code density applicable to land within the Scheme Area shall be determined by reference to the Residential Planning Codes density number superimposed on the particular areas contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Planning Code density, as being contained within the area defined by the centre-line of those borders.

The subject property is located within a Water Prone Special Control Area. These Special Control Areas are depicted on the Scheme Maps as they are subject to inundation or flooding and the provisions of the Scheme are to address development accordingly.

The applicable provisions are as follows:

6.3 Planning Requirements

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

- a) the construction and occupation of any dwelling or outbuilding;*
- b) the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council*

- and the Health Department and shall be located in a position determined by Council;*
- c) *minimum floor levels for any building above the highest known water levels;*

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

Clause 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-

- b) *the aims and provisions of the Scheme;*
- g) *any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*
- j) *the compatibility of a use or development within its setting taking into consideration any Special Control Area.*
- n) *whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*
- q) *the preservation of the amenity of the locality;*
- r) *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;*

State Planning Policy 3.1 Residential Design Codes (also known as the R-codes)

The R-codes outline the setback, open space and frontage requirements for the different residential density coded areas. Acceptable development provisions are also outlined for particular types of development, such as outbuildings or dwellings. The relevant variations proposed by this application to the acceptable development provisions of the R-codes are outlined in the comment section of this report report.

Policy Implications

Local Planning Policy 7 – Outbuildings and Swimming Pools

In regards *Local Planning Policy 7 Outbuildings and Swimming Pools* the following is applicable:

Clause 5.2 Planning Consent Requirements for Outbuildings and In-ground Swimming Pools:

- c) *The Local Government may exercise its discretion to vary the Residential Design Codes by approving outbuildings up to the maximum size of 150m², irrespective of the Residential Design Codes density restrictions.*

Local Planning Policy 19 - Pre-painted Building Materials

In regards *Local Planning Policy 19 - Pre-painted Building Materials* the following is applicable:

Clause 5.1 Council requires pre-painted materials for roofs and wall claddings of all buildings, including outbuildings but not tanks and feed bins, in the following circumstances:

- a) *within Townsite and Rural Residential Zones;*
- b) *within Military Considerations and Water Prone Special Control Areas*

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 referred to six surrounding landowners resulting in no submissions being received. Consultation occurred in accordance with the R-codes.

Shire of Chittering Town Planning Scheme No 6

Objectives of the Zone:

- *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 recreational 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 the natural environment;*
- *To protect or enhance any local reserves.*

The location of the proposed new and relocated shed will not have an impact on the streetscape amenity of the area given they will be located 2m from the rear boundary on such a large block (4005m²). The new shed is further screened from the street by existing vegetation. It is recommended that this vegetation be retained to maintain the amenity of the area in accordance with the objectives of the zone.

Given the size of the new proposed shed and the side setback variations of 2m for both sheds, the application will have a visual impact on surrounding neighbours. However, no submissions were received from surrounding landowners objecting to the application's impact on their visual amenity.

(i) Water Prone Special Control Area:

The Local Government will impose conditions on any Planning Approval relating to-
d) *the construction and occupation of any dwelling or outbuilding;*

Possible conditions on the construction of the outbuildings are outlined in this report in addressing this proposals effect on visual amenity.

e) *the type of effluent disposal system used in this area shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council;*

Connection to an effluent disposal system for the granny flat will be dealt with by the Shire's Principal Environmental Health Officer (EHO) through a required application. The current effluent disposal system may have the capacity for the granny flats connection.

However, given the above provision of the Scheme it is recommended that any new effluent disposal system that is developed shall be high performance with bacterial and nutrient stripping capabilities to the specifications of Council and the Health Department and shall be located in a position determined by Council.

f) *minimum floor levels for any building above the highest known water levels;*

Upon a site visit to the subject property it was evident that the property was quite water logged. Therefore it is recommended that the Applicant ensures all development occurs above the highest known water level. The Shire's Principal Building Surveyor has advised that given the high water content of the soil the requirement for the pad height would most likely be increased from the minimum 400mm above the central point of the fronting road to 600mm. Therefore, the above provision of the Scheme will be addressed during the Building Permit Application stage of the development.

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 in this report.

f) *any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*

The relevant Local Planning policies have been addressed in this report.

j) *the compatibility of a use or development within its setting taking into consideration any Special Control Area.*

The proposed development is compatible with the Water Prone Special Control Area given the height above the highest known water level and effluent disposal system is addressed in accordance with this report.

It is the Officer's recommendation that conditions be placed on the shed restricting its use for commercial purposes or human habitation. The shed has not been assessed for this purpose and the possible land use conflict which may occur from commercial activity. Furthermore, for human habitation to occur in the shed it would have to be assessed as a dwelling and meet the minimum standards for a habitable building. The shed does not currently meet these standards.

n) *whether the land to which the application relates is unsuitable for the proposal by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk;*

The site is subject to inundation or flooding as it is within a Water Prone Special Control Area. The relevant requirements for this Special Control Area have been addressed in this report.

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

The shed is located at the very back of the property, therefore the effect on the streetscape amenity is minimised.

- 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 proposed new shed will have a significant visual impact on affect adjoining landowners with regard to the bulk, scale and height of the shed. A standard condition of approval for outbuildings on Townsite zoned properties is that the roofing be constructed of a non-reflective material such as Colorbond.

State Planning Policy 3.1 Residential Design Codes

Under the R-codes, Council has the ability to make discretionary decisions to vary any of the acceptable development provisions relevant to the application. Under the R-codes a discretionary decision can only be made if neighbour consultation is undertaken in accordance with the Codes. As stated in the consultation section of this report, consultation was undertaken in accordance with the R-codes.

The Applicant seeks to vary a number of the acceptable development provisions of the R-codes as follows:

- (i) New Shed:
- Side setback variation of 2m from the prescribed 7.5m;
 - Wall height variation of 4.2m from the prescribed 2.4m;
 - Ridge height variation of 5.25m from the prescribed 4.2m
 - Total area variation of 240m² from the prescribed 60m² (please refer below to the Local Planning Policy Section for further information regarding R-code outbuilding area variation).
- (ii) Relocated Shed:
- Side setback variation of 2m from the prescribed 7.5m.

All other aspects of the application comply with the R-codes.

Given the scale, bulk and height of the new shed, the proposal would have quite a visual impact on the adjoining land owners. In the past there has been no real precedent set for acceptable variations to the wall and ridge heights of applications for outbuildings. Outbuildings in areas where the R-codes apply have been approved to a ridge height of 6m. The Applicant has proposed the excessive height to allow the parking of an antique vehicle which is approximately 3.6m tall.

It is recommended that the ridge height shall be a maximum height of 5.25m above the finished floor level to ensure no further variation to the R-codes.

The proposed relocation of the existing shed would only result in one variation to an acceptable development standard. As no submissions were received objecting to this relocation, it is recommended that Council allow the side setback variation.

Local Planning Policy

The provisions of *Local Planning Policy 7 – Outbuildings and Swimming Pools* allow the R-codes to be varied to allow outbuildings up to a size of 150m². The Applicant proposes a shed to a size of 240m² which exceeds 150m², therefore the shed cannot be approved under delegated authority. Given the purpose of the shed is for storage only, the approval of the oversize shed will not result in land use conflict.

Due to the negative visual impact produced by the combination of excessive height and the reduced side setback it is recommended that the new shed be restricted to 150m² building area in accordance with *Local Planning Policy 7*.

Pursuant to *Local Planning Policy 19 - Pre-painted Building Materials* both sheds and the granny flat will require roofing to be constructed of pre-painted materials, such as Colorbond. In addition, both sheds will require wall cladding to be constructed of pre-painted materials.

9.1.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 050913

Moved Cr Clarke / Seconded Cr Rossouw

That Council:

- (1) Grants Planning Approval for a new shed and relocation of existing shed at Lot 10 (RN 24) Dear Street, Muchea subject to the following conditions:**
 - (a) All development shall be in accordance with the submitted plans;**
 - (b) Roofing to be tiled or pre-painted material such as the product Colorbond.**
 - (c) The vegetation at the front of the property shall be retained in accordance with Attachment 6 "Aerial Photograph";**
 - (d) The sheds shall be subject to the following:**
 - (i) The sheds are not to be used for commercial purposes;**
 - (ii) The sheds are for storage purposes only and not for residential habitation;**
 - (iii) The new shed shall be limited to a size of 150m² building area, in accordance with *Local Planning Policy 7 Outbuildings and Swimming Pools*;**
 - (iv) The wall cladding to be pre-painted material such as the product Colorbond;**
 - (v) The new shed shall be a maximum height of 5.25m from the finished floor level;**
- (2) Grants Planning Approval for the proposed granny flat at Lot 10 (RN 24) Dear Street, Muchea subject to the following conditions:**
 - (a) The habitable floor space area of the ancillary accommodation shall be limited to a maximum of 60m²;**
 - (b) The ancillary accommodation shall be connected to the services of the primary dwelling (water, electricity and effluent disposal system);**
 - (i) Any new effluent disposal system installed shall be high performance with bacterial and nutrient stripping capabilities to the specifications of the Shire's Principal Environmental Health Officer;**
 - (c) The ancillary accommodation shall share the same driveway access as the primary dwelling. No additional property access is permitted.**

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. If the development the subject of this approval is not substantially commenced within a period of two (2) years the approval shall lapse and be of no further effect.**
- 3. Where an approval has so lapsed, no development shall be carried out without the further approval of the local government having first been sought and obtained.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.3 Proposed boundary fence and gate entry – Lot 532 (RN 169) Wisteria Way, Chittering*

Applicant	M Napier
File ref	A10944; P293/12
Prepared by	Brendan Jeans, Senior Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	1. Public Submission
Attachments	1. Locality Plan 2. Site Plan 3. Site Photos

Background

Council's consideration is requested for a proposed boundary fence and gate entry at Lot 532 (RN 169) Wisteria Way, Chittering.

The Applicant proposes to construct 1.8m fencing along all boundaries of their property and construct a 4m gate entry as shown on the site plan (see attachment 2). The fencing is to be constructed of pine poles, star pickets and square mesh. The purpose of this fence is to contain the owner's dog within their property and prevent dogs and other animals from entering their property.

As a result of public consultation and in discussion with the Shire, the landowner has since agreed to alter the proposed fence on the southern side boundary by moving the proposed fence approximately 3m away from the boundary line.

Consultation

The application was referred to adjoining landowners for a period of fourteen (14) days for the opportunity to comment on the proposal.

During this period one (1) submission was received and has been tabled for Council's consideration.

In brief the submission outlined two main concerns:

- (1) If the existing boundary fence will be retained.
- (2) If the excavation of the house pad close to the boundary fence will cause erosion impacting on the existing and proposed fence.

Statutory Environment

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.

Clause 5.8.4 of the Scheme applies to the proposal:

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. Where an area is subject to an Environmental Management Plan, as depicted on the Development Plan, fencing is to be in accordance with this plan.

The Council may determine the type, height, materials and extent of any fencing.

Local Government is directed by Clause 10.2 of the Scheme to consider Local Planning Policies when assessing Applications for Planning Approval.

Clause 10.2 Matters to be considered by Local Government:

10.2 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-

- c) The aims and provisions of the Scheme;*
- d) The requirements of orderly and proper planning including any relevant proposed new district planning scheme or amendment, which has been granted consent for public submission to be sought;*
- e) Any approved Statement of Planning Policy of the Commission;*
- f) Any approval environmental protection policy under the Environmental Protection Act 1986;*
- g) Any relevant policy or strategy of the Commission and any relevant policy adopted by the Government of the State;*
- h) Any local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*
- i) The aims and objectives of Catchment Management Plans and Principles for the Scheme Area;*
- j) In the case of land reserved under the Scheme, the ultimate purpose intended for the reserve;*
- k) The conservation of any place that has been registered in the Register of Places within the meaning of the Heritage Act of Western Australia 1990, or which is included in the Heritage List under clause 7.1, and the effect of the proposal on the character and appearance of a heritage area;*
- l) The compatibility of a use or development within its setting taking into consideration any Special Control Area.*
- m) Any social issues that have an effect on the amenity of the locality;*
- n) The cultural significance of any place or area affected by the development;*
- o) The likely effect of the proposal on the natural environment and any means that area proposed to protect or to mitigate impacts on the natural environment;*
- p) Whether the land to which the application relates is unsuitable for the proposed by reason of it being, or being likely to be, subject to flooding, tidal inundation, subsidence, landslip, bush fire or any other risk*
- q) The preservation of the amenity of the locality;*
- r) 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;*
- s) 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;*
- t) 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;*

- u) *Whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*
- v) *Whether the public utility services are available and adequate for the proposal. This includes existing facilities and those planned for construction to meet the needs of the proposal and future servicing requirements of the Scheme Area;*
- w) *Whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);*
- x) *Whether adequate provisions have been made for access by disabled persons;*
- y) *Whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- z) *Whether the proposal is likely to cause soil erosion or land degradation;*
- aa) *The potential loss of community service or benefit resulting from the Planning Approval;*
- bb) *The conservation of water resources;*
- cc) *Any relevant submissions received on the application;*
- dd) *The comments or submission received from any authority consulted under clause 10.1.1; and*
- ee) *Any other planning consideration the Local Government considers relevant.*

Clause 2.3 Relationship of Local Planning Policies to Scheme:

Clause 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.

The property is subject to a Development Plan. Provision 5 of the Development Plan relates to fencing:

5. Fencing

No side or rear boundary fencing shall be permitted in tree preservation areas or stocking restriction areas identified on the Development Plan. Within this restrictive fencing area, Council may permit the construction of a fence around a building envelope.

Policy Implications

Local Planning Policy No 22 – Fences

(4) *Objectives*

The objectives of this policy are:

- *To allow appropriate fencing for stock and domestic pets;*
- *To permit fencing to achieve privacy;*
- *To facilitate fencing to protect the natural vegetation and water quality;*
- *To facilitate fencing to lessen the likelihood of soil erosion and land degradation;*
- *To discourage fencing in naturally vegetated areas; and*
- *To maintain the rural character of the Shire.*

(5.1) *General Requirements*

In all zones:

- a) *as a condition of planning consent the Council may require fencing to exclude the keeping of animals and poultry and the cultivation of crops, vines and fruit from watercourses, areas liable to flooding and/or land where soil erosion or other land degradation may occur;*
- 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);*
- c) *applications for planning consent for fences may be dealt with by the Chief Executive Officer under delegation issued by Council in accordance with Section 5.42 of the Local Government Act; and*
- d) *planning consent is not required for the repair or replacement of an existing fence.*

(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;*
- b) *solid fences and walls may not be constructed on property boundaries or within development setback areas (refer Local Planning Policy No. 18 - Setbacks) and where a building clearing area exists, are to be confined to that clearing area, provided that entry statements may be constructed with planning consent;*
- 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.

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

The amendment made to shift the proposed fence away from the side boundary inside the embankment would reduce any likely erosion as a result of its construction and would address the concerns raised by the submitter.

Environmental implications

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

Comment

Consultation

As mentioned earlier, the adjoining landowners were notified of the proposal and given the opportunity to make comments. During this period one (1) submission was received raising particular concerns to the existing excavation works undertaken as part of the dwelling and shed construction. The submission raises concerns of the excavation causing damage/impact on the existing boundary fence. The embankment is approximately 2m at its highest point and up to approximately 300mm from the boundary fence and has been constructed to the Engineer's specifications in accordance with the Australian Standards. The landowners advised planting and stabilisation of the embankment would be undertaken in due course. The proposed fence alignment is not considered to impact the stability of this embankment.

Amendments

As a result of the submission received, Shire officers discussed the application with the landowners. An onsite meeting on 19 August 2013 was arranged to view the site to relate to the concerns raised. The Shire advised the landowners it would be preferable for the proposed fence to be located further away from the side boundary line. It was agreed onsite that a setback of approximately 3m from the side boundary, being inside of the embankment, would be more acceptable.

Development Plan

The property is subject to a Development Plan which outlines Development Provisions and identifies building envelopes within the Chittering Springs Estate.

Provision 5 of the Development Plan relates to fencing in the estate. The proposed fence and gate entry is not to be located in a tree preservation area and therefore does not conflict with the requirements of the Development Plan.

Shire of Chittering Town Planning Scheme No 6

Clause 5.8.4 of the Scheme allows Council to determine the type, height and materials of any fence. The applicant proposes a 1.8m high fence constructed with pine poles, star pickets and square metal mesh (dog mesh). As per the Officer's Recommendation, the height and materials used have been stipulated to ensure any variance to the construction standard does not occur. As the Applicant is using typical rural products such as pine poles and star pickets, and has not exceeded 1.8m in height, it is considered the proposed 1.8m fence will not be detrimental to the amenity of the area.

Local Planning Policy No 22 – Fences

This Policy provides guidance to the types of fencing supported in the various zones and what types of fencing is not supported by Council in the shire. The Policy notes that any fence greater than a 'sufficient fence', being up to 1.25m, requires Council approval. The Policy does not provide a maximum fence height to guide Council, however within Townsite zone properties a maximum of 1.8m is generally acceptable for boundary fencing. The proposed fence is 1.8m and is not solid. It is constructed of pine poles and star pickets, retaining some rural character, opposed to typical 1.8m fencing constructed of steel of an industrial

nature. Furthermore by shifting the proposed fence off the embankment, any concern of soil erosion or land degradation caused by its construction is addressed, meeting the objective of the Policy.

The Policy mentions entry statements require planning approval. The proposed gate entry has been included in the planning application.

Concluding Comments

It is considered the Shire has dealt with the application as required by the Scheme and guided by the relevant Policy. The consultation period resulted in one (1) objection; mostly raising concerns about any damage from the current cut and fill on-site to the existing fence. The Shire discussed the concerns with the Applicant and agreed on relocating the proposed fence to be setback at least 3m from the side boundary. It was considered the fencing of the front, rear and other side boundaries did not result in any issues.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 060913

Moved Cr Clarke / Seconded Cr Gibson

That Council grant Planning Approval for the proposed fence and gate entry at Lot 532 (RN 169) Wisteria Way, Chittering subject to the following conditions:

- (1) The fence shall be constructed within the property boundaries and be setback from the southern side boundary a minimum of three (3) metres;**
- (2) The fence height shall not exceed 1.8m above current ground level.**
- (3) The fence shall be constructed of pine poles, star pickets and square (dog) mesh.**
- (4) The star pickets shall be maintained with protective caps.**
- (5) The fence shall not impede any firebreak or emergency access.**
- (6) The fence shall not contain barbed wire/s and/or electric wire/s.**
- (7) The gate entry shall be located in the location depicted on the site plan.**

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 front boundary fence structure shall match the existing adjoining properties.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.4 Proposed Second Dwelling and Water Tank – Lot 1326 Muchea East Road, Muchea*

Applicant	B Herrera
File ref	A3022; P239/13
Prepared by	Mark Johnston, Planning Officer
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Locality Plan2. Site Plan3. Aerial Photograph4. Floor and Elevation Plan5. Scheme Map6. State Planning Policy 2.4 Basic Raw Materials – Resource Protection Map7. Local Planning Strategy Figure 9 Basic Raw Materials8. Local Planning Strategy Map

Background

Council's consideration is requested for a proposed second dwelling and water tank at Lot 1326 Muchea East, Lower Chittering.

The Applicant proposes to develop a second dwelling adjacent to the existing shed as shown in attachment 2. The width of the dwelling is 6m and the length of the dwelling is 17.5m. The proposed water tank is 120,000L which is located 10m directly north of the dwelling (adjacent the northern end of the shed).

The proposed dwelling and water tank are located approximately 250m from an extractive industry which is currently in operation for the extraction of clay.

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

Shire of Chittering Town Planning Scheme No 6

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

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

The following provision of the Scheme's General Development Requirements applies to dwellings in Agricultural Resource zones:

5.7 *Dwellings in the Agricultural Resource, Rural Retreat, Rural Smallholdings, Rural Conservation and Rural Residential Zones*

Agricultural Resource Zone

Local Government may grant approval to two dwellings on any lot, where the land is managed for agricultural production, tourism, religious or education purpose and where the occupants are engaged in those specified predominant land uses or activities.

The following provisions of the Scheme relate to the requirement for a water tank:

5.8 *Development Provisions – Rural Residential Zone, Rural Retreat Zone, Rural Smallholdings Zone and Rural Conservation Zone*

5.8.5 *Water Supply*

All buildings intended for residential use must include provision for the storage of water in tanks of not less than 120,000 litres capacity unless satisfactory arrangements have been made for connection to a reticulated water supply provided by a licensed water provider. Council may permit the reduction in the size of storage tanks if the quality of water on-site meets or is treated to potable water standards.

The proposed dwelling and water tank are located within a Basic Raw Materials Special Control Area. The following provisions of the Scheme relate to applications within this Special Control Area:

6.4 *Basic Raw Materials*

6.4.1 *Basic Raw Materials Areas are delineated on the Scheme Map.*

6.4.2 *Purpose*

To secure known basic raw materials resources, and protect future resources.

6.4.3 *Planning Requirements*

Planning Approval is required to extend a dwelling or other building within the Buffer Area.

No new dwellings shall be approved within this buffer area.

6.4.4 *Relevant Considerations*

Whether development in the buffer area will affect future Extractive Industry operations.

State Planning Policy 2.4 Basic Raw Materials

The Shire of Chittering is listed as a Local Government which *State Planning Policy 2.4 Basic Raw Materials* (SPP 2.4) applies to (refer to figure 5).

The objectives of the policy are as follows:

5.1 *The objectives of this policy*

- *identify the location and extent of known basic raw material resources;*
- *protect Priority Resource Locations, Key Extraction Areas and Extraction Areas from being developed for incompatible land uses which could limit future exploitation;*
- *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;*
- *provide a consistent planning approval process for extractive industry proposals including the early consideration of sequential land uses.*

The Policy identifies the subject property as a current 'Extraction Area' that is a 'Key Extraction Area':

6.1 Policy Areas

- **Priority Resource Locations.** *These are the locations of regionally significant resources which should be recognised for future basic raw materials extraction and not be constrained by incompatible uses or development.*
- **Extraction Areas.** *These are existing extractive industries operating under the Mining Act 1978, the Local Government Act 1996, a regional planning scheme or a town planning scheme. They should be protected in the short term but will eventually be replaced by other uses or reserves.*

The following provision of the Policy is relevant to the development of sensitive land uses within close proximity to an extractive industry:

6.3.2 *Before determining an application for a sensitive land use, such as residential, rural-residential or a land use with a substantial residential or rural-residential component (refer to Appendix 1) within 1000 m of a basic raw materials extraction area, the Commission and/or local government must consider the following, as appropriate. An application in an environmentally significant area may require referral to the Department of Environmental Protection.*

- *the significance of the resource in terms of whether it is a key extraction area, priority resource area or extraction area;*
- *the likely effects of vehicular traffic, noise, blasting, dust and vibration arising from the extractive industry on the proposed use or development.*

6.3.3 *There should be a presumption against the introduction of sensitive land uses which could be adversely affected by existing or potential future extractive industries unless appropriate measures can be taken to ameliorate the adverse impacts.*

The Policy defines a sensitive land use as the following:

Sensitive Land Use *in this Policy means those uses that are sensitive to noise or other nuisances resulting from the extraction industry. Generally all forms of residential use, uses involving children such as kindergartens and schools and those involving doctors, hospitals and aged care facilities.*

Transfer of Land Act 1893

70A Factors affecting use and enjoyment of land, notification on title.

Policy Implications

Local Planning Policy 6 Water Supply and Drainage

With regard to Local Planning Policy 6 Water Supply and Drainage the following is applicable:

5.4 General Requirements

f) Water tanks:

- (i) *are to be located as required by LPP No. 18 – Setbacks;*
- (ii) *are to be provided as follows:*
 - a) *buildings intended for residential use in areas without reticulated water supply – 120,000litre capacity*
- (iii) *are to be provided to satisfy LPP No. 21 – Fire Management Plans*

Local Planning Policy 18 Setbacks

With regard to *Local Planning Policy 18* the following is applicable:

- 5.3 *In the special control areas providing buffers for Basic Raw Materials and Land Refuse, there are to be no new residential buildings constructed but Council may allow additions to an existing building.*
- 5.7 *Otherwise, the following minimum setbacks generally apply to buildings (including retaining walls), dams and water tanks:*
- (a) *Agricultural Resource Zone*
Highway – 100m
Major Road – 50m
Other Road – 30m
Rear – 30m
Side – 30m

Local Planning Policy 21 – Fire Management Plans

With regards to *Local Planning Policy 21 Fire Management Plans* the following is applicable:

- 3.4 *Water Supply*
- b) *Fire Management Plans are to state that with development approval, water supply/storage shall be provided on-site, as follows:*
- (i) *in the case of building intended for residential use, in accordance with TPS 6 requirements for 120,000litres water supply, of which 10,000litres is to be held in reserve for fire fighting purposes, provided that where bore water is available with an independent power supply, this requirement may be reduced to 110,000litres with 10,000litres held in reserve. All water tanks intended to reserve 10,000litres for fire fighting purposes are to install a 50mm male Camlock fitting to the floor of the tank and the floor of the tank and the draw point for residential purposes is to be 10,000litres above the floor of the tank.*
- (ii) *in the case of all other development, as required by Council.*

Financial Implications

Nil

Strategic Implications

The Shire of Chittering's *Local Planning Strategy* outlines the following aims for basic raw materials areas:

8.9 Primary Basic Raw Materials Areas

8.9.2 Aims

- To manage the extraction of basic raw materials within the rural zones in accordance with the best industry practices including consideration of end use and rehabilitation at time of decommission;*
- To ensure appropriate buffer areas are applied to protect the extractive operations as well as the living or agricultural environment in nearby areas.*

The subject property is identified by the Strategy as a 'Primary Clay Resource' with a 'Programmed Clay Extraction' site occurring on it (see attachment 6).

The *Local Planning Strategy* gives the following intent for Basic Raw Materials Special Control Area's:

10.3 Basic Raw Materials

The intent is: -

- *To provide appropriate buffer areas in accordance with State Government and local policies and legislation to both protect the workings of extractive industry sites and protect any residences, agricultural development and tourism from adverse effects of noise and dust emissions;*
- *Not to support new development within any identified buffer areas which may be detrimental to the efficiency of the industries and the issues of basic raw material requirements at the local, regional and State levels;*
- *In relation to greenfields site applications for extractive industries, to protect existing residents and approved developments by ensuring that all buffer areas are designated so as not to encroach detrimentally on existing authorised developments.*

The subject property is identified as a 'Basic Raw Materials Priority Resource Location' due to its identification by the Western Australian Planning Commission (WAPC) (see attachment 6).

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

Objectives of the Zone:

- *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 dwelling and water tank do not undermine the objectives of the Agricultural Resource Zone and do not restrict the ability of the land to conduct any of the activities listed in the above objectives.

(i) *Basic Raw Materials Special Control Area:*

Clause 6.4.3 of *Town Planning Scheme No 6* clearly states “no new dwelling shall be approved in this buffer area” with regard to development within a Basic Raw Materials Special Control Area. Therefore, this application is Ultra Vires as it proposes a use not permissible by the Scheme.

It is the Officer’s recommendation not to approve this application as it sets an undesirable precedent for the development of sensitive land uses within Basic Raw Materials Special Control Areas, which undermine the provisions of the Basic Raw Materials Special Control Area. Such development may result in land use conflict due to nuisance factors like dust, noise, vibration and traffic movements.

(ii) *Water Supply:*

Pursuant to clause 5.8.5 ‘Water Supply’, the Applicant is required to provide a water tank of 120,000 litre minimum capacity due to no reticulated water supply being available for connection.

Policy implications

In accordance with *Local Planning Policy 6 – Water Supply and Drainage* the Applicant shall require a water tank of 120,000 litre capacity. Although the property is not managed by a Fire Management Plan it is still recommended that 10,000 litres of the water tank be held in reserve at all times for fire fighting purposes with a standard Camlock fitting to provide for fire safety in accordance with *Local Planning Policy 21 – Fire Management Plans*.

The proposal meets all the setback requirements of *Local Planning Policy 18 – Setbacks*. However, the provisions of *Local Planning Policy 18* state that within Special Control Areas providing buffers for Basic Raw Materials and Land Refuse there are to be “no new residential buildings constructed” but Council may allow additions to an existing building. Therefore, this application is inconsistent with *Local Planning Policy 18*.

State Planning Policy 2.4 Basic Raw Materials

Objectives of the Policy:

- *identify the location and extent of known basic raw material resources;*
- *protect Priority Resource Locations, Key Extraction Areas and Extraction Areas from being developed for incompatible land uses which could limit future exploitation;*
- *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;*
- *provide a consistent planning approval process for extractive industry proposals including the early consideration of sequential land uses.*

The subject property is identified as ‘Priority Resource Location’ and ‘Extraction Area’ by the WAPC through *State Planning Policy 2.4 Basic Raw Materials*. Priority Resource Locations are recognised as regionally significant resource areas for future basic raw materials extraction, not to be constrained by incompatible land uses. The proposed dwelling is an incompatible land use given its sensitivity to the conflictive nuisance factors of extractive industries, such as noise, dust, vibration and traffic movements.

The Policy presumes against the development of sensitive land uses which could be affected by extractive industries, especially those within 1,000m of an existing extractive industry, unless appropriate measures have been taken to ameliorate the adverse nuisance impacts. The nuisance impacts of noise and traffic movements from the adjacent extractive industry were clearly evident during the site visit to the property

Strategic implications

The Shire's *Local Planning Strategy* aims to provide buffer areas to protect extractive operations. These have been achieved through Basic Raw Materials Special Control Areas identified in the Scheme. The strategic intent of the Special Control Areas applicable to this application is as follows:

- To provide appropriate buffer areas in accordance with State Government and local policies and legislation to both protect the workings of extractive industry sites and protect any residences, agricultural development and tourism from adverse effects of noise and dust emissions;
- Not to support new development within any identified buffer areas which may be detrimental to the efficiency of the industries and the issues of basic raw material requirements at the local, regional and State levels;

Appropriate buffer areas have been established to protect the workings of extractive industry sites and the areas designated Primary Resource Locations by *State planning policy 2.4 Basic Raw Materials*. The development of a new dwelling within this buffer area does not protect that residence from the adverse impacts of noise and dust emissions. Any effort to protect the proposed dwelling from the adverse impacts of noise and dust emissions created by the adjacent extractive industry would detrimentally decrease its efficiency. Therefore, the application is not consistent with the strategic planning direction outlined by the *Local planning Strategy* for the extraction of basic raw materials.

Final comment

It is the Officer's recommendation that the application be refused by Council. It is not consistent with the provisions of the Shire's *Town Planning Scheme No 6* and Local Planning Policies, SPP 2.4 and the strategic direction outlined by the *Local Planning Strategy*, as outlined above.

9.1.4 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 070913

Moved Cr Clarke / Seconded Cr Rossouw

That Council refuse to grant Planning Approval for the proposed second dwelling and water tank at Lot 1326 (RN 240) Muchea East Road, Lower Chittering for the following reasons:

- (1) The new second dwelling is not permitted under *Town planning Scheme No 6* as it is proposed within a Basic Raw Materials Special Control Area;
- (2) The new second dwelling is not consistent with *Local planning Policy 18 – Setbacks* as it is proposed within a Special Control Area which provides a buffer for Basic Raw Materials;
- (3) The application is not consistent with *State Planning Policy 2.4 Basic Raw Materials* due to the following:
 - (a) The subject property is designated as a 'Priority Resource Location' for future extraction not to be constrained by incompatible land uses;
 - (b) The second dwelling is an incompatible land use given its sensitivity to the adverse nuisance impacts of extractive industries, such as noise, dust, vibration and vehicle movement;
 - (c) The Policy presumes against the development of sensitive land uses which may be affected by extractive industries;
- (4) The application is not consistent with the strategic planning direction for development related basic raw materials in the Shire, as outlined by the Shire's *Local Planning Strategy*.

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 4/3

9.1.5 Shire of Chittering Local Recovery Plan (LRP)*

Applicant	Shire of Chittering
File ref	09/02/1
Prepared by	Jamie O'Neill, Community Emergency Services Manager
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Local Recovery Plan

Background

A Local Recovery Coordination Committee (LRCC) workshop was held on the 4 April 2013 to review the draft Local Recovery Plan (LRP) that had been prepared by the Community Emergency Services Manager (CESM).

At the LRCC meeting held on 18 April 2013, the first draft Recovery Plan was tabled and considered. The committee recommended the adoption of the attached draft Local Recovery Plan.

At the Local Emergency Management Committee meeting held on 23 May 2013, the draft Recovery Plan was tabled and considered. The committee recommended the adoption of the attached draft Local Recovery Plan.

Consultation

Local Emergency Management Committee
Department of Fire & Emergency Services (DFES)
State Emergency Management Committee Secretariat

Statutory Environment

The Local Recovery Plan has been prepared in accordance with the requirements of Section 41(4) of the *Emergency Management Act 2005* as a support plan to the Shire of Chittering 'Local Emergency Management Arrangements' and endorsed by the Local Emergency Management Committee.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Effective emergency management arrangements enhance the community's resilience against, and preparedness for, emergencies through strategies that apply prevention/mitigation, preparedness, response and recovery activities.

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 now requested to consider endorsing the Local Recovery Plan.

9.1.5 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 080913

Moved Cr Hawes / Seconded Cr Gibson

That Council:

- (1) Endorse the Shire of Chittering Local Recovery Plan; and**
- (2) Forward the Shire of Chittering Local Recovery Plan to the State Emergency Management Committee Secretariat.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.6 Bindoon Channel 2 Repeater*

Applicant	The Northside Radio Association Inc.
File ref	A1414; 09/02/4
Prepared by	Jamie O'Neill, Community Emergency Services Manager
Supervised by	Azhar Awang, Executive Manager Development Services
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Letter from The Northside Radio Association Inc. Location Map

Background

The Northside Radio Association Inc. has requested to take over the management and maintenance of the Bindoon Channel 2 repeater at lot 3874 Kay Road, Bindoon. This was tabled at the Chittering Bush Fire Advisory Committee on the 13 August 2013 and it was agreed at this meeting, that a report is to be presented to Council for consideration.

The Bindoon Channel 2 repeater was initially established to service the Rural Watch program, in recent years the Channel 2 repeater has not been used or maintained and is no longer required for its intended purpose and through consultation with the Chittering Bush Fire Advisory Committee, it was unclear when the repeater was last active.

The Emergency Services have adopted Mid-Band radio network and more recently the Western Australian Emergency Radio Network (WAERN), this repeater would not be used for emergency services.

Consultation

Chittering Bush Fire Advisory Committee

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

There are no financial implications associated with this item.

Strategic Implications

The repeater will still be made available for community use.

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 reporting officer has no objection to the request by the Northside Radio Association (NRA) and request that Council supports the proposal by the NRA to take over the Bindoon Channel 2 repeater.

9.1.6 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 090913

Moved Cr Gibson / Seconded Cr Mackie

That Council:

- (1) Advises the applicant to obtain the written approval from the property owner(s) to gain access to the site, for the ongoing maintenance of the Bindoon Channel 2 repeater, at lot 3874 Kay Road, Bindoon.**
- (2) On the written confirmation of condition 1 above, supports the request from The Northside Radio Association (NRA) Inc. to take over the management of the Bindoon Channel 2 repeater at Lot 3874 Kay Road, Bindoon subject to the following conditions:**
 - (a) Permission to relicense & re-establish the BIN02 Repeater at its current location, is granted by the Australian Communications and Media Authority;**
 - (b) The current radio equipment and antenna's that are already in place be donated to the NRA and that the equipment become the property of the NRA, with the proviso that the equipment will continue to serve the Bindoon Community, and be publicly available.**
 - (c) All costs in relation to re activating the BIN02 Repeater including any licensing and repair costs involved will be borne by NRA.**
 - (d) The Shire of Chittering logo is to be placed on the NRA website as a token of appreciation for allowing NRA to re activate BIN02.**

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.7 Affixing of Common Seal – Community Infrastructure Development Plan*

Applicant	Shire of Chittering
File ref	8/01/1
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Applicant submission
Attachments	Selection Criteria Formal Instrument of Agreement

Background

In developing the Development Contributions Scheme, a Community Infrastructure Development Plan is required to be prepared in accordance with the requirements of *State Planning Policy 3.6 – Development Contributions for Infrastructure*. Prior to seeking contributions for community infrastructure, it is a requirement under clause 6.7 – *Development Contributions of the Shire of Chittering Town Planning Scheme No 6*, that the local government provides the following:

- a) Community Infrastructure plan for the area with demand analysis and service catchments;
- b) A capital expenditure plan;
- c) Projected growth figures; and
- d) Infrastructure costs, with provision for cost escalation.

A Request for Quotation was advertised in the local paper and the Weekend West seeking suitably qualified and experienced Consultants to undertake the Shire of Chittering Community Infrastructure Development Plan for Development Contribution Areas incorporating the following scope of work:

1. *A Community Infrastructure plan for the area, identifying the services and facilities required over the next 5 to 10 years (supported by demand analysis and identification of service catchments). This should be supported by projected growth figures including the number of new dwellings to be created at catchment level (suburb or district);*
2. *A capital expenditure plan (with at least five out years) which identifies the capital costs of facilities and the revenue sources (including capital grants) and programs for provision;*
3. *Projected growth figures, including the number of new dwellings to be created at Catchment level (suburb or district); and*
4. *A methodology for determining the proportion of costs of community infrastructure to be attributed to growth and the proportion to be attributed to existing area.*

The deadline for the Request for Quotation was Friday 23 August 2013 where Council received ten (10) submissions.

Consultation

The Request for Quotation was advertised in *The Weekend West* (3-4 August 2013) and in *The Advocate* (7 August 2013). At the close of submissions, ten (10) submissions were received. The selection criteria was based on the following key selection:

- (a) **Relevant experience of undertaking similar projects (40%)**
Address the following information in an attachment and label it “Relevant Experience”:
 - (a) Provide details of similar work;
 - (b) Provide scope of the Tenderer’s involvement including details of outcomes;
 - (c) Provide details of issues that arose during the project and how these were managed;
 - (d) Demonstrate sound judgement and discretion; andDemonstrate competency and proven track record of achieving outcomes.

(b) Appreciation/understanding of required services (40%)

Consultants should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:

- (a) A project schedule/timeline (where applicable);
- (b) The process for the delivery of the goods/services;
- (c) Training processes (if required); and
- (d) A demonstrated understanding of the scope of work

Supply details and provide an outline of your proposed methodology in an attachment labelled **“Demonstrated Understanding”**.

(c) Key Personal Skills & Experience (20%)

Consultants should provide as a minimum, information of proposed personnel to be allocated to this project, such as:

- (a) Their role in the performance of the Contract;
- (b) Curriculum vitae;
- (c) Membership to any professional or business association;
- (d) Qualifications, with particular emphasis on experience of personnel in projects of a similar requirement; and
- (e) Any additional information.

Supply details in an attachment and label it **“Key Personnel”**.

The Principal has adopted a best value for money approach to this Request. This means that, although price is considered, the Quotation containing the lowest price will not necessarily be accepted, nor will the Quotation ranked the highest on the qualitative criteria.

Statutory Environment

Planning and Development Act 2005

Provides for local schemes to make agreements and recover expenses incurred in order to implement, enforce and give effect to the scheme.

Shire of Chittering Town Planning Scheme No 6

Clause 6.7 – Development Contributions

6.7.4 Development contributions for community infrastructure may only be levied in accordance with the requirements of State Planning Policy 3.6 – Development contributions for infrastructure. Prior to seeking contributions for community infrastructure local governments need to prepare a:

- a) Community Infrastructure plan for the area with demand analysis and service catchments;*
- b) A capital expenditure plan;*
- c) Projected growth figures; and*
- d) Infrastructure costs, with provision for cost escalation.*

Delegation DA 9 (Engagement of consultants) states:

Objective of Delegation: *To appoint consultants to the Shire of Chittering*

Extent of Delegation: *The power to appoint consultants, such as architects, valuers, planning consultants etc. for projects and tasks where specific external skills or knowledge are required.*

Conditions imposed:

- *Any applicable Council Policy must be implemented.*
- *The consideration for the consultancy is less than \$50,000.*
- *Specific budget provision exists.*

Policy Implications

State Planning Policy 3.6 – Development contributions for infrastructure

Financial Implications

An amount of \$88,000 has been allocated in this year's budget for undertaking the Community Infrastructure Plan.

Strategic Implications

Strategic Community Plan 2012-2022

- *Built Environment: Infrastructure for Future Lifestyle Choices*
Outcome *Local and Central Activity Areas Supporting Community Needs.*
Strategies *Create options to enhance growth, redevelopment activity, and the individuality of the local areas.*
Measurable Results *Develop and implement the Shire of Chittering Community Infrastructure Plan:*
Developer contributions received.

Site Inspection

Site inspection undertaken: Not applicable

Triple Bottom Line Assessment

Economic implications

The proposal will support the development of Community facilities and infrastructures through the process of subdivision where the developers will be required to contribute for the provision of these facilities.

Social implications

The Community Infrastructure Plan will identify the facilities that will be required in servicing the current and future community needs based on the projected population growth.

Environmental implications

There is no known environmental implication in regards to this proposal.

Comment

All the submissions received addressed the scope of works required in undertaking the Community Infrastructure Development Plan and the assessments were undertaken based on the selection criteria.

Two of the submissions received were above the allocated budget, while the remainder of the submissions are within the budget.

SGS Economics & Planning stands out as the preferred candidate based on value for money in terms of costing, experience, understanding of the issues and methodology.

As part of the contractual agreement, the Form of Agreement for the Community Infrastructure Plan requires the Common Seal of the Shire of Chittering to be affixed as a formal resolution of Council.

9.1.7 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 100913

Moved Cr Norton / Seconded Cr Rossouw

That Council authorise the Chief Executive Officer and Shire President to sign and affix the Common Seal to the Form of Agreement for the Community Infrastructure Development Plan to be awarded to SGS Economics and Planning for a fixed fee of \$43,505 including GST.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.1.8 Reconsideration for Proposed Respite Retreat – Lot 111 (RN 138) Valley View Drive, Chittering*

Applicant	Northern Compassion Incorporated
File ref	A3046; P003/13
Prepared by	Azhar Awang, Executive Manager Development Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Clarification of Information

Background

The matter was previously considered by Council at its meeting held on 19 June 2013. Council at that meeting resolved not to support the proposal for the following reasons:

1. *That the proposal is not consistent with the objectives of the 'Agricultural Resource Zone' in accordance with clause 4.4.2 of the Shire of Chittering Town Planning Scheme No 6 and is therefore not permitted;*
2. *The potential increase of up to 30 people for the proposed development would be detrimental to the rural amenity of the area;*
3. *The proposed use and potential increase in density for the overall development would be considered to fall outside of the definition of a 'use not listed' and therefore will require a scheme amendment to rezone the land, prior to Council considering any development application for such use;*
4. *The potential social and security risks arising from the proposed development, as expressed by the adjoining and affected land owners, would have a negative impact on the surrounding Community.*

As a result of Council's decision, the Applicant made an application to the State Administrative Tribunal (SAT) for the matter to be reviewed.

The matter was listed for a Directions Hearing on 7 August 2013 which was attended by the Shire President (Cr Alex Douglas) and the Chief Executive Officer (Mr Gary Tuffin) which was heard before SAT Member Marie Connor.

On 8 August 2013, SAT ordered that:

1. *The matter is listed for mediation on Wednesday 21 August 2013 commencing on site at No 138 Valley View Drive, Lower Chittering at 10am.*
2. *At least two days before the mediation the parties must exchange any documents to be relied on which have not already been provided.*
3. *The President of the respondent is invited to attend and/or nominate one or more councillors and/or the Chief Executive Officer of the respondent to attend the mediation.*

The site mediation on 21 August was facilitated by SAT Senior Session Member Patric De Villiers attended by representatives from the Shire of Chittering (Shire President, Chief Executive Officer, Councillor Norton, Executive Manager Development Services and Senior Planner) and representatives from the Applicant (Graham Barlow, Spencer Nicholls and Ian Goodenough).

The following order was made at the conclusion of the mediation:

1. By 6 September 2013 the applicant must file with the Tribunal and give to the respondent a document which clarifies the following issues in regard to the application the subject of this review:
 - (a) The selection criteria for participants in the program particularly in regard to any active addiction to drugs/alcohol or mental illness;
 - (b) A profile of the likely participants;
 - (c) An outline of the program (duration and content); and
 - (d) Supervision and management of the program (including mechanisms to address any potential concerns from neighbours and transport arrangements for participants).
2. Pursuant to s31(1) of the *State Administrative Tribunal Act 2004* (WA) the respondent is invited to reconsider its decision in light of the clarification provided by the applicant at the Ordinary Meeting of Council to be held on Wednesday 18 September 2013.
3. The matter is listed for a directions hearing at 10am on Friday 27 September 2013.

The Applicant has provided the clarifications of information requested (see attached), which was provided to Council for discussion at its scheduled forum on Wednesday 4 September 2013, prior to the matter being tabled for Council's consideration at the September Ordinary Council meeting.

The additional information regarding contact register be maintained of all immediate surrounding property owners/residents as requested by Council has been forward to the Applicant to be included in the Supervision and Management Plan.

Consultation

Previously undertaken as part of the development application consideration.

Statutory Environment

State Administrative Tribunal Act 2005

s 31. Tribunal may invite decision-maker to reconsider

- (1) *At any stage of a proceeding for the review of a reviewable decision, the Tribunal may invite the decision-maker to reconsider the decision.*
- (2) *Upon being invited by the Tribunal to reconsider the reviewable decision, the decision-maker may —*
 - (a) *affirm the decision;*
 - (b) *vary the decision; or*
 - (c) *set aside the decision and substitute its new decision.*
- (3) *If the decision-maker varies the decision or sets it aside and substitutes a new decision, unless the proceeding for a review is withdrawn it is taken to be for the review of the decision as varied or the substituted decision.*

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Shire of Chittering Local Planning Strategy

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 have been concerns raised by the adjoining properties and nearby owners regarding the social issues such as safety and security, and the overall amenity of the proposed development which have been adequately addressed through the Management Plan.

Environmental implications

There are no known environmental implications in regards to this proposal.

Comment

The Applicant has taken the appropriate steps to provide further clarifications and addressing the issues of concern raised by Council as can be illustrated in the attached additional information as ordered by SAT.

It is acknowledged that there have been some concern expressed by the public regarding the proposal in relation the issues of safety and security, traffic movement, isolation of facility for emergency situation and the overall amenity of the development. These issues have been adequately addressed in the previous report to Council through the development of the appropriate Management Plan by the Applicant.

It is therefore recommended that Council supports the proposal subject to the conditions as listed in the Officer's recommendation.

9.1.8 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 110913

Moved Cr Gibson / Seconded Cr Rossouw

That Council grants Planning Approval for the proposed 'Respite Retreat' at Lot 111 (RN 138) Valley View Drive, Chittering, subject to the following conditions:

- (1) That Planning Approval shall be for Stage 1 only (maximum of eight participants), as per the submitted details;**
- (2) No drug/alcohol rehabilitation being operated on the site;**
- (3) The applicant submit a Register of Participants on an annual basis to the Shire of Chittering, which is to outline:**
 - (a) Length of stay of the participant;**
 - (b) Reason for referral or undertaking the retreat; and**
 - (c) Excluding participant names for confidentiality purposes.**
- (4) Any events to be held on-site are to be subject to the approval of the Chief Executive Officer;**
- (5) At the time of submitting an Application for Planning Approval for the first stage of the development, the Applicant is to provide the following:**
 - (a) Proposed access and parking arrangements;**
 - (b) Detailed floor plans and elevations of the proposed buildings;**
 - (c) A fully outlined staging plan with indicative timeframes for development;**
 - (d) Detailed outline of the program; and**
 - (e) Any other details as reasonably required by the Shire of Chittering.**
- (6) Emergency and evacuation procedures are to be put in place and maintained at all times prior to commencement of operation;**
- (7) Appropriately trained staff to be engaged in activities that require specialised skill sets;**

- (8) Process and procedures to be put in place to ensure all participants whereabouts are known at all times, and that evidence of such procedures should be produced upon request by the Council Officers.**
- (9) This approval does not constitute Planning Approval for buildings proposed on the site and is limited to the change of use only.**
- (10) A breach of any of the above conditions, which is not rectified within a time considered reasonable to the Chief Executive Officer, will result in the suspension of this approval. A recurrence of any breach will result in cancellation of this 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 approval is for the proposed change of use only and not for development to occur on the property. All future development shall be subject to the approval of the Shire of Chittering.**
- 3. Stages 2 and 3 development shall require Council's further consideration.**

**THE MOTION WAS PUT AND DECLARED CARRIED 4/3
Crs Clarke and Mackie voted against the motion**

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 August 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 31 August 2013
Attachments	<ol style="list-style-type: none">1. Statement of Financial Activity for period ending 31 August 20132. Bank reconciliation for period ending 31 August 20133. List of accounts paid for August 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 31 August 2013, financial statements, bank reconciliation and list of accounts paid for the period ending 31 August 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

Local Government Act 1995
Local Government (Financial Management) Regulations 1996

Policy Implications

Not applicable

Financial Implications

Not applicable

Strategic Implications

Not applicable

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

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

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 120913

Moved Cr Hawes / Seconded Cr Gibson

That Council:

(1) endorse the list of payments:

- PR3129
- PR3140
- EFT 8460 - EFT 8564
- Municipal Fund Vouchers 13385 - 13406
- Direct Debits as listed
- BPV31 to BPV31
- Trust Vouchers 353-355

Totalling \$642,368.73 for the period ending 31 August 2013.

(2) receive the bank reconciliation for the period ending 31 August 2013.

(3) receive the financial statements for the period ending 31 August 2013.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Policy update: Elected Members' Fees, Allowances, Reimbursements and Benefits*

Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	Amended Elected Members' Fees, Allowances, Reimbursements and Benefits policy

Background

Council adopted the *Register of Policies* at the Ordinary Meeting of Council on 15 May 2013.

Following the Salaries and Allowances Act 1975 determination of the Salaries and Allowances Tribunal on Local Government Elected Council Members published in June 2013 and Councils adopted *2013/14 Annual Budget*, the *Elected Members' Fees, Allowances, Reimbursements and Benefits* policy is now required to be updated to reflect the changes.

Consultation

Chief Executive Officer
Executive Manager Corporate Services

Statutory Environment

Local Government Act 1995

Policy Implications

Elected Members' Fees, Allowances, Reimbursements and Benefits

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

Council is requested to amend the *Elected Members' Fees, Allowances, Reimbursements and Benefits* Policy in accordance with the *2013/14 Annual Budget*. To ensure continuity the policy references the "adopted budget" where any monetary values were previously stated.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 130913

Moved Cr Mackie / Seconded Cr Rossouw

That Council amend the *Elected Members' Fees, Allowances, Reimbursements and Benefits* policy as attached.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

10. REPORTS OF COMMITTEES

10.1 Minutes of the Chittering Bush Fire Advisory Committee meeting held on Tuesday, 13 August 2013*

Applicant	Shire of Chittering
File ref	09/02/4
Prepared by	Danica Kay, Executive Support Officer
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple majority
Documents tabled	Nil
Attachments	"Unconfirmed" minutes of the Chittering Bush Fire Advisory Committee meeting held on 13 August 2013

Background

A meeting of the Chittering Bush Fire Advisory Committee (CBFAC) was held on 13 August 2013. There were no formal recommendations moved at the meeting.

Consultation

Nil

Statutory Environment

Nil

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

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

Social implications

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

Environmental implications

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

Comment

The minutes of the CBFAC meeting are now presented to Council to be received.

10.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION - 140913

Moved Cr Mackie / Seconded Cr Clarke

That Council receives the unconfirmed minutes of the Chittering Bush Fire Advisory Committee meeting held on 13 August 2013.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

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

Nil

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

Nil

13. URGENT BUSINESS

PROCEDURAL MOTION

Moved Cr Mackie / Seconded Cr Norton

That Council considers items of Urgent Business.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

13.1 Urgent Business - Immaculate Heart College

COUNCIL MOTION / COUNCIL RESOLUTION - 150913

Moved Cr Clarke / Seconded Cr Mackie

That Council:

- (1) directs the Chief Executive Officer to issue a notice for the Immaculate Heart College at Lot 1 Santa Gertrudis Drive, Lower Chittering under the Planning and Development Act 2005 in accordance with section 218 for contravening planning scheme or conditions on development, namely condition 8 – *“the applicant must submit a ‘Traffic Management Plan’ within thirty (30) days of the date of this approval to the satisfaction of the Chief Executive Officer”*;
- (2) issue the notice at the commencement of the next school holidays being 27 September 2013.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

13.2 Urgent Business - Lewis Road

COUNCIL MOTION / COUNCIL RESOLUTION - 160913

Moved Cr Rossouw / Seconded Cr Norton

That Council directs the Buddha Dharma Sangha Buddhist Association to construct and seal Lewis Road by 31 December 2013 in accordance with planning condition 14 which stipulates *“access to the site shall be from Lewis Road, by way of a sealed road connected to Chittering Road, at the expense of the applicant, in accordance with draft Local Planning Policy No. 16 Roads and Drainage, to the satisfaction of Council”*.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0

14. CONFIDENTIAL ITEMS

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 8.40pm.



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