

**MINUTES FOR
ORDINARY MEETING OF COUNCIL**

WEDNESDAY, 20 SEPTEMBER 2017

**Council Chambers
6177 Great Northern Highway
Bindoon**

**Commencement: 7:02PM
Closure: 8:40PM**



Preface

When the Chief Executive Officer approves these Minutes for distribution they are in essence "Unconfirmed" until the following Ordinary Meeting of Council, where the minutes will be confirmed subject to any amendments.

The "Confirmed" Minutes are then signed off by the Presiding Member.

Attachments that formed part of the agenda, in addition to those tabled at the Ordinary Meeting of Council are put together as an addendum to these Minutes.

Unconfirmed Minutes

These minutes were approved for distribution on 29 September 2017.



Alan Sheridan
Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 18 October 2017.

Signed

Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.

Disclaimer

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

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

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

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

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* indicates separate attachments

1. DECLARATION OF OPENING OF MEETING / ANNOUNCEMENTS OF VISITORS

The Presiding Member declared the meeting open at 7:02PM.

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

2.1 Attendance

The following members have confirmed their attendance:

Members	Cr Gordon Houston	Shire of Chittering (Presiding Member)
	Cr Peter Osborn	
	Cr Michelle Rossouw	
	Cr George Tilbury	
	Cr Mary Angus	
	Cr Aaron King	
	Cr Don Gibson	

Quorum – 4 members

Staff	Rhona Hawkins	Executive Manager Corporate Services
	Peter Stuart	Acting Executive Manager Development Services
	Jim Garrett	Executive Manager Technical Services
	Natasha Mossman	Executive Support Officer (Minute Secretary)

2.2 Apologies

Alan Sheridan Chief Executive Officer

2.3 Approved leave of absence

Nil

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Response to previous public questions taken on notice

4.1.1 Arthur Blewitt, Lower Chittering

Question 1 Will or are the Shire going to improve the public open space on the Wandena Estate?

Answer 1 The Presiding Member took the question on notice.

Through the Chair, Cr Rossouw asked for some clarity as to what improvements are required at Wandena Estate. Mr Arthur advised that the POS on the Estate is a fire hazard.

Following the meeting a letter was sent to Mr Blewitt advising the following:

“The Chief Bushfire Control Officer (David Carroll) has arranged for one of the local brigades to assess the fuel and [if required] undertake a prescribed burn of the designated “high” fuel load area(s). In addition, Shire staff will arrange for the grass to be slashed and for the dead trees to be removed, which shall be undertaken later this month.”

4.2 Public question time

Nil

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

5.3.1 Derek Gascoine, Bindoon

Derek Gascoine addressed Council with regard to the Draft Local Planning Strategy, and in particular ‘buffer zones’.

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. CONFIRMATION OF MINUTES

7.1 Ordinary Meeting of Council: 16 August 2017

7.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 060917

Moved Cr Osborn / Seconded Cr Rossouw

That the minutes of the Ordinary Meeting of Council held on Wednesday, 16 August 2017 be confirmed as a true and correct record of proceedings.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
7:15PM

7.2 Special Meeting of Council: 6 September 2017

7.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 070917

Moved Cr Gibson / Seconded Cr Angus

That the minutes of the Special Meeting of Council held on Wednesday, 6 September 2017 be confirmed as a true and correct record of proceedings.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
7:16PM

8. ANNOUNCEMENT FROM THE PRESIDING MEMBER

Nil

9. REPORTS

9.1 DEVELOPMENT SERVICES

9.1.1 Proposed Expansion to the Existing Extractive Industry (Clay): Lot 1957 Great Northern Highway, Chittering*

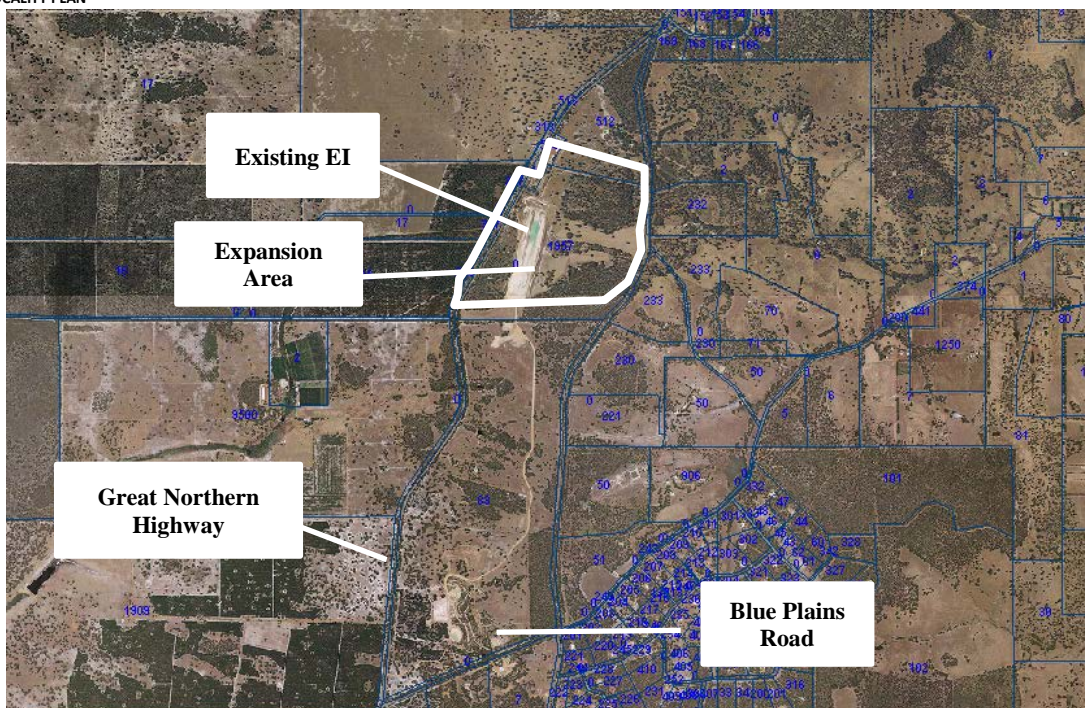
Report date	20 September 2017
Applicant	Land Insights on behalf of Austral Bricks WA Pty Ltd
File ref	A3169; P085/17
Prepared by	Brooke Mills, Acting Senior Planning Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Application 2. Schedule of Submissions

Executive Summary

Council's consideration is requested for an application for the expansion of the existing clay extractive industry into the area identified as Stage Three on Lot 1957 Great Northern Highway, Chittering ("the property"). The application is attached at **Attachment 1**.

The land use of "Industry – Extractive" is an "A" use in the "Agricultural Resource" zone and the item is being referred to Council as an objection was received during the public consultation period.

IMAGE: LOCALITY PLAN



Background

The property is zoned "Agricultural Resource" under *Local Planning Scheme No 6* (LPS6) and has been operating as a clay extraction site for approximately five years.

The property is located adjacent to the Chittering Roadhouse and is approximately 136ha in size. It is approximately 2.7km north of Blue Plains Road and fronts Great Northern Highway. To the south of the property and directly adjoining, is an existing gravel extractive industry which is also run by the same landowner.

Access to and from the property is via an internal road network which travels through the land to the south and onto Great Northern Highway approximately 250m to the north of Blue Plains Road. No access to Great Northern Highway is permitted and has previously been conditioned as such on an earlier approval for the existing extractive industry.

The existing clay extractive industry which comprises Stages One and Two is nearing completion and is approximately 8ha in size. The proposed extension into Stage Three is approximately 5.5ha in size which would bring the entire resource area to approximately 13.5ha. The depth of extraction for the new expansion area is proposed to be 9m and is not considered to impact any ground water levels.

It is proposed that the overburden will be stored in piles around the edges of the pit for use in the rehabilitation process upon completion of the extraction process. Resource stockpiles will be located in the areas previously used for Stage Two and will, therefore, not increase the overall extractive footprint.

The proposed operating hours for the extractive industry is 0600-1800 from Monday to Friday; and 0730-1700 hours on Saturdays. No operations will occur on Sundays or Public Holidays. The applicant has requested that the extractive industry for the expansion area be approved for five years. It is not expected that there will be an increase in truck movements as the operation remains the same except for moving towards the south. The applicant has advised that there will be approximately 875 truck movements per year over an approximately 45 day cartage period. This means that there will be approximately 20 truck movements per day over the 45 day cartage period. The trucks proposed to be used are ridged (eight) wheeler trucks or five axle dog trailers. All vehicles are fitted with automatic tarpaulins which cover clay during transport to help with dust control.

Stormwater is intended to be managed on site and will be retained in the existing drainage basin in the Stage Two area. Regardless, stormwater management is expected to form part of the more detailed Water Management Plan. There is a natural spring located to the east of the extractive area which will not be affected by the activities.

The applicant is requesting that a transportable building be placed on site during times when the site is operational but no permanent structures will be constructed. There will be no crushing or screening and no storage of fuel on site. Any refuelling will be via a mobile refuelling plant which will take place on the pit floor to facilitate any spill containment and will be scooped up with the resource. This will enable any spill to be burnt during the processing of the clay.

Management plans have been submitted and cover the following:

- Dust
- Noise and vibration management
- Water management
- Dieback
- Separation distances and buffers
- Visual management
- Waste management
- Vegetation
- Rehabilitation
- Final site clean up

Management practices will be discussed later in the report under the comments section.

Consultation/Communication Implications

Local

Consultation was undertaken in accordance with Clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Accordingly, the proposal was advertised for a period of 21 days via letters to land owners within a two kilometre radius of the subject properties' boundary. The application was also advertised via the Shire's 'Have Your Say' webpage.

State

In addition to the above, the proposal was referred to the below state agencies:

- Chittering Landcare
- Department of Water and Environmental Regulation
- Department of Biodiversity, Conservation and Attractions
- Main Roads Western Australian
- Department of Mines, Industry Regulation and Safety

During the advertisement, a total of 144 letters were sent to landowners and six letters were sent to Government Agencies with a total of nine submissions received. There was only one objection being received from a landowner in the vicinity of the application. The reasons for objecting to the proposal are in relation to buffer areas that are placed over basic raw materials.

Further analysis of both state and public submissions are referred to in the 'Officer Comment/Details' section in addition to the Schedule of Submissions (**Attachment 2**).

Legislative Implications

State

- *Planning and Development Act (2005)*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
Part 10 – Procedure for Dealing with Applications
1.2 Matters to be considered by Local Government
In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;

Staff considers that the only relevant aim of the Scheme is as per 1.6(f) as follows:

1.6(f) To identify and protect basic raw materials resources for extraction and set standards for management and rehabilitation.

The applicant has provided sufficient management plans for the running of the proposed expansion area and, therefore, the proposal is considered to be consistent with 1.6(f).

(c) any approved State planning policy;

State Planning Policy 2.5 is the relevant State policy in relation to (c) above and is discussed later in the report.

(g) any local planning policy for the Scheme area;

The relevant Local Planning Policy is discussed later in the report.

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

Given that the clay pit is located adjacent to a busy roadhouse and just north of a gravel extraction pit, it is considered that the proposed development is consistent and contextual with each other.

(n) the amenity of the locality including the following —
(i) environmental impacts of the development;
(ii) the character of the locality;
(iii) social impacts of the development;

Staff consider that, given the adjoining land uses, and the existing clay extraction on the site, the proposed expansion area would not be in conflict with the amenity of the locality and is, therefore, consistent with (n).

(o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;

As part of the application, the proponent has supplied management plans that will ensure the retention and protection of the water course that is located on the site and staff consider this to be adequate and, therefore, consistent with (o).

(p) 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;

The site has considerable screening vegetation in place along Great Northern Highway and rehabilitation will take place upon completion of the extraction process. It is considered that there are no additional landscaping requirements, and therefore the proposal is consistent with (p).

- (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
- (r) *the suitability of the land for the development taking into account the possible risk to human health or safety;*

Given that clay extraction is already taking place and management plans are in place and will continue to be in place, it is considered that there is no additional risk to the above. Therefore, the proposal is considered to be consistent with (q) and (r).

- (s) *the adequacy of -*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*

Access is via Great Northern Highway from an internal access route that travels south from the proposed clay pit, through the adjoining property to the south and onto the Highway just north of Blue Plains Road. Activities are already taking place and have been proven to be adequate for loading and manoeuvring of vehicles. This is considered to be adequate access and, therefore, is consistent with (s).

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

The proposal is not increasing the number of traffic movements but rather extending the time for which traffic movements will be entering and exiting the property. Following completion of the Muchea to Chittering Roadhouse road upgrade, Main roads (via its contractor) will construct a heavy vehicle access directly to the extraction pit. It is considered that this is acceptable in relation to the existing road system and, therefore, the proposal is consistent with (t).

- (w) *the history of the site where the development is to be located;*

Considering that there is an existing approved clay extraction land use on the property and the current application is not proposing to alter this land use. Therefore the application is consistent with (w).

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

As there is an existing clay extraction pit and an existing gravel extraction pit to the south of the property which also utilises the entry/exit point onto Great Northern Highway, it is not considered that the expansion of the existing clay pit on the property will have any negative impacts to the community as a whole or to individuals.

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

The only objection received was in relation to property values relating to the 500m buffer imposed over the existing clay extraction and the existing gravel extraction to the south. Unfortunately, property values are not a valid planning consideration and, therefore, it can be considered that no negative submissions have been received in relation to the expansion area proposed for the property.

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

No negative comments have been received from any authority consulted in relation to this application.

Local

- *Shire of Chittering Local Planning Scheme No. 6 (LPS6)*

Under LPS6, the property is zoned "Agricultural Resource". The objectives of this zone are, per Clause 3.2.5, to:

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

In this instance the proposal can be considered consistent with point four. This is due to the proposed use being located in an existing clay extraction pit and adjacent to a busy roadhouse. The expansion area is also compliant with separation distances to dwellings. Accordingly, the objectives of the zone are satisfied.

Part 4.15 of LPS6 also specifically references requirements for Basic Raw Material extraction in the Shire, these being:

- Extraction of essential materials for roads and construction are to be permitted in areas where they will not adversely affect living environments, the landscape quality or contribute to land degradation problems during and after operations;*
- Extraction of basic raw materials within the rural zones is to be managed in accordance with best industry practices including consideration of end use and rehabilitation at time of decommission;*
- Appropriate buffer areas are to be applied to protect both the extractive operations as well as the living or agricultural environment in nearby areas;*
- Local government will not support development within those buffer areas, which may be detrimental to the efficiency of the industries. This is to protect the basic raw materials precincts from development that may compromise its operations.*

In terms of (a) above, the proposal is not considered to be a detriment to the living environments or landscape quality. It also is not considered that the expansion area will negatively contribute to land degradation either during or after operations. The area is expected to be rehabilitated to pasture suitable for agricultural land uses.

It is considered that the application for the expansion of the existing clay pit on the property will be managed by best practice standards and will be rehabilitated to a high standard. There are appropriate buffer areas set in place and there is no proposed development in the vicinity of the expansion area.

Therefore, it is considered that the proposed expansion area is consistent with the above.

- Shire of Chittering Extractive Industries Local Law 2014

The local law provides requirements and guidance for operators to obtain and hold a license to extract basic raw materials. License applications are applied for subsequent to a planning approval for the land use being granted. Notwithstanding, particular clauses such as Part 6 of the law are applicable to the assessment of the proposal.

Part 6.1 (e) of the law states the following “500 metres of any adjoining residence unless approved by Council and adjoining neighbours in writing in accordance with the Department of Environment and Conservation Guidelines, March 2011—”A Guideline for managing the impacts of dust and associated contaminants from land development sites, contaminated sites remediation and other activities.”

The applicant has complied with this part due to the closest dwelling being located more than 870 metres from the proposed expansion area.

In addition to the above, the local law specifies further separation distance requirements for easements, thoroughfares, wetlands and lot boundaries as seen below:

- (a) 50 metres of the boundary of any land on which the excavation site is located including earth bund and haul road, unless the site is located within the Special Control Area—Basic Raw Materials as depicted in the Shire of Chittering Town Planning Scheme No 6 Map, where a lesser distance may be allowed with written consent from adjoining landowners;
- (b) 20 metres of any land affected by a registered grant of easement;
- (c) 40 metres of any watercourse and/or wetland;
- (d) 50 metres of any thoroughfares; or

The proposed expansion area is required to be compliant with all setback requirements as it is not located within the Basic Raw Materials SCA. It is considered that the expansion area is compliant with all setback requirements.

Policy Implications

State

- *State Planning Policy 2.0 Environment and Natural Resources Policy*
- *State Planning Policy 2.5 Agricultural and Rural Land Use Planning*
- *State Industrial Buffer Policy*
- EPA Guidance Statement No 3 Separation Distances between Industrial Uses and Sensitive Land Uses

The guidance statement outlines the recommended setback of industries from sensitive land uses such as residential dwellings. The below image is taken from the statement and recommends the appropriate buffer. The applicant is proposing to extract clay and is not blasting, processing or screening, therefore (in this case) the subject of this application is most likely to fit the ‘clay extraction or processing category’ by which the buffer distance is 500–1,000 metres. The applicant has complied with the 500 metre separation distance as the nearest dwelling is located approximately 870m to the north from the proposed expansion area.

The next closest residence is over 1km to the east and also complies with the separation distances.

IMAGE 2: BUFFER RECOMMENDATION

Industry	Description of industry	DoE Licence or Registration category (*)	Key Government agencies for advice or approvals	Code of Practice (CoP) / environmental requirements	Impacts					Buffer distance in metres and qualifying notes
					Gaseous	Noise	Dust	Odour	Risk	
Chlor-alkali works	manufacture of caustic soda and chlorine	√ (31, 72)	DoIR, WRC		√ Cl ₂	√		√	√	2000-3000
Clay bricks or ceramic/refractory products works	premises on which fired-clay bricks, tiles, pipes or pottery are manufactured	√ (41)	DoIR, DAWA, WRC		√ HF, HCl, SO ₂	√	√	√		300-1000, depending on size
Clay extraction or processing	Mining, extraction or processing of clay	√ (80)	DoIR, WRC			√	√			500-1000, depending on size & processing
Coal mine	extraction of coal – open cut method	√ (9)	DoIR, WRC			√	√			1000-2000
Coke production	coke is produced, quenched, cut, crushed and graded	√ (38)	DoIR, WRC		√	√	√	√	√	1000-2000

- State Planning Policy 2.5 Agricultural and Rural Land Use Planning (SPP2.5)*
SPP2.5 is relevant to the proposal due to the subject sites location in an agricultural zone and the proposal of extraction of a basic raw material. The Policy provides information of planning considerations by which planning officers are required to take into account when forming recommendations. Additionally, it works as a guide that outlines other policies, statements and acts relevant to proposal in rural and agricultural locations. SPP2.5 is also accompanied by a Basic Raw Materials Fact sheet. The Policy works in an overarching sense to guide development and planning in rural and agricultural zones while the fact sheet provides a more detailed approach to determining basic raw materials proposals.

In assessing the application, Section 5.9 of SPP2.5 is most relevant. The proposed extraction is generally consistent with s5.9 policy measures.

The fact sheet outlines in further detail, aspects of the proposal to be taken into account by decision makers, these include:

- water and availability
- conservation values
- buffers
- transport management
- visual impacts
- noise and vibration
- dust
- management plans
- environmental licensing and works approval

The proposed expansion area is considered to be consistent with this fact sheet and the management plans are acceptable.

Local

- Local Planning Policy 10 - Basic Raw Materials and Extractive Industries (LPP 10)
LPP10 supplements LPS6 and requires the Shire to have regard to provisions in the Policy.

The LPP10 includes the following notable provisions in relation to basic raw materials extraction:

5.4 *Preferred Development*

- a) *Council prefers extractive industries that:*
- are located south of the Bindoon Townsite*
 - do not involve prime agricultural land*
 - cater for basic raw material needs within the Shire of Chittering*
 - are situated within areas identified in the WAPC's State Planning Policy No. 10 Basic Raw Materials*
 - are more than 1000m from the nearest house*
 - do not require the management of acid sulphate soils*
 - have direct access to Brand or Great Northern Highway*
- b) *Subject to a) above, Council will not approve extractive industries that:*
- are situated in a visually significant location, such as on a ridge or along an unscreened section of regional or tourist road*
 - involve major disturbance of high value remnant bushland or natural areas, following detailed environmental assessment*
 - remove material below the winter groundwater table*
 - are located on any lot where dieback is present*
 - are situated within 500m of the nearest house*
 - are located in the Chittering Valley or require access from Chittering, Chittering Valley, Julimar, Blue Plains or Maddern (North) Roads.*

Preferences for development as per Clause 5.4(a) are generally met with the exception of 5.4(iv) and (v). In relation to the site not being within an identified Basic Raw Materials area, it is noted that this references a broad strategic policy that cannot fully address all potential resource sites across the State. The subject site has been chosen both for its resource as well as its proximity to Great Northern Highway. It is recognised the site is within 1,000m of a dwelling, however the proposal still complies with both the EPA's *Guidance Statement No. 3* and the Shire's *Extractive Industries Local Law 2014*, which both require a minimum 500m distance from any inhabited dwelling. The property does have direct access onto Great Northern Highway via the adjoining property to the south.

With regards to cl5.4(b), the expansion area is situated in close proximity to Great Northern Highway, however, existing screening prevents significant views of the operations. There is no remnant vegetation contained within the proposed expansion area. The proposal is consistent with the remaining clauses of 5.4(b).

Financial Implications

There are no known financial implications.

Strategic Implications

There are no known strategic implications.

Site Inspection

Site inspection undertaken: The site has been viewed from Great Northern Highway and Shire staff are satisfied that the Stage One has been backfilled and is in the process of being rehabilitated, Stage Two is nearing completion and the proposed expansion area is clear. There will be little to no visual impact from Great Northern Highway due to existing vegetation.

Triple Bottom Line Assessment

Economic implications

Extraction of clay from this site is proposed to be used to manufacture bricks for the building industry and maintain supply for construction purposes.

Social implications

It is not considered that the proposal will have any adverse social implications.

Environmental implications

All environmental implications are proposed to be managed via appropriate management plans and staff considered these to be adequate.

An acid sulphate soils (ASS) study was undertaken in 2012 as part of previous approvals for the existing clay extraction area. Since this time, no ASS have been found, hence the report concluded that there are no iron sulphides and the resultant ASS is not likely present at the site. The report also recommended that no further investigation was warranted. Accordingly, this matter is considered satisfied.

Officer Comment/Details

The proposed extraction expansion area is located within previously cleared land which was used as stockpile area for Stages One and Two. It is considered that the proposal will have minimal impact as the expansion is proposing to use all the same machinery and the same entry/exit point with no additional clearing or expansion outside of the previously cleared area.

Visual implications are minimal as there is existing screening to the western side of the property which screens the clay pit from views from Great Northern Highway. It is not considered that any additional impacts will be resultant from the proposed expansion. The clay pit is located adjacent to the busy roadhouse which caters for large numbers of daily truck movements and it is not considered that the extractive industry would pose any more adverse impacts than the existing truck movements and the movements in relation to the roadhouse activity.

The one objection that was received related to a buffer that has been imposed via the Draft Local Planning Strategy and encompasses the existing gravel extraction to the south of the subject property. This is a 500m buffer which is imposed via the EPA's *Separation Distances Between Industrial and Sensitive Land Uses*. This would be in existence regardless of whether it is defined on a Strategy Map and Scheme Map. The objector believes that the buffer will limit the property value of their land. However, property values are not able to be taken into consideration when determining an application for planning approval. Any future development of the objector's property will be negotiated if the situation arises.

In light of the above, the proposed expansion area is considered to be appropriate, and, therefore, is recommended that Council approve the application for expansion of clay extraction on the property for a period not exceeding five years.

OFFICER RECOMMENDATION

Moved Cr Osborn / Seconded Cr King

That Council grant Development Approval for the expansion of the existing Extractive Industry (clay) at Lot 1957 Great Northern Highway, Chittering subject to the following conditions and advice notes:

Conditions

1. This approval is for a term of five years, commencing from the date of approval until 20 September 2022, at which time all excavation activities must cease and the site be rehabilitated in accordance with the approved documentation.
2. Prior to the issue of an Extractive Industry License, the applicant shall submit to the Shire evidence of currency of Public Liability Insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the applicant. The applicant shall ensure that the proprietor and/or the excavating contractor and/or transportation contractor hold sufficient Public Liability Insurance for any claim against them.
3. Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process. No direct sales from the site shall occur as part of this approval.

4. Water Management Plan

The proponent must submit a Water Management Plan to the Shire for approval prior to the issue of an Extractive Industry License. The Water Management Plan must:

- a. Be prepared by a suitably qualified and experienced expert in water management, including hydrogeology;
- b. Include a detailed hydrogeological assessment of the proposed development and identify any risks associated with it;
- c. Include appropriate risk management strategies or plans to ensure that groundwater is not disturbed or polluted by the development; and
- d. All stormwater generated within the pits and access way shall be directed away from the waterway to the east of the extractive area and in accordance with the Water Management Plan.

The development must be carried out in accordance with the approved Water Management Plan, unless otherwise authorised in writing by the Shire.

5. Dust suppression measures shall be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties in accordance with the Dust Management Plan.
6. Until such time as a new access point is created and constructed as part of the new Great Northern Highway Alignment, access and egress to the site shall be via the existing internal roadway which extends south from Lot 1957 through Lot 83 and onto Great Northern Highway via the existing crossover on Lot 83.
7. Until such time as a new access point is created and constructed as part of the new Great Northern Highway Alignment, no access is to occur via Great Northern Highway from Lot 1957.
8. A maximum of 1,000 truck movements are permitted per year.
9. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise but, notwithstanding, the operations to have due regard to the health and amenity of any person in the vicinity.
10. All vehicles' loads entering and exiting the site shall be fully covered and secured prior to and upon leaving the site to prevent spread of material.

11. Any storage of fuels or refuelling on site is to be located on a designated hardstand area location to the satisfaction of the Shire.
12. Any fuel leakages or spills are to be cleaned up within 24 hours.
13. The hours of operation shall be in accordance with the approved management plan, limited to:
 - a. Monday to Friday 0600 to 1800 hours;
 - b. Saturday 0730 to 1700 hours;
 - c. Sunday and Public Holidays not permitted; and
 - d. Any variation of these times requires written approval from Council.
14. Noise suppression measures are to be undertaken at all times where any operation onsite is likely to generate noise nuisance to nearby residents in accordance with the Noise Management Plan.
15. Excavation for the extractive industry shall not occur in the following areas:
 - a. within 50 metres of a boundary of any land not owned by the applicant/landowner or Planning Consent holder;
 - b. within 50 metres of any identified threatened ecological community;
 - c. within 20 metres of any land affected by a registered grant of easement;
 - d. within 50 metres of any designated Resource Enhancement Wetland;
 - e. within 500 metres of any house;
 - f. below the level of winter groundwater table;
 - g. within 50 metres of any road or road reserve; and
 - h. outside of the approved excavation areas shown on the approved plan dated May 2017.
16. Rehabilitation and Land Management Plan
 - a. Prior to the issue of an Extractive Industry License a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in Part 5 of the *Extractive Industries Local Law 2014* and the Shire's adopted *Schedule of Fees and Charges*.
 - b. Revegetation is to include a ratio 1:60 of existing trees that are removed as a result of the excavation.
 - c. Upon decommissioning of the excavation area, rehabilitation shall take place in accordance with the approved plan, or as otherwise stipulated.
 - d. Rehabilitation shall include surface water and wind control measures on all pit faces to prevent gully erosion, and final batters to be graded to provide safe entry and exit slopes should access to any standing water within the pit be required or accidentally occur.
 - e. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases.
 - f. Any amendments or variations to the rehabilitation or land management plan associated with the excavation shall be approved in writing by the Shire within three months of the commencement of operations.
 - g. An annual report shall be submitted to the Shire that includes:
 - i. the progress of excavation;
 - ii. depth to groundwater from each pit floor;
 - iii. monitoring program results and findings;
 - iv. progress of rehabilitation;
 - v. contingency actions and outcomes; and
 - vi. community complaints and responses.
17. Stockpiles are to be limited to 1.5 metres in height.

Advice Notes

1. The applicant is to liaise with the Department of Environmental Regulation in relation to compliance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
2. In relation to Condition "16.a.", the rehabilitation bond/bank guarantee may be limited to a single stage and rolled over to after each stage is rehabilitated in accordance with this approval.
3. In relation to Condition "16.b.", the applicant is recommended to liaise with Chittering Landcare regarding a species list and planting regime.
4. The Stormwater Management Plan is recommended to be undertaken and managed thereafter in accordance with the Stormwater Management Manual of Western Australia (DoW, 2004-2007).

AMENDMENT

Moved Cr Houston / Seconded Cr Tilbury

That Condition 1 amended to read as follows:

This approval is for a term of five years, commencing from the date of approval until 20 September 2022, with an option to apply for a further period of five years.

That Condition 3 be amended to read as follows:

Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process. No direct sales from the site shall occur as part of this approval.

That Condition 7 be amended to read as follows:

Until such time as a new access point is created and constructed as part of the new Great Northern Highway Alignment, no access is to occur via Great Northern Highway from Lot 1957 except for light vehicles.

That Condition 16b be removed from the Recommendation:

Upon decommissioning of the excavation area, rehabilitation shall take place in accordance with the approved plan, or as otherwise stipulated.

That Condition 17 be removed from the Recommendation:

Stockpiles of topsoil are to be limited to 1.5 metres in height.

That Advice Note 3 be amended to read as follows:

The applicant is recommended to liaise with Chittering Landcare regarding a species list and planting regime.

**THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
AND FORMED PART OF THE SUBSTANTIVE MOTION**

7:25PM

9.1.1 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 080917

That Council grant Development Approval for the expansion of the existing Extractive Industry (clay) at Lot 1957 Great Northern Highway, Chittering subject to the following conditions and advice notes:

Conditions

1. This approval is for a term of five years, commencing from the date of approval until 20 September 2022, with an option to apply for a further period of five years.
2. Prior to the issue of an Extractive Industry License, the applicant shall submit to the Shire evidence of currency of Public Liability Insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the applicant. The applicant shall ensure that the proprietor and/or the excavating contractor and/or transportation contractor hold sufficient Public Liability Insurance for any claim against them.
3. Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process. No direct sales from the site shall occur as part of this approval.
4. **Water Management Plan**
The proponent must submit a Water Management Plan to the Shire for approval prior to the issue of an Extractive Industry License. The Water Management Plan must:
 - a. Be prepared by a suitably qualified and experienced expert in water management, including hydrogeology;
 - b. Include a detailed hydrogeological assessment of the proposed development and identify any risks associated with it;
 - c. Include appropriate risk management strategies or plans to ensure that groundwater is not disturbed or polluted by the development; and
 - d. All stormwater generated within the pits and access way shall be directed away from the waterway to the east of the extractive area and in accordance with the Water Management Plan.The development must be carried out in accordance with the approved Water Management Plan, unless otherwise authorised in writing by the Shire.
5. Dust suppression measures shall be undertaken at all times where any operation on the site is likely to generate a dust nuisance to nearby properties in accordance with the Dust Management Plan.
6. Until such time as a new access point is created and constructed as part of the new Great Northern Highway Alignment, access and egress to the site shall be via the existing internal roadway which extends south from Lot 1957 through Lot 83 and onto Great Northern Highway via the existing crossover on Lot 83.
7. Until such time as a new access point is created and constructed as part of the new Great Northern Highway Alignment, no access is to occur via Great Northern Highway from Lot 1957 except for light vehicles.
8. A maximum of 1,000 truck movements are permitted per year.
9. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise but, notwithstanding, the operations to have due regard to the health and amenity of any person in the vicinity.
10. All vehicles' loads entering and exiting the site shall be fully covered and secured prior to and upon leaving the site to prevent spread of material.

11. Any storage of fuels or refuelling on site is to be located on a designated hardstand area location to the satisfaction of the Shire.
12. Any fuel leakages or spills are to be cleaned up within 24 hours.
13. The hours of operation shall be in accordance with the approved management plan, limited to:
 - a. Monday to Friday 0600 to 1800 hours;
 - b. Saturday 0730 to 1700 hours;
 - c. Sunday and Public Holidays not permitted; and
 - d. Any variation of these times requires written approval from Council.
14. Noise suppression measures are to be undertaken at all times where any operation onsite is likely to generate noise nuisance to nearby residents in accordance with the Noise Management Plan.
15. Excavation for the extractive industry shall not occur in the following areas:
 - a. within 50 metres of a boundary of any land not owned by the applicant/landowner or Planning Consent holder;
 - b. within 50 metres of any identified threatened ecological community;
 - c. within 20 metres of any land affected by a registered grant of easement;
 - d. within 50 metres of any designated Resource Enhancement Wetland;
 - e. within 500 metres of any house;
 - f. below the level of winter groundwater table;
 - g. within 50 metres of any road or road reserve; and
 - h. outside of the approved excavation areas shown on the approved plan dated May 2017.
16. Rehabilitation and Land Management Plan
 - a. Prior to the issue of an Extractive Industry License a guarantee/bond or other acceptable form of security shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in Part 5 of the *Extractive Industries Local Law 2014* and the Shire's adopted *Schedule of Fees and Charges*.
 - b. Upon decommissioning of the excavation area, rehabilitation shall take place in accordance with the approved plan, or as otherwise stipulated.
 - c. Rehabilitation shall include surface water and wind control measures on all pit faces to prevent gully erosion, and final batters to be graded to provide safe entry and exit slopes should access to any standing water within the pit be required or accidentally occur.
 - d. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases.
 - e. Any amendments or variations to the rehabilitation or land management plan associated with the excavation shall be approved in writing by the Shire within three months of the commencement of operations.
 - f. An annual report shall be submitted to the Shire that includes:
 - i. the progress of excavation;
 - ii. depth to groundwater from each pit floor;
 - iii. monitoring program results and findings;
 - iv. progress of rehabilitation;
 - v. contingency actions and outcomes; and
 - vi. community complaints and responses.

Advice Notes

1. The applicant is to liaise with the Department of Environmental Regulation in relation to compliance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
2. In relation to Condition "16.a.", the rehabilitation bond/bank guarantee may be limited to a single stage and rolled over to after each stage is rehabilitated in accordance with this approval.

3. The applicant is recommended to liaise with Chittering Landcare regarding a species list and planting regime.
4. The Stormwater Management Plan is recommended to be undertaken and managed thereafter in accordance with the Stormwater Management Manual of Western Australia (DoW, 2004-2007).

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
7:25PM

9.1.2 Proposal to apply for changes to Western Australia Building Regulations 2012 for Domestic Swimming Pool Fencing, Barriers and Gates

Report date	20 September 2017
Applicant	Shire of Chittering
File ref	07/03/0002
Prepared by	Nathan Gough, Principal Building Surveyor
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Executive Summary

Council's support is requested to allow the Shire's Principal Building Surveyor to pursue changes to the Western Australia *Building Regulations 2012* for Domestic Swimming Pool Fencing, Barriers and Gates. Currently there is no mechanism available to the Shire to enforce swimming pools to be made safe with barrier fences outside of gazetted townsites. Council's support will provide for fast tracking of the application, noting that its support will not ultimately and immediately require such fencing to be installed, this final decision remains with the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement.

Background

The Royal Life Saving Society of Australia has identified the absence of a barrier between the residence and the pool area, or a defective barrier, as the major cause of drowning of young children in Western Australia. According to their data, for each child that drowns, there are 10 that will be hospitalised and a number left with long term impairment.

Recently the Shire of Chittering endorsed a Scheme Amendment to allow for a rezoning to Residential on Reserve Road with a density of R2, which means subdivision of lots to approximately 5,000m². Because this is not in a Gazetted townsite, under the *Western Australia Building Regulations 2012* ("Regulations"), the construction of a domestic swimming pool does not require any pool fencing/barrier around swimming pools to be installed. The result could be dwellings without a swimming pool and dwellings with a swimming pool in close proximity to each other with nothing more than a wire boundary fence or no fence at all separating children from next door neighbours' pools. As the metropolitan area expands and more subdivisions are approved of this type, the risk will increase.

The Regulations Schedule 5 states that *Part 8, Division 2* concerning the installation compliant fencing/barriers to private swimming pools applies only to the Shire of Chittering's townsites – Muchea and Bindoon. A townsite is defined as being ordinarily gazetted by the Western Australian Planning Commission. This creates confusion among residents as to whether a fence is required or even a building permit required for a swimming pool. Therefore the intent of this report is to provide Council with a background, and thereafter to gain its support in expanding the abovementioned clause within the Regulations which applies to the installation compliant fencing/barriers to private swimming pools to all of the Shire of Chittering.

Modification of the Regulations if agreed to by the Minister would thereafter be retrospective and pool owners would be given an amnesty of 12 months to construct and maintain a compliant pool fence before the property is inspected and the Regulations enforced. The Shire of Chittering currently has approved 70 pools in the town sites and approximately 380 approved pools in all other areas. There may be other pools unaccounted for which were constructed without an appropriate building permit.

Consultation

Local

- Affected landowners would be identified, contacted and asked to comment on the proposal.
- Council are asked for support, however such resolution in fact holds no legislative power.

State

- Consultation with the Department of Mines, Industry, Regulation and Safety concerning procedure.
- Regulatory Gate-keeping Unit (RGU) would assess the application and the response from the community before presenting it to the Minister.
- Application by the Chief Executive Officer to the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement to change the Regulations.

Legislative Implications

State

- *Western Australian Building Regulations 2012, Schedule 5 – Areas of State where Part 8, Division 2*
- *Western Australian Building Regulations 2012, Part 8 Division 53*
This clause provides the legislative requirement to ensure that regular inspections of barriers to private swimming pools occur.

Local

The Shire's solicitors have advised that including provisions within the proposed fencing local law is not likely to be legally binding as it would be inconsistent with the Regulations, and as such is inappropriate to include as a provision.

Policy Implications

State

Nil

Local

Nil

Financial Implications

Shire of Chittering

- Administrative and advertising costs for community consultation and to advise ratepayers of the proposed changes to the Regulations requiring them to install a pool fence/barrier:
 - Total cost of letters to notify ratepayers (approximately) \$1,000.00.
 - Initial cost of inspection of all pools outside of Townsites \$55.00 per pool
 - Total cost to inspect 380 pools \$20,900.00

It is to be noted that some pool owners will put in a building permit for the installation of pool fencing and the initial inspection cost will be covered by the building permit fee. The Shire can charge pool owners for this service or provide the first inspection free. At such time, Council would be requested to resolve its position in this matter.

- Regular Inspection of pool fencing/barriers every fourth year.
These costs are reimbursed by the regulated fees paid by the landowner. Swimming pools are inspected every four years, and costs associated are recovered by a regulated fee payable of up to \$57.45 per year added to the landowners' rates.
Total revenue raised to cover a pool inspection can be up to \$229.80 from regulated fees.
It is to be noted if a pool is non-compliant it may take several inspections to achieve compliance.

Affected Property Owner

- Cost of installing a compliant fence/barrier approx. \$3,000.00 - \$5,000.00 for basic fencing
- Building Permit (State Government Building Levy) \$61.65
- Building Permit Shire of Chittering Fees \$96.00
- Initial inspection included as part of Building Approval process
- Legislated inspections every fourth year up to \$229.800 per inspection

Strategic Implications

There are no strategic implications associated with this request.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

There will be economic implications for those affected by the changes to the Regulations. However these costs are no greater than for any metropolitan local authority resident that owns a swimming pool.

Social implications

The loss of a child due to drowning in a private swimming pool affects not only the swimming pool owner but also the local community in general.

Residents and the community can be assured that swimming pool fencing best practice has been carried out to protect the children of our community.

Environmental implications

This proposal will create a safer environment for the residents and visitors to the Shire of Chittering.

Officer Comment/Details

It has been the Shire of Chittering's Building Department's practice to encourage residents installing swimming pools to also install a compliant fence/barrier and gates even in rural areas where this is not legally enforceable. Most responsible residents agree this is beneficial and have been willing to install a pool fence. Due to this positive response from residents, it is anticipated that a majority of those who have previously obtained a building permit for their pools will already have fencing installed and will only require inspection of existing fencing. It is anticipated the majority of those who will be required to install a swimming pool fence will be those residents that have installed a pool without a building permit.

Compliant swimming pool fencing is recognised by Australian society as a normal part of owning a pool. As an example, the Department of Child Protection will not allow foster children to be housed in a dwelling if the pool is not compliantly fenced, even if the Regulations allow it.

Accidents may still happen, but the Shire of Chittering Council, residents and the community can be assured that swimming pool fencing best practice has been carried out to protect the children of our community.

Frequently asked questions

- *Do dams, water tanks etc on rural property require compliant fencing?*

The definition of a swimming pool:

Swimming pool means any excavation or structure containing water and principally used, or designed, manufactured or adapted to be principally used for swimming, wading, paddling, or the like, including a bathing or wading pool, or spa.

Private swimming pool means a swimming pool:

- (a) that is associated with: a Class 1a building;
 - (1) less than 30 sole-occupancy units in a Class 2 building; and
 - (2) a Class 4 part of a building; and
- (b) which has the capacity to contain water that is more than 300 mm deep.

Dams, water tanks, streams etc on a rural property are not included in this definition.

- *Do above ground pools require a building permit and fencing?*

All swimming pools and spas that have a depth of over 300mm of water require a building permit and fencing. Part of the building approval process includes an initial inspection of the pool fencing for compliance. The pool will then be included in the regular shire inspection regime of pool fencing once every four years.

An above ground pool that has non-climbable walls that meet the requirements of *Building Act 2011*, *Building Regulations 2012* and *AS1926.1-2012* may only require a pool fence and gate around the pump and ladder.

Conclusion

This request is put to Council for support only. Such support does not guarantee that the application will be successful, rather it provides additional backing for the Shire's intentions in this matter. No further input will be required of Council, however the actual carrying out of inspecting and enforcing compliance is carried out by Shire staff.

The final decision is made by the Minister for Commerce and Industrial Relations having regard to Council's position. There may be short term negative feedback from affected residents, specifically in relation to the need to accept inspections and to install new fencing, however the long term benefits significantly outweigh this.

OFFICER RECOMMENDATION

Moved Cr Osborn / Seconded Cr Tilbury

That Council provide their support to the application for modification to the Western Australian *Building Regulations 2012 Part 8 Division 2* such that:

1. Be extended to apply to the whole Shire of Chittering.
2. All existing and new swimming pools to be required to have barriers/fences installed.
3. Inspections and prosecutions will not commence until after a period of 12 months following introduction of the Regulations within the Shire in general.
4. The following process thereafter to be carried out:
 - a. Application to Council to proceed.
 - b. Council Approval to proceed.
 - c. Advertising and notification to affected rate payers and residents.
 - d. Period of consultation.
 - e. Application by Shire of Chittering's Chief Executive Officer to the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement.
 - f. Regulatory Gate Keeping Unit to consider response from rate payers and residents.
 - g. Regulatory Gate Keeping Unit approval to proceed.
 - h. Regulations changed to cover all of the Shire of Chittering.
 - i. Twelve month grace period.
 - j. Inspection of all swimming pools outside of Gazetted Townsites.
 - k. Enforcement of Western Australian *Building Regulations 2012, Part 8, Division 2*.
 - l. All swimming pools in the Shire of Chittering to be included in the four year inspection regime.
5. Council considers and advises that the initial retrospective inspection be accompanied by a mandatory inspection fee of \$55.00 per pool.

MOTION / COUNCIL RESOLUTION 090917

Moved Cr King / Seconded Cr Rossouw

That Council suspended Standing Orders Part 8 – Conduct of Members.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
7:37PM

MOTION / COUNCIL RESOLUTION 100917

Moved Cr Tilbury / Seconded Cr Rossouw

That Council resume Standing Orders Part 8 – Conduct of Members.

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
7:48PM

AMENDMENT

Moved Cr Rossouw / Seconded Cr King

That **Condition 3** be amended to read as follows:

Inspections and the compliance process of existing swimming pools will not commence until after a period of 12 months following introduction of the Regulations within the Shire in general.

THE AMENDMENT WAS PUT AND DECLARED CARRIED 7/0
AND FORMED PART OF THE SUBSTANTIVE MOTION

7:51PM

9.1.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 110917

That Council provide their support to the application for modification to the Western Australian *Building Regulations 2012 Part 8 Division 2* such that:

1. Be extended to apply to the whole Shire of Chittering.
2. All existing and new swimming pools to be required to have barriers/fences installed.
3. Inspections and the compliance process of existing swimming pools will not commence until after a period of 12 months following introduction of the Regulations within the Shire in general.
4. The following process thereafter to be carried out:
 - a. Application to Council to proceed.
 - b. Council Approval to proceed.
 - c. Advertising and notification to affected rate payers and residents.
 - d. Period of consultation.
 - e. Application by Shire of Chittering's Chief Executive Officer to the Minister for Mines and Petroleum; Commerce and Industrial Relations; Electoral Affairs; Asian Engagement.
 - f. Regulatory Gate Keeping Unit to consider response from rate payers and residents.
 - g. Regulatory Gate Keeping Unit approval to proceed.
 - h. Regulations changed to cover all of the Shire of Chittering.
 - i. Twelve month grace period.
 - j. Inspection of all swimming pools outside of Gazetted Townsites.
 - k. Enforcement of Western Australian *Building Regulations 2012, Part 8, Division 2*.
 - l. All swimming pools in the Shire of Chittering to be included in the four year inspection regime.
5. Council considers and advises that the initial retrospective inspection be accompanied by a mandatory inspection fee of \$55.00 per pool.

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 5/2
CRS KING AND GIBSON VOTED AGAINST THE MOTION

7:51PM

9.1.3 Section 70A Notification Authorisation: Freehold (Green Title) subdivision of Lots 5, 22, 502, 821, 840 and 853 Chittering Road, Chittering*

Report date	20 September 2017
Applicant	Lander Lawyers Pty Ltd
File ref	18/03/121; WAPC Ref 153759
Prepared by	Nathalee Petersen, Planning Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Section 70A Notification Document (Lots 711, 712 and 713)2. Section 70A Notification Document (Lots 714, 715 and 716)3. Easement in Gross Form (Lots 711, 712 and 713)4. Easement in Gross Form (Lots 714 and 715)5. Deposited Plans

Executive Summary

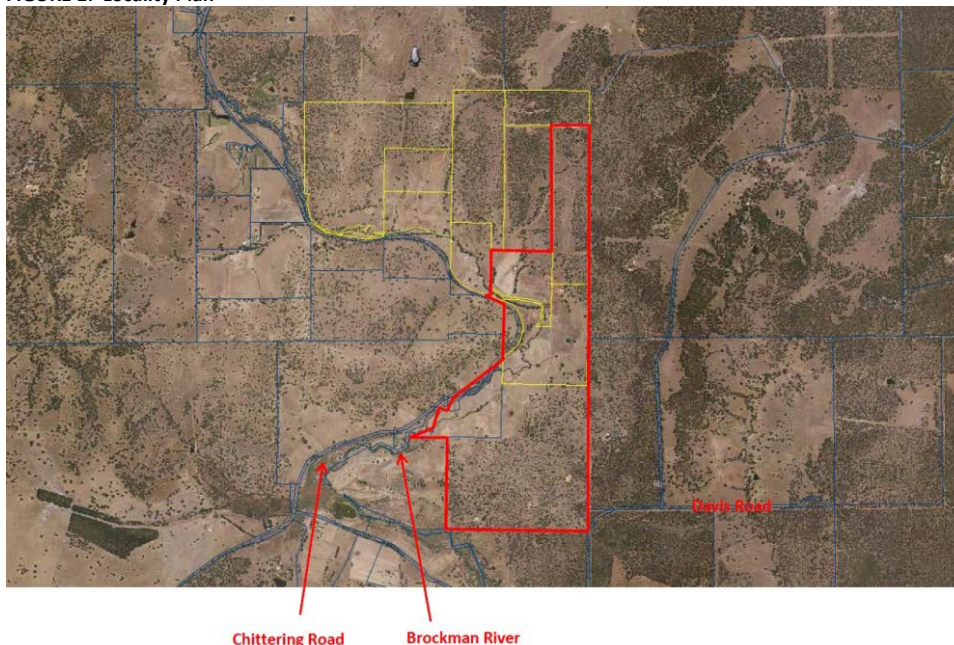
Council's consideration is requested in relation to the execution of a Section 70A Notification for the subdivision of Lots 5, 22, 502, 821, 840 and 853 Chittering Road, Chittering. Council's consideration is also requested in relation to the clearance of an Execution of an Easement in Gross for an emergency access way for proposed Lots 713 and 714. The matter is put to Council in accordance with the conditions of approval for the freehold subdivision / boundary realignment of the abovementioned six lots being 25.96ha, 37ha, 24ha, 55.83ha, 21.98ha, 38ha's respectively.

The proposed subdivision encompasses land owned by two different companies.

Background

On 31 October 2016, the Shire was notified that the subdivision of Lots 5, 22, 502, 821, 840 and 853 Chittering Road had been conditionally approved by the Western Australian Planning Commission.

FIGURE 1: Locality Plan



Condition 2 of the subdivision approval requires a notification in the form of a Section 70A Notification pursuant to the *Transfer of Land Act 1893* (as amended), to be placed on the Certificate of Titles for the proposed lots (refer **Attachment 1**). The purpose of the Section 70A Notification is to advise the future landowners that the lots are '*situated in the vicinity of bauxite mineralisation which may be extracted in the future.*'

Further to the above, Condition 4 of the approval requires the emergency access ways easement for proposed Lots 711, 712, 713, 714 and 715 be outlined on the Certificates of Titles, specifying access rights (refer **Attachment 2**). Both of the required notifications have been placed on the relevant titles.

Consultation

Not applicable

Statutory Environment

State

- *Transfer of Land Act 1893* (as amended)

Policy Implications

Local

- *Administration Policy 1.5 Execution of Documents*

This policy governs the use of the Common Seal, which can only be used following a specific council decision.

Financial Implications

Nil

Strategic Implications

Nil

Site Inspection

A inspection of the sites was undertaken by relevant Shire officers to ensure the emergency access way had been constructed to a trafficable standards.

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.

Officer Comment/Details

In order to satisfy Conditions 2 and 4 of the subdivision approval, the applicant has provided the Section 70A Notification, pursuant to the *Transfer of Land Act 1893* (as amended) (refer **Attachments 1** and **2**) as well as the Easement in Gross forms (refer **Attachment 3** and **4**). The execution of these documents requires the Shire President and the Chief Executive Officer to sign and affix the Common Seal as a requirement of the subdivision clearance.

9.1.3 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 120917

Moved Cr Gibson / Seconded Cr Osborn

That Council authorise the Shire President and the Chief Executive Officer to sign and affix the Common Seal in relation to the subdivision and boundary realignment of Lots 5, 22, 502, 821, 840 and 853 Chittering Road, Chittering (proposed as Lots 711, 712, 713, 714, 715 and 716 Chittering Road), upon:

- 1. The Notification under Section 70A of the *Transfer of Land Act 1893* (as amended) relating to a notice that *"This Lot is situated in the vicinity of bauxite mineralisation which may be extracted in the future"* on Lots 711, 712, 713, 714, 715 and 716 Chittering Road, Chittering on Deposited Plan 411908.**
- 2. The easement in gross relating to the creation of an emergency access way easement in gross in favour of the Shire under and by virtue of the provisions of Sections 195 and 196 of the *Land Administration Act 1997* with the full and free right, liberty, power and authority from time to time and at all times hereafter to go, pass and repass for fire emergency access purposes either with or without vehicles over, along and across the Easement Land on Lots 711, 712, 713, 714 and 715 Chittering Road, Chittering on Deposited Plan 411908.**
- 3. Any other relevant documents pertaining to subdivision WAPC 153759.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

7:52PM

9.2 TECHNICAL SERVICES

Nil

9.3 CORPORATE SERVICES

9.3.1 Financial statements for the period ending 31 August 2017*

Report Date	20 September 2017
Applicant	Shire of Chittering
File ref	12/03/4
Prepared by	Rowena Coshan, Finance Assistant
Supervised by	Rhona Hawkins, Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Monthly Financial Statements for the period ending 31 July 2017
Attachments	1. Monthly Statement of Financial Activity for period ending 31 August 2017 Bank Reconciliation as at 31 August 2017 List of Accounts Paid as at 31 August 2017

Executive Summary

Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid for the period ending 31 August 2017.

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.

Consultation/Communication Implications

Nil

Legislative Implications

State

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

Local

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.

Officer Comment/Details

Council is requested to receive the Monthly Statement of Financial Activity, Bank Reconciliation and Accounts Paid as at 31 August 2017 as presented.

9.3.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 130917

Moved Cr Tilbury / Seconded Cr Gibson

That Council:

- 1. endorse the Accounts Paid:**
 - a. PR3995 PR4014**
 - b. EFT14500 - 14629**
 - c. Municipal Fund Cheques 14282 - 14294**
 - d. Direct Debits and Transfers as listed**
 - e. Trust Fund payments as listed****totalling \$615,452.45 for the period ending 31 August 2017.**
- 2. receive the Bank Reconciliation as at 31 August 2017.**
- 3. receives the Monthly Statement of Financial Activity for the period ending 31 July 2017 and 31 August 2017.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
7:52PM

9.3.2 Related Party Disclosures*

Report date	20 September 2017
Applicant	Shire of Chittering
File ref	04/03/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Rhona Hawkins, Executive Manager Corporate Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Related Party Disclosure – Declaration Form

Executive Summary

Council's consideration is requested to declare those matters which it considers to be Ordinary Citizen Transactions for the purpose of Related Party Disclosures in the Shire Annual Financial Statements.

Background

The scope of AASB 124 Related Party Disclosures was extended in July 2015 to include application by not-for-profit entities, including local governments. The operative date for Local Government is 1 July 2016, with the first disclosures to be made in the Financial Statements for year ended 30 June 2017.

Consultation/Communication Implications

Not applicable

Legislative Implications

State

- *Local Government Act 1995*
- *AASB 124 "Related Party Disclosures"*

Local

Nil

Policy Implications

Nil

Financial Implications

While there are no direct financial implications, the required disclosure will be included in the Shire of Chittering Annual Financial Statements from 2017/18 onwards.

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.

Officer Comment/Details

The objective of the standard is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and transactions.

As a result, the Shire will need to include a section in its Annual Financial Report which reports:

- Payments made to Key Management Personnel (Councillors and Senior Staff)
- Transactions with Related Parties

A 'Related Party' is a person or entity that is related to the local government. It includes a person or a close member of that person's family if that they have significant influence over the Shire or if they are a member of the key management personnel of the Shire.

'Close Members of the Family of a Person' are those family members who may be expected to influence, or be influenced by, that person in their dealings with the Shire and include:

- a) That person's children and spouse or domestic partner;
- a) Children of that person's spouse or domestic partner; and
- b) Dependants of that person or that person's spouse or domestic partner.

A 'Related Party Transaction' is a transfer of resources, services or obligations between the Shire of Chittering and a related party, regardless of whether a price is charged.

'Key Management Personnel' are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

In the case of local government will include all Councillors and Senior Staff. Senior Staff would include the Chief Executive Officer and any staff member at an Executive Manager level.

For the purposes of determining whether a related party transaction has occurred, the following transactions or provision of services have been identified as meeting this criteria:

- Paying rates;
- Fines;
- Use of Shire owned, managed facilities, parks, ovals and other public open spaces (whether charged a fee or not);
- Attending Council functions that are open to the public;
- Employee compensation whether it is for Key Management Personnel or close family members of Key Management Personnel;
- Application fees paid to the Shire for licences, approvals or permits;
- Lease agreements for housing rental (whether for a Shire owned property or property sub-leased by the Shire through a Real Estate Agent);
- Lease agreements for commercial properties;

- Monetary and non-monetary transactions between the Shire and any business or associated entity owned or controlled by the related party (including family) in exchange for goods and/or services provided by/to the Shire (trading arrangement);
- Sale or purchase of any property owned by the Shire, to a person identified above;
- Sale or purchase of any property owned by a person identified above, to the Shire;
- Loan Arrangements; and
- Contracts and agreements for construction, consultancy or services.

Some of the transactions listed above, occur on terms and conditions no different to those applying to the general public and have been provided in the course of delivering public service objectives. These transactions are those that an ordinary citizen would undertake with the Shire and are referred to as an Ordinary Citizen Transaction (OCT).

Where the Shire can determine that an OCT was provided at arms-length, and in similar terms and conditions to other members of the public and, that the nature of the transaction is immaterial, no disclosure in the annual financial report will be required.

Councillors and Senior Staff will be required to complete a Related Parties Declaration Form each quarter to enable compilation of the Annual Report.

A copy of the Operating Procedure and Declaration Form is attached for information (**Attachment 1**).

9.3.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 140917

Moved Cr Rossouw / Seconded Cr Osborn

That Council declares that in its opinion the following Ordinary Citizen Transactions that are provided on terms and conditions are no different to those applying to the general public and which have been provided in the course of delivering public service objectives, are unlikely to influence the decisions that users of the Council's financial statements make:

- paying rates;**
- finest;**
- use of Shire owned or managed facilities such as parks, ovals and other public open spaces (whether charged a fee or not); and**
- attending Council functions that are open to the public; and**

as such no disclosure in the quarterly Related Party Disclosures – Declaration Form will be required.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

7:54PM

9.4 CHIEF EXECUTIVE OFFICER

9.4.1 Contract SC14-007 "Fire Mitigation Maintenance and Construction Works"*

Report date	20 September 2017
Applicant	Entire Fire Management
File ref	04/18/78
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	Alan Sheridan, Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Form of Agreement

Executive Summary

Council's consideration is 'requested' to authorise the President and Chief Executive Officer to apply the Common Seal to a "Form of Agreement" which extends the current contract with Entire Fire Management for a further 12 months. The contract terms provides for a 12 month contract extension, provided the parties are in agreement.

Background

At the Special Meeting of Council held on 3 September 2014 Council resolved the following:

COUNCIL MOTION/RESOLUTION – 010914

Moved Cr Norton/Seconded Cr Douglas

That Council:

- 1) accept the tender for the sum of \$161,590 from Entire Fire Management for the provision of Fire Mitigation Works for the period from 5 September 2014 to 5 September 2017.*
- 2) accept the tender for the sum of \$64,620 from Entire Fire Management for the provision of Control Burns for the period from 5 September 2014 to 5 September 2017.*
- 3) authorise the Shire President and Chief Executive Officer to sign and affix the Common Seal to the Fire Mitigation Maintenance and Construction Contract.*
- 4) increase its 2014/15 budget allocation for strategic fire breaks (GL 06062) by \$14,500 when the annual budget review is undertaken.*

*THE MOTION WAS PUT AND DECLARED CARRIED 5/1
BY AN ABSOLUTE MAJORITY VOTE*

Clause 9.3 of the contract with Entire Fire Management Systems provides an option to extend the contract for an additional 12 month period, provided the Shire and the Contractor agree to the extension in writing.

Entire Fire Management Systems has performed well during the contract period. All aspects of the contract have been performed in a professional and safe manner. The contractor has also established a good reputation in the local community.

Given recent staff changes and the upcoming fire season, it is not practical to re-tender the services at this time. Accordingly, staff have arranged for a Form of Agreement to be signed by the Contractor agreeing to the proposed contract extension.

Council is requested to endorse the President and Chief Executive Officer signing and applying the Common Seal to the Form of Agreement which will give effect to the 12 month extension in accordance with the terms of the contract.

Consultation/Communication Implications

Local

Chief Executive Officer
Community Emergency Services Manager
Executive Manager Technical Services

State

Not applicable

Legislative Implications

State

- Local Government Act 1995
3.57. *Tenders for providing goods or services*
 - (1) *A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.*
 - (2) *Regulations may make provision about tenders.*
- Local Government (Functions and General) Regulations 1996
11. *When tenders have to be publicly invited*
 - (1) *Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.*

Local

Nil

Policy Implications

State

Nil

Local

- Policy 1.5 Execution of Documents
- Policy 2.12 Purchasing

Financial Implications

In the 2017/18 Annual Budget, \$82,700.00 has been allocated for strategic breaks and public open space protection.

Strategic Implications

The proposed works will assist Council in providing suitable fire mitigation initiatives which aim to protect the community from local bush fires.

Local

- Strategic Community Plan 2012-2022
2. Our Natural Environment – Outcome 3 “Protection of life and property”
Strategy Improve bushfire preparedness and recovery:
 - Hazard Risk Mapping and planning

State

Nil

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

Reduction of fire fuel in reserves assists in reducing the risk and spread of fire.

Social implications

Regular maintenance of the strategic fire breaks, reserve fire breaks and installation of new breaks will assist fire services when fighting fires in land controlled by the Shire of Chittering.

Environmental implications

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

Officer Comment/Details

It is recommended that Council endorse the actions of the Chief Executive Officer to extend the current contract with Entire Fire Mitigation Systems for a further 12 months for the sum of \$85,762.00 (inc GST) for the period from 5 September 2017 to 5 September 2018.

It is also recommended that Council endorse the proposed contract extension and authorise the President and Chief Executive Officer to sign and apply the Common Seal to the “Form of Agreement” for Contract SC14-007.

9.4.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 150917

Moved Cr Rossouw / Seconded Cr Osborn

That Council:

- 1. Endorses the actions of the Chief Executive Officer to extend the current contract with Entire Fire Management Systems for a further 12 months for the sum of \$85,762 (inc GST) for the period 5 September 2017 to 5 September 2018.**
- 2. Authorises the President and Chief Executive Officer to sign and apply the Common Seal to the Form of Agreement SC14-007.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0

7:57PM

10. REPORTS OF COMMITTEES

10.1 Local Emergency Management Committee: 23 August 2017*

Report date	20 September 2017
Applicant	Shire of Chittering
File ref	09/02/1
Prepared by	Natasha Mossman, Executive Support Officer
Supervised by	David Carroll, Community Emergency Services Manager
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. "Unconfirmed" Local Emergency Management Committee Minutes from 23 August 2017

Executive Summary

Council's consideration is 'requested' to receive the unconfirmed minutes from the Local Emergency Management Committee meeting held on 23 August 2017.

Background

There were no Committee Recommendations made during the meeting.

Consultation/Communication Implications

Local

Local Emergency Management Committee – attendance list from 23 August 2017:

- Alan Sheridan Chief Executive Officer, Shire of Chittering (Chairperson)
- David Carroll Community Emergency Services Manager, Shire of Chittering
- Peter Stuart Acting Executive Manager Development Services, Shire of Chittering
- Rick Choules St John Ambulance, Gingin-Bindoon Sub-branch
- Craig Garrett District Officer North East Metropolitan, Department of Fire and Emergency Services
- Ryan Hamblion Senior District Emergency Service Officer | Emergency Services Unit; East Metro - Armadale, Cannington, Midland; Child Protection and Family Support, Department of Communities

Quorum: 6 members

State

Nil

Legislative Implications

State

- Local Government Act 1995, Section 5.8
5.8. Establishment of committees
A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*
* Absolute majority required.

Local

Nil

Policy Implications

State

Nil

Local

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.

Officer Comment/Details

The minutes of the Chittering Local Emergency Management Committee meeting held on 23 August 2017 are presented to Council to be received.

10.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 160917

Moved Cr Tilbury / Seconded Cr Angus

That Council receives the unconfirmed minutes from the Chittering Local Emergency Management Committee meeting held on Wednesday, 23 August 2017.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 7/0
8:01PM

11. MOTIONS, OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

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

MOTION / COUNCIL RESOLUTION 170917

Moved Cr Tilbury / Seconded Cr Osborn

That Council, in accordance with c5.4 of *Local Government (Council Meetings) Local Law 2014* accept item 14.1.2 as a matter of importance and urgency as it is unable to be dealt with administratively by the Shire of Chittering and must be considered and dealt with by Council before the next Ordinary Meeting of Council (18 October 2017).

THE MOTION WAS PUT AND DECLARED CARRIED 7/0
8:02PM

14. MEETING CLOSED TO THE PUBLIC

14.1 Matters for which the meeting may be closed

PROCEDURAL MOTION / COUNCIL RESOLUTION 180917

Moved Cr Tilbury / Seconded Cr Rossouw

That Council, in accordance with c11.1(g) of *Local Government (Council Meetings) Local Law 2014* close the meeting to the public.

THE PROCEDURAL MOTION WAS PUT AND DECLARED CARRIED 7/0
8:02PM

14.1.1 CONFIDENTIAL ITEM: Compliance Direction – Unlawful residential occupation of a Class 10a building*

Report date	20 September 2017
Applicant	Shire of Chittering
File ref	A1757
Prepared by	Brooke Mills, Acting Senior Planner/Compliance Officer
Supervised by	Peter Stuart, Acting Executive Manager Development Services
Disclosure of interest	Nil
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Approvals and letter (02/05/86) 2. Approvals and letter (10/01/89) 3. Orders and Requisitions Notice 4. Communications 5. Full History 6. Photographs

Reason for Confidentiality

In accordance with the *Local Government Act 1995* Section 5.23:

- (2) *If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:*
- (b) *the personal affairs of any person; and*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

Executive Summary

Council is requested to consider appropriate compliance procedures in relation to the unlawful residential occupation of a Class 10a Outbuilding (shed) without prior approval and in contravention of previous approvals issued.

14.1.2 CONFIDENTIAL ITEM: Reconsideration of Conditions for the Approved Extractive Industry for Sand: Lot 52 Old Gingin Road, Muchea*

Report date	20 September 2017
Applicant	Statewest Planning
File ref	A10587; P030/17
Prepared by	Peter Stuart, Acting Executive Manager Development Services
Supervised by	Alan Sheridan, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Applicant's proposed conditions 2. Changes from existing conditions

Reason for Confidentiality

In accordance with the *Local Government Act 1995* Section 5.23:

- (2) *If a meeting is being held by a council or a committee, the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:*
- (b) *the personal affairs of any person; and*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
 - (e) *a matter that if disclosed, would reveal —*
 - (i) *a trade secret; or*
 - (ii) *information that has a commercial value to a person; or*
 - (iii) *information about the business, professional, commercial or financial affairs of a person,*

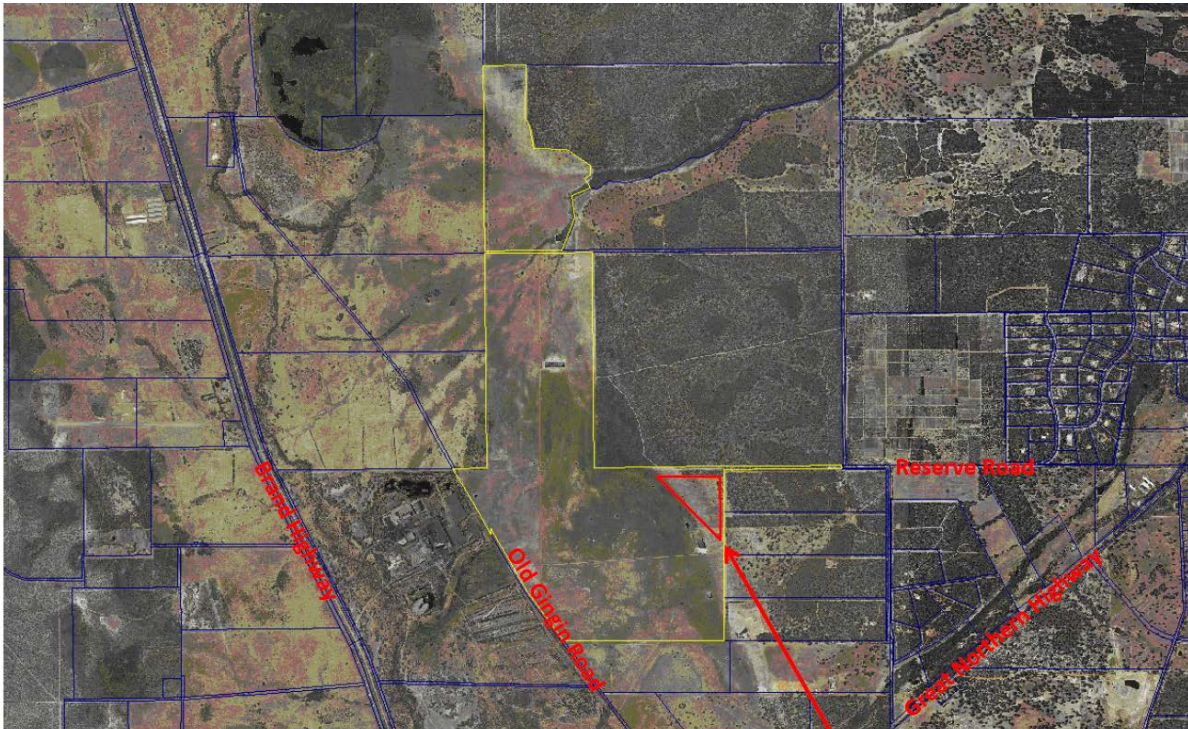
Executive Summary

Council is requested to reconsider the conditions for the approved development application for extractive industry (sand) on Lot 52 Old Gingin Road, Muchea.

The matter has been referred to State Administrative Tribunal (SAT), of which the applicant requested the application be referred to a full hearing, bypassing formal mediation.

The item is being referred to Council in order to support staff's approach to defending Council's decision of 16 August 2017.

IMAGE 1: LOCALITY PLAN



Pit A – Proposed Extractive Area

14.2 Public reading of resolution that may be made public

14.1.1 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 190917

Moved Cr Osborn / Seconded Cr Rossouw

That Council:

1. authorise staff to initiate prosecution proceedings against the legal owners of Lot 108 (RN223) Ridgetop Ramble, Bindoon under Section 144 of the *Health (Miscellaneous Provisions) Act 1911* and the *Building Regulations 2012* for unauthorised habitation of a structure that has not been approved for human habitation.
2. instruct staff to investigate amending the wording of clause 4.8.3 within the Shire's *Local Planning Scheme No 6* by means of an omnibus amendment to provide sufficient mechanism for control of the use of structures for residential habitation.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/1
CR GIBSON VOTED AGAINST THE MOTION

8:07PM

14.1.2 SUBSTANTIVE MOTION / COUNCIL RESOLUTION 200917

That Council replaces the conditions for the approved Development Application for the Extractive Industry (sand) at Lot 52 Old Gingin Road, Muchea in accordance with the attached documentation, with the following revised conditions and advice notes:

Conditions

1. This development approval relates only to Pits A, B and C shown on the Excavation Plan prepared by Statewest Planning dated 1 May 2014, reference 14921.
2. This approval permits the extraction of material and carting from the pits for a term of 18 months, commencing on the date the proponent gives written notice to the Shire that the first truck load for the Northlink 3 project is required. Upon the commencement of this approval, development approval reference P009/12 dated approved 27 June 2012 and revised development approval dated approved 23 December 2015 is cancelled.
3. Prior to the commencement of any works, the proponent shall submit to the Shire evidence of currency of Public Liability Insurance for the excavation works. The issue of the approval shall not, in any way, render the Shire of Chittering liable for damage or injury of any kind to any member of the public; such liability shall be the sole responsibility of the applicant. The applicant shall ensure that the proponent and/or the excavating contractor and/or transportation contractor hold sufficient Public Liability Insurance for any claim against them.
4. Top soil from the excavated areas shall be stockpiled and used where applicable in the rehabilitation process. No direct sales from the site shall occur as part of this approval.
5. The proponent must submit a Water Management Plan for Pits A, B and C to the Shire for approval prior to the issue of an excavation licence. The Water Management Plan must:
 - a. be prepared by a suitably qualified and experienced expert in water management, including hydrogeology;
 - b. include a detailed hydrogeological assessment of the proposed development and identify any risks associated with it;
 - c. state the maximum estimated winter groundwater level below Pit A, B and C;
 - d. include appropriate risk management strategies or plans to ensure that groundwater is not disturbed or polluted by the development;
 - e. include a Stormwater Management Plan, showing (among other things) how hydrocarbons will be managed to prevent pollution; and
 - f. include a plan for ongoing monitoring of groundwater by appropriately located piezometers, and the reporting of results to the Shire.The development must be carried out in accordance with the approved Water Management Plan, unless otherwise authorised in writing by the Shire.
6. The pit floor must be not less than 0.5m above the maximum estimated winter groundwater level stated in the approved Water Management Plan, unless the Shire approves another level for the pit based on site specific investigations.
7. The proponent must lodge for approval by the Shire a Dust Management Plan prior to the grant of an excavation licence. The Dust Management Plan must propose measures which are adequate to ensure that no visible dust crosses the boundary of Lot 52, and that dust from trucks does not become a nuisance to neighbouring properties.
8. The proponent shall submit to the Shire for approval a plan which shows:
 - a. Old Gingin Road is to be widened, sealed and line marked to the Shire's standards unto the entry point of Lot 52 Old Gingin Road; and
 - b. the line marking of the currently sealed section of Old Gingin Road; and

- c. the widening and improvement of the remaining unsealed section of Old Gingin Road to the access point of Lot 52; and
 - d. installation of retro reflective pavement markers and additional guide posts, together with any other appropriate improvements,
- consistent with the recommendations contained in the Transport Impact Statement Report for Lot 52 Old Gingin Road, Muchea (July 2017) by DVC.

The road upgrades shown on the approved plan must be completed before an Excavation Licence is issued.

9. Old Gingin Road between Great Northern Highway and the access point to Lot 52 must be maintained by the proponent until Pits A, B and C are decommissioned and rehabilitated satisfactorily in accordance with this approval.

In order to ensure compliance with this Condition, the proponent must:

- a. pay to the Shire on a monthly basis a levy of \$0.50c per tonne of material extracted, which the Shire may use to maintain and upgrade the roads used for access to the pit; or
 - b. if the applicant so elects, enter into a deed with the Shire which provides for the proponent to lodge with the Shire a bank guarantee in the sum of \$300,000 which the Shire may call upon for the purpose of maintaining and upgrading the access roads in default by the proponent. Any such deed must be prepared to the requirements of the Shire by the Shire's solicitors at the cost of the proponent. The deed must be executed and the bank guarantee provided to the Shire before the grant of an Extractive Industry Licence.
10. A maximum of 400 truck movements (i.e. 200 laden truck loads) are permitted per day on Old Gingin Road. The development site may not be accessed via Reserve Road.
 11. The maximum truck size is not to exceed 19 metres.
 12. The operations shall comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* in respect to noise but, notwithstanding, the operations to have due regard to the health and amenity of any person in the vicinity.
 13. All vehicles' loads entering and exiting the site shall be fully covered and secured prior to and upon leaving the site to prevent spread of material.
 14. Any storage of fuels or refuelling on site is to comply with the *Storage and Handling of Dangerous Goods Code of Practice 2010*.
 15. Any fuel leakages or spills are to be cleaned up within 24 hours.
 16. The hours of operation shall be in accordance with the approved Management Plan, limited to:
 - a. Monday to Friday 0700 to 1800 hours;
 - b. Saturday 0730 to 1700 hours;
 - c. Sundays, Public Holidays and Special Events days are not permitted; and
 - d. Any variation of these times requires written approval from Council.
 17. Noise suppression measures are to be undertaken at all times where any operation onsite is likely to generate noise nuisance to nearby residents in accordance with the Noise Management Plan contained within Clause 5.2 of the applicant's report.
 18. Excavation for the extractive industry shall not occur in the following areas:
 - a. within 50 metres of a boundary of Lot 52;
 - b. within 50 metres of any identified threatened ecological community, or to the vegetation thicket on the northern border of Pit A, whichever is closer;
 - c. within 20 metres of any land affected by a registered grant of easement;
 - d. within 50 metres of any designated Resource Enhancement Wetland;

- e. within 500 metres of any house;
- f. within 50 metres of any road or road reserve; and
- g. outside of the approved excavation areas shown on the site map dated 01-05-14 Cross Sections of Existing Contours in accordance with the submitted and approved plans.

19. **Rehabilitation and Land Management Plan**

- a. Prior to the issue of an Excavation Licence, an irrevocable bank guarantee or other form of security acceptable to the Shire shall be lodged with or paid to the Shire of Chittering in accordance with the amount stipulated in Part 5 of the *Extractive Industries Local Law 2014* and the Shire's adopted *Schedule of Fees and Charges*.
- b. Revegetation is to include a ratio 1:60 of existing trees that are removed as a result of the excavation.
- c. Rehabilitation shall take place in accordance with the approved Rehabilitation Plan prepared by Statewest Planning, unless otherwise stipulated in these Conditions or in an Excavation Management Plan approved pursuant to Clause 2.2(1)(b) of the *Extractive Industries Local Law 2014*. The rehabilitation of each pit shall be completed within one month following its decommissioning, or one month after the 18 month term approved by Condition 2, whichever is earlier.
- d. Rehabilitation of Pits A, B and C shall include surface water and wind control measures on all pit faces to prevent gully erosion, and final batters to be graded to provide safe entry and exit slopes should access to any standing water within the Pit be required or accidentally occur.
- e. Materials imported for rehabilitation or other purposes shall be certified free of dieback or other plant diseases.
- f. Any amendments or variations to the Rehabilitation or Land Management Plan associated with the excavation shall be approved in writing by the Shire within three months of the commencement of operations.
- g. An Annual Report shall be submitted to the Shire that includes:
 - i. the progress of excavation;
 - ii. depth to groundwater from each pit floor;
 - iii. monitoring program results and findings;
 - iv. progress of rehabilitation;
 - v. contingency actions and outcomes; and
 - vi. community complaints and responses.

20. Stockpiles are to be limited to eight metres in height.

21. In these conditions "proponent" means "Temma Nominees Pty Ltd" and any other person(s) who subsequently carries out the development the subject of this approval.

Advice Notes

- 1. The applicant is to liaise with the Department of Environmental Regulation in relation to compliance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.
- 2. In relation to Condition "19.a.", the rehabilitation bond/bank guarantee may be limited to a single stage and rolled over to after each stage is rehabilitated in accordance with this approval.
- 3. In relation to Condition "19.b.", the applicant is to liaise with Chittering Landcare regarding a species list and planting regime.
- 4. The Stormwater Management Plan is recommended to be undertaken and managed thereafter in accordance with the Stormwater Management Manual of Western Australia (DoW, 2004-2007).

THE SUBSTANTIVE MOTION WAS PUT AND DECLARED CARRIED 6/1
CR ROSSOUW VOTED AGAINST THE MOTION

8:39PM

15. CLOSURE

The Presiding Member declared the meeting closed at 8:40PM.





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8:30am - 4:30pm