

**MINUTES FOR
SPECIAL MEETING OF COUNCIL**

WEDNESDAY 27 MARCH 2019

**Council Chambers
6177 Great Northern Highway
Bindoon**

**Commencement: 6.02PM
Closure: 6.06PM**



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 March 2019



Neil Hartley
Acting Chief Executive Officer
Shire of Chittering

Confirmed Minutes

These minutes were confirmed at a meeting held on 17 April 2019.

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 6:02PM.

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

2.1 Attendance

The following Members were in attendance:

Member: Cr Gordon Houston President (Presiding Member)
Cr Aaron King
Cr George Tilbury
Cr Carmel Ross
Cr Mary Angus
Cr Don Gibson

Quorum – 4 members

The following Shire staff were in attendance:

Neil Hartley Acting Chief Executive Officer
Peter Stuart Executive Manager Development Services
Natasha Mossman Executive Support Officer (Minute Secretary)

Members of
the public: 2

Media: 0

2.2 Apologies

Nil

2.3 Approved leave of absence

2.3.1 Cr Peter Osborn

Council approved Leave of Absence for the period inclusive of Thursday 21 March to Thursday 18 April 2019 (Council Resolution 050319).

3. DISCLOSURE OF INTEREST

Nil

4. PUBLIC QUESTION TIME

4.1 Public question time

Nil

5. PRESENTATIONS / PETITIONS / DEPUTATIONS

5.1 Petitions

Nil

5.2 Presentations

Nil

5.3 Deputations

Nil

6. PURPOSE OF MEETING

At the Ordinary Meeting of Council held 20 March 2019, Council resolved to lay Item '9.1.1 Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019' on the table.

MOTION / COUNCIL RESOLUTION 420319

Moved Cr Gibson / Seconded Cr Ross

That Item 6.1 "Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019" be raised from the table.

THE MOTION WAS PUT AND DECLARED CARRIED 6/0

6:04PM

6.1 Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019

Report date	7 March 2019
Applicant	Shire of Chittering
File ref	18/02/0023
Prepared by	Executive Manager Development Services
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Draft Local Planning Strategy and Mapping (as advertised)2. Schedule of Modifications3. Schedule of Submissions (redacted)4. Schedule of Submissions CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE

CHIEF EXECUTIVE OFFICER NOTE

Refer to the Ordinary Council Meeting held on 20 March 2019 for a full copy of the above attachments.

Executive Summary

The purpose of this Report is for Council to consider providing final endorsement of the draft Local Planning Strategy (LPS), in conjunction with the Schedule of Submissions and the recommended Schedule of Modifications. The LPS has been subjected to a long advertising period, with 18 submissions being received. Each submission has been assessed individually and collectively, with any changes being subject of, and to, this endorsement.

Background

Despite the Shire having an endorsed LPS that provides guidance towards strategic land-use from 2004-2014, on 28 April 2008, the Western Australian Planning Commission (WAPC) requested the Shire of Chittering to review aspects of its Local Planning Strategy which included:

- i. Reviewing all areas recognised for rural residential, rural retreat and rural small holdings outside of the Priority Development Area (PDA).
- ii. Reduce the size of the PDA by removing those areas that are remote from existing infrastructure and services or have a negative impact on the environmental values.
- iii. Provide a staging plan for development within the PDA recognising areas closest to existing development, services and infrastructure in the initial stage(s).
- iv. Incorporating the Local Biodiversity Strategy and Local Planning Strategy mapping and report.

On 16 November 2009, Council awarded a contract to Greg Rowe & Associates (now Rowe Group) to undertake the Local Planning Strategy Review. Upon completion of the draft, the WAPC in October 2013 certified that the Shire's LPS was consistent with the (then) Town Planning Regulations subject to an additional 30 modifications.

At the conclusion of the submission period, a total of 40 submissions were received from State Government agencies and the community. In summary, the feedback received generally reported confusion with the complexity of the mapping.

Accordingly, the Shire in conjunction with the Department of Planning Lands and Heritage proceeded to rewrite the LPS. Further rationale to this rewrite was that in 2015, the State Government gazetted the *Planning and Development (Local Planning Schemes) Regulations*. These Regulations effectively changed the method in which Local Planning Strategies (and all other legislative functions relating to planning) were required to be drafted.

Council subsequently resolved at its Ordinary Meeting held on 19 July 2017 to authorise the submission of the draft LPS to the WAPC for certification prior to advertising.

Following considerable deliberation at the Department of Planning Lands and Heritage, certification was received from the WAPC on 7 June 2018 and was subsequently advertised to the community, in accordance with the endorsed Consultation Strategy. Consultation with community and development representatives occurred for a period of eight weeks, and consisted of an email out, publication of the Shire's website, marketed via Facebook and made publicly available at two open forums. Given the market demands and economic changes within the Shire, mostly as a result of the road construction upgrades, the LPS is regarded as the key document to guide future land use and settlement patterns within the Shire.

A total of 18 submissions were received in response and have been considered in the recommendation of this report. The draft advertised LPS has not been modified at this point in time. The Department of Planning Lands and Heritage have advised that the WAPC will only consider the original advertised document, which must be submitted together with a Schedule of Submissions and Schedule of Modifications. Full copies of the submissions must also be submitted for their consideration.

Consultation/Communication Implications

Local

The draft LPS was advertised in accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with an extended period as resolved by Council within the endorsed communication strategy at its Ordinary Meeting of 19 July 2017.

The draft LPS document and mapping were available electronically to download on the Shire's website and hard copies were available for perusal at the Shire Office, Library and the Local Member of Parliament's Office in Bindoon. Submission forms were available in hard copy and electronically, together with an on-line submission form. Freehand submissions were also accepted. A total of 18 submissions were received regarding the LPS from the community, landowners, local groups and organisations, and government agencies. A public version of the Schedule of Submissions is attached to this Report (to provide confidentiality to all submitters). A full copy of the Schedule of Submissions, along with the complete submissions, has been provided to Council as a Confidential Attachment due to identification of individuals.

Legislative Implications

State

- *Planning and Development Regulations (Local Planning Schemes) 2015*

Part 3 of the Regulations sets out the process for initiation and adoption of a Local Planning Strategy. The process within the Regulations has been set out in a pragmatic order for which the Shire has followed.

Council's role in enacting the draft Local Planning Strategy is to provide endorsement before which the WAPC will have final determination. The WAPC may modify the LPS as it sees fit, though generally will only do so where consistent with State Planning Policies.

Local

Nil

Policy Implications

State

The draft LPS has been prepared in accordance with the policies of the WAPC and other relevant stakeholders to guide the development of a new Local Planning Scheme. Each State Planning Policy applicable to the LPS has been referenced within the document itself.

Local

A full review of all Local Planning Policies will also be carried out to ensure consistency with the new Strategy. For instance, Council does not have a policy position on mining, however previously resolved to maintain a general presumption against all mining activities within the Shire. To provide a framework for consistent decision making and to communicate to the community support on their stance against large-scale open-cut mines, the Council may wish to develop a policy position on mining in a separate policy at a later date.

Equally, Council does not currently maintain a policy position of the development of tourism related activities. The LPS will set the parameters for which the Policy will be guided, should the WAPC agree to Council's preferred approach.

Financial Implications

The cost of reviewing, advertising and publishing the Local Planning Strategy is in the adopted 2018/2019 Annual Budget. In the event that the Strategy is still under assessment and/or subject to approval by the WAPC after 1 July 2019, the budget will be requested to be rolled over.

Strategic Implications

The new Local Planning Strategy will become an important part of the suite of Council's Strategic documents with appropriate actions and linkages. The Strategy has been developed taking into consideration relevant objectives and actions from the Shire's existing Strategic Plans, including the Community Strategic Plan, Corporate Plan, Capital Works Plan, Economic Development Strategy, Environmental Plan, Heritage and Bushfire Policies and the Annual Budget.

The content of the submissions has guided the recommended proposed modifications to the originally advertised document, which will then be considered by the WAPC.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The Strategy will set the framework for land use planning in the Shire for the next 10 to 15 years. It is imperative that the Strategy accommodates economic opportunities for the sustainable development of Chittering while balancing this with economic drivers that are capable of providing jobs and business within the Shire in appropriate locations.

Social implications

The Strategy aims to address a matter of significant concern within the submissions received from the community, being the issue of mining, and in particular, mining of bauxite. The content of these submissions has been carefully considered and a number of modifications are recommended in response to the concerns/issues raised.

Environmental implications

Similar to social implications, the Strategy aims to address and minimise environmental effects associated with mining type industries. Additionally, the Strategy highlights the need to review the Local Biodiversity Strategy, as well as the identification of buffers surrounding the Western Swamp Tortoise. Ordinarily the Strategy aims to maintain and improve protection of the Shire's natural assets.

Officer Comment/Details

The LPS has been through a number of iterations to this point. Notwithstanding, the detail in the submissions received revealed the need to undertake further changes. Most notably, the changes resulted in four key aspects being at the forefront of modification:

1. Tourism

Tourism has been rewritten to more closely match Council's intentions to provide for tourism opportunities where possible and appropriate in existing zones, rather than incorporating a tourism zone. The latter option (incorporating a tourism zone) could be adverse to start-up ventures and economic planning for the Shire. Additionally, it should be noted that the preferred option generally matches the Shire of Toodyay's Local Planning Strategy – which was endorsed by the WAPC only last year.

This method of regulating tourism is considered to be an appropriate compromise for those submissions requesting to be identified for development for rural living purposes.

2. Bushfire

The Shire is in a unique position that it has had the entire Shire mapped for bushfire risk within the Bushfire Risk Management System. To this end, the Shire has relied upon this System to identify risks associated with the lots existing and identified for development. The risks have been tabled into Bushfire Hazard Levels to identify opportunities and constraints for land use intensification, and the ability to achieve compliance with the bushfire protection criteria, to better inform bushfire risk management measures. To this end, the LPS is considered to comply with SPP3.7.

3. Mining

A number of submissions received addressed the issue of mining, or more to the point, minerals to owner rights in mining.

Additional information relating to this is provided outlining Council's options. As this issue has been addressed in the draft LPS, and contrasting submissions have been received, the following options are offered to consider:

- Option 1 – Designating mining as a 'D' (discretionary) use. The WAPC's Rural Planning Guidelines recommend that where a local government seeks to 'trigger' consultation between the Ministers as outlined in section 120 of the Mining Act, 'Mining Operations' can be inserted into the Zoning Table of a local planning scheme and be designated as a discretionary 'D' use.
- Option 2 – Designating mining as an 'X' (prohibited) use. The Guidelines also advise that 'Mining Operations' should not be designated as an 'X' use in local planning schemes as this may create an expectation that the local government has the authority to approve or refuse all mining-related applications, and may establish an incorrect belief that mining cannot occur. An 'X' use can only be enforced where the Mining Act does not apply, such as Minerals to Owner Land (the extent of which is another unique aspect of the Shire). With the strength of public submissions received, this is recommended to form part of the LPS. If Council chooses this pathway, the Minister for Planning may override this decision.
- Option 3 – Removing all references to mining. Council may choose to remain silent on mining in the draft LPS, however remaining silent on issues is not considered good or proper planning as it is inconsistent with WAPC Guidelines, and may result in community discontent. If Council chooses this pathway, the Minister for Planning may override this decision.

Ultimately, which ever decision is made will follow into the new Local Planning Scheme following its future review and ultimate endorsement.

4. Industry

A number of submissions received refer to the development of industry in the Shire. Council recently endorsed a Scheme Amendment to generally contain all future industry into the Muclea Industrial Park (MIP). The purpose of this was two-fold:

- (i) Prevent the ad-hoc proliferation of industrial based activities without the appropriate regulations to manage impacts such as environmental or noise; and
- (ii) Provide economic support to developing the MIP area for industrial purposes by funnelling industrial based uses into the appropriately constructed lots.

Additionally, the Strategy contained objectives, strategies and actions that were questioned within the submissions as to whether these were representative of the Council's role. As a result, changes were made to the wording to better reflect Council's abilities and intentions through construction of the MIP.

Notwithstanding the above, submissions were received requesting additional uses on agricultural land for use of the existing rail adjacent Brand Highway, for industrial purposes. Being that the uses cannot be contained within the MIP since it does not have rail access. Accordingly, modifications have been inserted into the schedule reflecting such uses. Importantly these lots are not identified for industrial zoning, meaning the properties cannot be used for any other purpose than agricultural based businesses and the associated multi-nodal uses.

These key aspects remain contentious within the LPS regardless of the above. The reasons vary, however each is based on sound reasoning, and orderly and proper planning, to support Council's position.

Should the LPS be approved in accordance with Council's endorsement, the LPS will pave the way for the Shire to grow commercially by providing jobs and economic value. Simultaneously, the LPS will help guide the safekeeping of the Shire's existing assets from bushfire and from landscape destruction.

This document, following approval from the WAPC, will become the single most important land-use document for which all decisions will be cognisant of. Therefore, Council is requested to endorse the LPS, the Schedule of Modifications and the Schedule of Submissions.

6.1 OFFICER RECOMMENDATION

That Council resolves to:

1. Request that the Western Australian Planning Commission:
 - a. Endorse the Revised Local Planning Strategy as the Shire's Local Planning Strategy 2019, with the minor modifications outlined in the Schedule of Modifications;
 - b. Determine the submissions on the draft Local Planning Strategy are sufficiently addressed in accordance with the recommendations in the Schedule of Submissions and Schedule of Modifications; and
 - c. Revoke the existing Local Planning Strategy dated 29 June 2004 in accordance with clause 15 of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. Authorises the Chief Executive Officer to forward the endorsed draft Local Planning Strategy 2019 and associated documentation to the Western Australian Planning Commission.

6.1 UPDATED OFFICER RECOMMENDATION / COUNCIL RESOLUTION 430319

Moved Cr Ross / Seconded Cr Angus

That Council notes that Item 6.1 has been superseded by Item 6.2, and that no further action is required on Item 6.1.

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0
6:05PM

6.2 REPLACEMENT REPORT: Endorsement of advertised and modifications to Shire of Chittering Draft Local Planning Strategy 2019*

Report date	22 March 2019
Applicant	Shire of Chittering
File ref	18/02/0023
Prepared by	Executive Manager Development Services
Supervised by	Acting Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none">1. Draft Local Planning Strategy and Mapping (as advertised)2. Schedule of Modifications3. Schedule of Submissions (public distribution version with names redacted, Councillor version CONFIDENTIAL – NOT FOR PUBLIC DISCLOSURE)

Executive Summary

The purpose of this Report is for Council to consider providing final endorsement of the draft Local Planning Strategy (LPS), in conjunction with the Schedule of Submissions and the recommended Schedule of Modifications. The LPS has been subjected to a long advertising period, with 18 submissions being received. Each submission has been assessed individually and collectively, with any changes being subject of, and to, this endorsement.

This report replaces that before Council at its Ordinary Meeting of 20 March 2019.

Background

Despite the Shire having an endorsed LPS that provides guidance towards strategic land-use from 2004-2014, on 28 April 2008, the Western Australian Planning Commission (WAPC) requested the Shire of Chittering to review aspects of its Local Planning Strategy which included:

- i. Reviewing all areas recognised for rural residential, rural retreat and rural small holdings outside of the Priority Development Area (PDA)
- ii. Reduce the size of the PDA by removing those areas that are remote from existing infrastructure and services or have a negative impact on the environmental values.
- iii. Provide a staging plan for development within the PDA recognising areas closest to existing development, services and infrastructure in the initial stage(s).
- iv. Incorporating the local Biodiversity strategy and local planning strategy mapping and report.

On 16 November 2009, Council awarded a contract to Greg Rowe & Associates (now Rowe Group) to undertake the Local Planning strategy review. Upon completion of the draft, the WAPC in October 2013 certified that the Shire's LPS was consistent with the (then) Town Planning Regulations subject to an additional 30 modifications.

At the conclusion of the submission period, a total of 40 submissions were received from government agencies and the community. In summary, the feedback received generally reported confusion with the complexity of the mapping.

Accordingly, the Shire in conjunction with the Department of Planning Lands and Heritage proceeded to rewrite the LPS. Further rationale to this rewrite was that in 2015, the State Government gazetted the *Planning and Development (Local Planning Schemes) Regulations*. These regulations effectively changed the method in which Local Planning Strategies (and all other legislative functions relating to planning) were required to be drafted.

Council subsequently resolved at its Ordinary Meeting held on 19 July 2017 to authorise the submission of the draft LPS to the WAPC for certification prior to advertising.

Following considerable deliberation at the Department of Planning Lands and Heritage, certification was received from the WAPC on 7 June 2018 and was subsequently advertised to the community, in accordance with the endorsed Consultation Strategy. Consultation with community and development representatives occurred for a period of eight weeks, and consisted of an email out, publication of the Shire's website, marketed via Facebook and made publicly available at two open forums. Given the market demands and economic changes within the Shire, mostly as a result of the road construction upgrades, the LPS is regarded as the key document to guide future land use and settlement patterns within the Shire.

A total of 18 submissions were received in response and have been considered in the recommendation of this report. In addition, two further public submissions resultant from deputations were received prior to Council's consideration at its Ordinary Meeting of March 2019. The draft advertised LPS has not been modified at this point in time. The Department of Planning Lands and Heritage have advised that the WAPC will only consider the original advertised document, which must be submitted together with a Schedule of Submissions and Schedule of Modifications. Full copies of the submissions must also be submitted for their consideration.

Consultation/Communication Implications

Local

The draft LPS was advertised in accordance with the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, with an extended period as resolved by Council within the endorsed communication strategy at its Ordinary Meeting of 19 July 2017.

The draft LPS document and mapping were available electronically to download on the Shire's website and hard copies were available for perusal at the Shire Office, Libraries and the Local Member of Parliament's Office in Bindoon. Submission forms were available in hard copy and electronically, together with an on-line submission form. Freehand submissions were also accepted. A total of 18 submissions were received regarding the LPS from the community, landowners, local groups and organisations, and government agencies. Additionally, two submissions were received as part of deputations to Council at the Ordinary Council Meeting of 20 March 2019. A public version of the Schedule of Submissions is attached to this Report (to provide confidentiality to all submitters). A full copy of the Schedule of Submissions, along with the complete submissions, has been provided to Council as a Confidential Attachment due to identification of individuals.

Legislative Implications

State

- Planning and Development Regulations (Local Planning Schemes) 2015

Part 3 of the Regulations sets out the process for initiation and adoption of a Local Planning Strategy. The process within the regulations has been set out in a pragmatic order for which the Shire has followed.

Council's role in enacting the draft Local Planning Strategy is to provide endorsement before which the WAPC will have final determination. The WAPC may modify the LPS as it sees fit, though generally will only do so where consistent with State Planning Policies.

Local

Nil

Policy Implications

State

The draft LPS has been prepared in accordance with the policies of the WAPC and other relevant stakeholders to guide the development of a new Local Planning Scheme. Each State Planning Policy applicable to the LPS has been referenced within the document itself.

Local

A full review of all Local Planning Policies will also be carried out to ensure consistency with the new Strategy. For instance, Council does not have a policy position on mining, however previously resolved to maintain a general presumption against all mining activities within the Shire. To provide a framework for consistent decision making and to communicate to the community support on their stance against large-scale open-cut mines, the Council may wish to develop a policy position on mining in a separate policy at a later date.

Equally, Council does not currently maintain a policy position of the development of tourism related activities. The LPS will set the parameters for which the Policy will be guided, should the WAPC agree to Council's preferred approach.

Financial Implications

The cost of reviewing, advertising and publishing the Local Planning Strategy is in the adopted Budget. In the event that the Strategy is still under assessment and/or subject to approval by the WAPC after 1 July 2019, the budget will be requested to be rolled over.

Strategic Implications

The new Local Planning Strategy will become an important part of the suite of Council's Strategic documents with appropriate actions and linkages. The Strategy has been developed taking into consideration relevant objectives and actions from the Shire's existing Strategic Plans, including the Community Strategic Plan, Corporate Plan, Capital Works Plan, Economic Development Strategy, Environmental Plan, heritage and bushfire policies, and the budget.

The content of the submissions has guided the recommended proposed modifications to the originally advertised document, which will then be considered by the WAPC.

Site Inspection

Not applicable

Triple Bottom Line Assessment

Economic implications

The Strategy will set the framework for land use planning in the Shire for the next 10 to 15 years. It is imperative that the Strategy accommodates economic opportunities for the sustainable development of Chittering while balancing this with economic drivers that are capable of providing jobs and business within the Shire in appropriate locations.

Social implications

The Strategy aims to address a matter of significant concern within the submissions received from the community, being the issue of mining, and in particular, mining of bauxite. The content of these submissions has been carefully considered and a number of modifications are recommended in response to the concerns/issues raised.

Environmental implications

Similar to social implications, the Strategy aims to address and minimise environmental effects associated with mining type industries. Additionally, the Strategy highlights the need to review the Local Biodiversity Strategy, as well as the identification of buffers surrounding the Western Swamp Tortoise. Ordinarily the Strategy aims to maintain and improve protection of the Shire's natural assets.

Officer Comment/Details

The LPS has been through a number of iterations to this point. Notwithstanding, the detail in the submissions received revealed the need to undertake further changes. Most notably, the changes resulted in four key aspects being at the forefront of modification:

1. Tourism

Tourism has been rewritten to more closely match Council's intentions to provide for tourism opportunities where possible and appropriate in existing zones, rather than incorporating a tourism zone. The latter option (incorporating a tourism zone) could be adverse to start-up ventures and economic planning for the Shire. Additionally, it should be noted that the preferred option generally matches the Shire of Toodyay's Local Planning Strategy – which was endorsed by the WAPC only last year.

This method of regulating tourism is considered to be an appropriate compromise for those submissions requesting to be identified for development for rural living purposes.

2. Bushfire

The Shire is in a unique position that it has had the entire Shire mapped for bushfire risk within the Bushfire Risk Management System. To this end, the Shire has relied upon this System to identify risks associated with the lots existing and identified for development. The risks have been tabled into Bushfire Hazard Levels to identify opportunities and constraints for land use intensification, and the ability to achieve compliance with the bushfire protection criteria, to better inform bushfire risk management measures. To this end, the LPS is considered to comply with SPP3.7.

3. Mining

A number of submissions received addressed the issue of mining, or more to the point, minerals to owner rights in mining. The schedule of submissions and the schedule of changes seeks to address this matter in detail. The changes are intended to be consistent with Council's general presumption against mining, as well as the public submissions received on the matter.

Regardless of the above, Council must be cognisant of the outcomes that may occur whichever direction it chooses to take. Accordingly, the following is a brief description of hypothetical options and outcomes associated with each:

- Option 1 – Designating mining as a 'D' (discretionary) use. The WAPC's Rural Planning Guidelines recommend that where a local government seeks to 'trigger' consultation between the Ministers as outlined in section 120 of the Mining Act, 'Mining Operations' can be inserted into the Zoning Table of a local planning scheme and be designated as a discretionary 'D' use.
- Option 2 – Designating mining as an 'X' (prohibited) use. The Guidelines also advise that 'Mining Operations' should not be designated as an 'X' use in local planning schemes as this may create an expectation that the local government has the authority to approve or refuse all mining-related applications, and may establish an incorrect belief that mining cannot occur. An 'X' use can only be enforced where the Mining Act does not apply, such as Minerals to Owner Land (the extent of which is another unique aspect of the Shire). With the strength of public submissions received, this is recommended to form part of the LPS. If Council chooses this pathway, the Minister for Planning may override this decision.
- Option 3 – Removing all references to mining. Council may choose to remain silent on mining in the draft LPS, however remaining silent on issues is not considered good or proper planning as it is inconsistent with WAPC Guidelines, and may result in community discontent. If Council chooses this pathway, the Minister for Planning may override this decision.

Ultimately, which ever decision is made will follow into the new Local Planning Scheme following its future review and ultimate endorsement. The above is not intended to instil doubt in the process, rather to provide Council with guidance as to the rationale for the reasons for identifying mining based land-uses in the Shire.

4. Industry

A number of submissions received refer to the development of industry in the Shire. Council recently endorsed a Scheme Amendment to generally contain all future industry into the Muchea Industrial Park. The purpose of this was two-fold:

- (i) Prevent the ad-hoc proliferation of industrial based activities without the appropriate regulations to manage impacts such as environmental or noise; and
- (ii) Provide economic support to developing the MIP area for industrial purposes by funnelling industrial based uses into the appropriately constructed lots.

Additionally, the strategy contained objectives, strategies and actions that were questioned within the submissions as to whether these were representative of the Council's role. As a result, changes were made to wording to better reflect Council's abilities and intentions through construction of the MIP.

Notwithstanding the above, submissions were received requesting additional uses on agricultural land for use of the existing rail adjacent Brand Highway, for industrial purposes. Being that the uses cannot be contained within the MIP since it does not have rail access. Accordingly, modifications have been inserted into the schedule reflecting such uses. Importantly these lots are not identified for industrial zoning, meaning the properties cannot be used for any other purpose than agricultural based businesses and the associated multi-nodal uses.

These key aspects remain contentious within the LPS regardless of the above. The reasons vary, however each is based on sound reasoning, and orderly and proper planning, to support Council's position.

Should the LPS be approved in accordance with Council's endorsement, the LPS will pave the way for the Shire to grow commercially by providing jobs and economic value. Simultaneously, the LPS will help guide the safekeeping of the Shire's existing assets from bushfire and from landscape destruction.

This document, following approval from the WAPC, will become the single most important land-use document for which all decisions will be cognisant of. Therefore Council is requested to endorse the LPS, the schedule of modifications and the schedule of submissions.

6.2 OFFICER RECOMMENDATION / COUNCIL RESOLUTION 440319

Moved Cr King / Seconded Cr Tilbury

That Council resolves to:

- 1. Request that the Western Australian Planning Commission:
 - a. Endorse the draft Local Planning Strategy as the Shire's Local Planning Strategy 2019, with the minor modifications outlined in the Schedule of Modifications.**
 - b. Determine the submissions on the draft Local Planning Strategy are sufficiently addressed in accordance with the recommendations in the Schedule of Submissions and Schedule of Modifications as attached.**
 - c. Revoke the existing Local Planning Strategy dated 29 June 2004 in accordance with clause 15 of the Planning and Development (Local Planning Schemes) Regulations 2015.****
- 2. Authorises the Chief Executive Officer to forward the endorsed draft Local Planning Strategy 2019 and associated documentation to the Western Australian Planning Commission.**

THE RECOMMENDATION WAS PUT AND DECLARED CARRIED 6/0

6:06PM

7. CLOSURE

The Presiding Member declared the meeting closed at 6:06PM.



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

Office hours: Monday to Friday
8.30am - 4.30pm