



Shire of
Chapman Valley
Love the Rural Life

ORDINARY COUNCIL MEETING

Notice is hereby given that an Ordinary Meeting
of Council will be held on Wednesday 17 February 2016
at the Council Chambers, Nabawa, commencing at 9:00am.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

AGENDA

FEBRUARY 2016

DISCLAIMER



Shire of
Chapman Valley
Love the Rural Life

No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on

WRITTEN CONFIRMATION

of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

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Cr Royce – Leave of Absence for February 2016 meeting

6.0 DISCLOSURE OF INTEREST

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

Section 5.60A:

*"a person has a **financial interest** in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person."*

Section 5.60B:

*"a person has a **proximity interest** in a matter if the matter concerns –*

(a) a proposed change to a planning scheme affecting land that adjoins the person's land; or

(b) a proposed change to the zoning or use of land that adjoins the person's land; or

(c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land."

Regulation 34C (Impartiality):

*"**interest** means an interest that could, or could reasonably be perceived to, adversely affect the **impartiality** of the person having the interest and includes an interest arising from kinship, friendship or membership of an association."*

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6.0 DISCLOSURE OF INTEREST

7.0 PETITIONS/DEPUTATIONS/PRESENTATIONS

8.0 CONFIRMATION OF MINUTES FROM PREVIOUS MEETINGS

8.1 Ordinary Meeting of Council held on Wednesday 16 December 2015

That the minutes of the Ordinary Meeting of Council held Wednesday 16 December 2015 be confirmed as a true and accurate record.

9.0 OFFICERS REPORTS

9.1

Manager of Planning

February 2016

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AGENDA ITEM:	9.1.1
SUBJECT:	PROPOSED RELOCATED BUILDINGS (RESIDENCE, ANCILLARY ACCOMMODATION & 2 OUTBUILDINGS)
PROPONENT:	A. CLARKE
SITE:	1682 (LOT 18) NORTH WEST COASTAL HIGHWAY, BULLER
FILE REFERENCE:	A1429
PREVIOUS REFERENCE:	08/14-3 & 09/14-3
DATE:	3 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

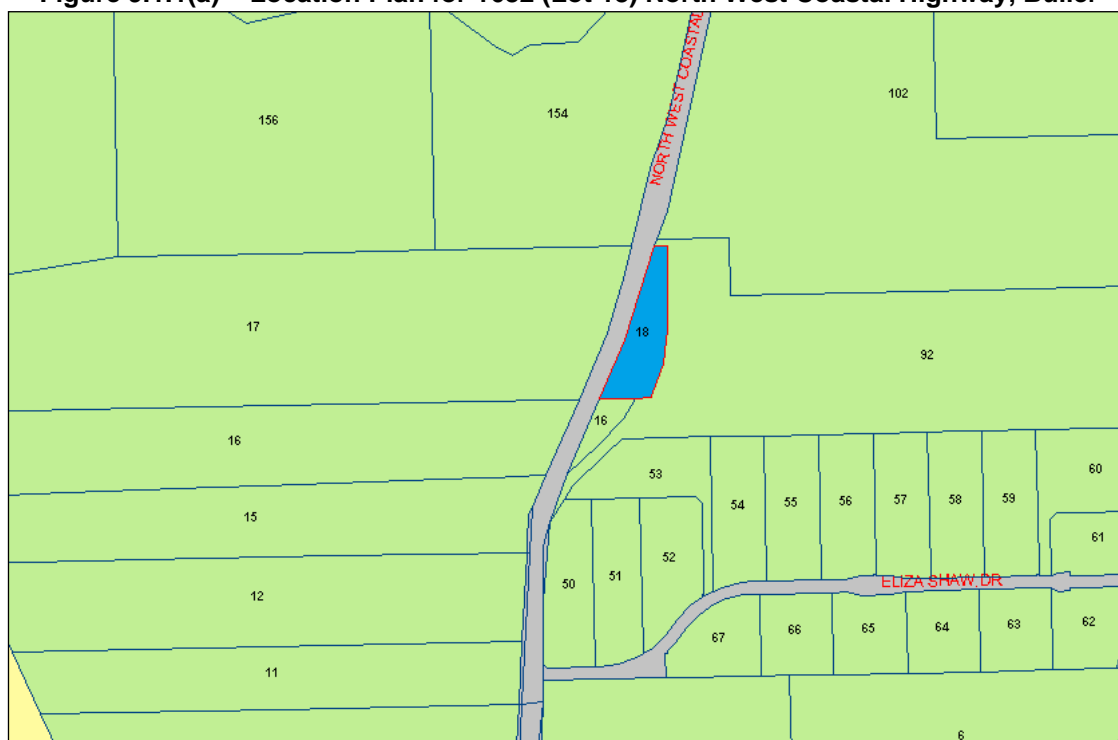
BACKGROUND

Council is in receipt of an application for the siting of relocated buildings (residence, ancillary accommodation and 2 outbuildings) upon 1682 (Lot 18) North West Coastal Highway, Buller. This report recommends that conditional approval be granted to the application.

COMMENT

Lot 18 is a 1.3403ha property located on the eastern side of North West Coastal Highway, that was previously part of a road alignment, hence its narrow configuration, being 81.36m across at its widest point on the southern boundary before narrowing to a width of 20.12m along the northern boundary, across a highway frontage of 258.7m. The southern section of the property provides a potential building area, offering a lot depth of approximately 75m across a 100m long area that has a relatively gentle slope from the 53m contour to the 49m contour, whilst the northern section of Lot 18 is not suited to building works, narrowing down from a 75m to 20m width and sloping down from the 49m contour to the 40m contour across a 150m length.

Figure 9.1.1(a) – Location Plan for 1682 (Lot 18) North West Coastal Highway, Buller



The development history for 1682 (Lot 18) North West Coastal Highway, Buller is as follows:

- Council approved an application to site a 14.496m² (6.04m x 2.4m) relocated building upon Lot 18 to serve as an outbuilding at its 20 August 2014 meeting;
- Council approved an application to site a relocatable building to serve in the short-term as the primary habitable building but ultimately serve as the ancillary accommodation ('granny flat') at its 17 September 2014 meeting.

Figure 9.1.1(b) – Aerial Photograph of 1682 (Lot 18) North West Coastal Highway, Buller



The applicant is now seeking approval for the following:

- relocate a 7.53m x 13.52m (101.81m²) single storey, three bedroom, two bathroom residence onto Lot 18, the total roof area of the residence would be increased to 230.31m² through the addition of a three sided verandah. The building would be mounted on 600mm x 600mm x 900mm concrete blocks and sited 15m from the front (western) property boundary and 27.65m from the nearest side (southern) property boundary. The residence in its current location has asbestos cladding and this would be removed, prior to transport to the site, and the building would be reclad in 'windspray' grey colorbond wall cladding and 'deep ocean' dark blue colorbond rood cladding.
- construct an 8m x 8.2m (65.6m²) gable roofed carport to the rear of the residence, the roof cladding would be 'deep ocean' colorbond to match the residence.
- relocate a 14.4m x 3.35m (48.24m²) single storey, two bedroom, two bathroom transportable building onto Lot 18 to serve as ancillary accommodation ('granny flat'). The walls of the ancillary accommodation would be painted to match the residence. This building is the one previously approved to be sited on the property by Council at its 17 September 2014 meeting, and this aspect of the application remains unchanged from that previously approved by Council with the exception that it is now proposed to be connected to the main residence by the carport.
- relocate the existing 14.496m² (6.04m x 2.4m) outbuilding upon Lot 18 to the immediate rear of the ancillary accommodation building. This building is currently 5m from the rear (eastern) property boundary and would be relocated to a new location 17.5m from the rear (eastern) property boundary. This is the building that was previously approved by Council at its 20 August 2014 meeting.
- construct a 16.8 x 8.2m (137.76m²) gable roof supported by 2.8m high columns over the ancillary accommodation and relocated building that would create a verandah on the north and south side of the buildings. The roof sheeting would be 'deep ocean' to match the connecting car port and residence.
- relocate a 9.86m x 14.86m (146.52m²) outbuilding with a 4.5m wall height and 5.32m total height onto Lot 18. The outbuilding would be sited 19m from the front (western) property boundary and 16m north of the residence/ancillary accommodation location. The outbuilding would be painted 'deep ocean' to match the residence/ancillary accommodation.
- relocate a 6.05m x 8.3m (50.22m²) outbuilding with a 2.81m wall height and 3.32m total height onto Lot 18. The outbuilding would be sited 34m from the front (western) property boundary, 4m to the rear (east) of the major outbuilding, and 18m north of the residence/ancillary accommodation location. The outbuilding would be painted 'deep ocean' to match the residence/ancillary accommodation.

A copy of the submitted site, elevation and floor plans and photographs of the transportable buildings in their current locations have been included as **Attachment 9.1.1(a)**.

Figure 9.1.1(c) – View of Lot 18 looking east from North West Costal Highway



Figure 9.1.1(d) – View of existing outbuilding upon Lot 18 proposed to be relocated to adjoin ancillary accommodation and be housed under gable roof and verandah



STATUTORY ENVIRONMENT

1682 (Lot 18) North West Coastal Highway, Buller is zoned 'Rural Smallholding 3' under the Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme'). Section 4.2.5 of the Scheme lists the objectives of the 'Rural Smallholding' zone as being:

- “(a) Provide for residential development within a low density environment and integrated with a variety of agricultural/rural activities, including agricultural/rural activities undertaken on a commercial basis;*
- (b) Provide for other land-uses compatible with the predominant use of the land;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas; and*
- (d) Protect the environmental and landscape values of the land.”*

'Single House' is listed as a 'P' use, that is, permitted within the 'Rural Smallholding' zone providing that it complies with the relevant development standards and the requirements of the Scheme. 'Ancillary Accommodation' is listed as a 'D' use, that is, not permitted unless the local government has exercised its discretion by granting planning approval.

The proposed development would comply with the boundary setbacks listed for the 'Rural Smallholding' zone under the Scheme.

Part 2(b) of Schedule 12 of the Scheme notes the following for the 'Rural Smallholding 3' zone:

"All buildings shall be sympathetic to existing landscape elements, namely landform, vegetation and amenity, in terms of their design, height, location, materials and cladding colours."

Section 5.8 of the Scheme states:

"5.8 Appearance of Land and Buildings"

5.8.1 Unless otherwise approved, no person shall erect any building or other structure which by reason of colour or type of materials, architectural style, height or bulk, ornament or general appearance, has an exterior appearance which is out of harmony with existing buildings or the landscape character of the area.

5.8.2 All buildings and land on which they are located within the Scheme area shall be maintained in a manner, which preserves the amenity of the surrounding locality to the satisfaction of the Local Government.

5.8.3 Where in the opinion of the Local Government an activity is being undertaken that results in the appearance of the property having a deleterious effect on the amenity of the area in which it is located, the Local Government shall require the owner or occupier to restore or upgrade the conditions of that property to a standard commensurate with those generally prevailing in the vicinity."

Section 10.2 'Matters to be considered by the local government' of the Scheme identifies the following criteria that may be considered of relevance to this application:

- "(f) any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;...*
- ...(i) the compatibility of a use or development with its setting;...*
- ...(n) the preservation of the amenity of the locality;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation, and appearance of the proposal;...*
- ...(v) 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;...*
- (za) any other planning consideration the Local Government considers relevant."*

POLICY IMPLICATIONS

Section 2.2 of the Scheme provides for the Council to prepare a Local Planning Policy in respect of any matter related to the planning and development of the Scheme area.

The objectives of the Shire of Chapman Valley Local Planning Policy 'Relocated Buildings' are as follows:

- "3.1 To ensure that any development proposing to use a second hand building or second hand cladding material meets acceptable aesthetic and amenity requirements in the locality for which it is proposed.*
- 3.2 To address the issue of exposure risks from asbestos cement cladding.*

The Shire's 'Relocated Buildings' Local Planning Policy makes the following statement:

"4.1 Definition"

A 'relocated building' is considered to be a dwelling or outbuilding that has previously been constructed on a different lot and has the ability to be dismantled in whole or in part for the purpose of being transported and sited on another property. A purpose designed, new transportable home is not considered a relocated dwelling for the purposes of this policy however Shire staff retain the right to request an application should it be considered appropriate.

4.2 General Requirements

- (a) The use of second hand cladding materials and second hand buildings can result in unacceptable development by reason of poor aesthetic result and by adversely affecting the amenity of an area. Council requires that an applicant demonstrate that the proposed use of a second hand building and/or the use of second hand cladding material will not result in any adverse effect on the amenity or the aesthetics of the area within which it is proposed.
- (b) Unless specific approval is given, all external asbestos cement cladding must be removed and replaced with new material prior to the relocation of a transported building to its new site.
- (c) The Shire at its discretion may impose conditions requiring the relocated building to be re-roofed, re-clad and/or re-painted within a specified time frame to ensure the building presentation is of an acceptable standard.

4.3 Application Requirements

An application for a relocated building shall include:

- (a) Completed Form of Application for Planning Approval signed by the owner(s) of the property upon which the building will be located.
- (b) Plans that have been drawn to scale and include at a minimum:
 - (i) A site plan;
 - (ii) Floor plan and elevations for the relocated building. These plans need to demonstrate any proposed works/upgrades that are required to be undertaken to the building (i.e. new cladding, additional verandahs etc.);
 - (iii) A series of photographs of each elevation of the relocated building prior to it being dismantled showing its standard of presentation;
 - (iv) A detailed report on the structural integrity of the relocated building prepared by a qualified Building Surveyor or a certified structural engineer; &
 - (v) A written submission from the proponent detailing the proposed works to be undertaken to the relocated building to improve its visual presentation and ensure it complies with the relevant building and health standards as required. This needs to include a clear timeframe over which it is proposed that the above works will be carried out.
- (c) Planning Application fee based on the cost of the building plus any transportation, installation and upgrade costs. This is calculated per Item 1 of the Shire's current Planning Services Fees.

4.4 Post Application

Should a planning application be granted planning consent by the Shire the following conditions shall be imposed and required to be undertaken by the applicant prior to the lodgement of the necessary building licence:

- (a) A bond, of at least 5% of the estimated value of an equivalent new building, to a maximum of \$5,000 and minimum of \$1000.
- (b) A statutory declaration, signed by the applicant(s) and appropriately witnessed, indicating that the bond will be forfeited to Council if:
 - (i) The works described in the application are not carried out within the timeframe indicated;
 - (ii) Within 12 months of the date of the agreement, the development does not reach a point where externally it appears complete; and
 - (iii) Any notice duly served upon the builder is not promptly complied with.
- (c) Bond moneys will only be refunded (if not forfeited) after works required to prevent forfeiture have been carried out to the satisfaction of the Shire's Building Surveyor and/or Planning Officer.

4.5 Delegation

Should the application be considered to meet the requirements of this Policy the application may be dealt with under delegated authority by Shire staff. However should the application not be considered to meet the requirements of the Policy or in the opinion of Shire staff require further consideration, the matter may be advertised in accordance with the Local Planning Scheme before being placed before a meeting of Council for determination."

It is generally considered that this application would meet with the requirements of the Relocated Buildings Policy and, given the 'Rural Smallholding' zoning, would normally have been assessed under delegated authority by Shire staff and made subject to conditions requiring removal of asbestos prior to relocation onto the property, installation of gable roofing, recladding/painting, skirting, and the installation and maintenance of landscaping. However, given the relocated buildings would be visible from the tourism route of the North West Coastal Highway, and the previous siting of a relocated outbuilding upon the property prior to an application being received, this application has been placed before a meeting of Council for its consideration.

The ancillary accommodation with its habitable floor area of 38.57m² (comprising 2 x 7.44m² bedrooms and a 23.69m² living/dining/kitchen area) and total roofed area of 137.76m² would comply with the Shire of Chapman Valley Local Planning Policy - Ancillary Accommodation which applies a standard of 100m² maximum habitable floor area and 300m² maximum total roofed area for the 'Rural Smallholding' zone. The ancillary accommodation would also comply with the 22m setback distance from the main residence, being sited 8m to the rear (and additional to this being connected by a carport structure).

The combined 196.74m² area of the two outbuildings would comply with the 200m² total outbuilding area (and also the 4.5m total height and 5.5m overall height) requirements of the Shire of Chapman Valley Local Planning Policy – Outbuildings for 'Rural Smallholding' lots less than 4ha.

FINANCIAL IMPLICATIONS

The application has been charged a \$384 planning application fee as per the Shire's adopted Fee Schedule, and in the event that the application was approved by Council would incur additional fees relevant to the building permit stage.

On determination of this application (refusal/approval) should the applicant be aggrieved by the determination or conditions of approval they have a right of appeal to the State Administrative Tribunal with a cost likely to be imposed on the Shire through its involvement in the appeal process.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

Lot 18 is contained within Precinct No.7 – South West of the Shire of Chapman Valley Local Planning Strategy (2008). Environmental Objective 7.3.2 for Precinct No.7 seeks to 'protect and enhance the visual amenity in areas of visual prominence'. Lot 18 is highly exposed to the tourism route of the North West Coastal Highway, due to the unusual configuration, however, there is not considered to be a developable area in a less conspicuous location upon the property. It is recommended that any approval for the proposed development be made subject to a condition requiring the installation and maintenance of landscaping to assist in screening the buildings from the road.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Strategic Community Plan.

CONSULTATION

Under Section 4.5 of its Relocated Buildings Local Planning Policy the Shire may undertake consultation with surrounding landowners and give consideration to any received submissions prior to making its determination.

Copies of the application were mailed to the 6 surrounding landowners, and also Main Roads WA (with access to Lot 18 being onto the highway), on 24 December 2015 inviting comment upon the proposal prior to 29 January 2016. At the conclusion of the advertising period 2 submissions had been received, neither offering objection to the application, providing comment as follows:

(Main Roads WA comment)

Indicated that the proposal would generate a low number of light vehicle turning movements in and out of the site from North West Coastal Highway, therefore considered that the proposal would have minimal impact on the amenity, safety and operation of the Main Roads network and its users.

The proposal would use the existing gravel crossover (granted Main Roads approval in January 2015) with no proposed modifications, given the low number of vehicles likely to be generated by the proposal it would be unreasonable to require the crossover to be sealed. Based on the above Main Roads has no objection to the proposal but reserves the right to review the access arrangements if it becomes apparent that the use of the crossover is resulting in damage to the highway or if there are safety concerns for any users of the highway as a result of vehicles pulling away from gravel.

(Shire comment)

It is recommended that, should approval be given, it be made subject to a condition requiring the location, design and construction of the access point onto North West Coastal Highway shall be to the requirements of Main Roads WA.

(neighbouring landowner comment)

In the application the house is to be reclad, in the photos the house appears to be clad in asbestos. If this is the case our concern is the possible health risks/contamination involved. Is there a plan to eliminate this.

(Shire comment)

In accordance with Shire of Chapman Valley Local Planning Policy - Relocated Buildings it is recommended that, should approval be given, it be made subject to a condition requiring that all asbestos must be removed prior to the relocation of the building to its new site.

Figure 9.1.1(e) – View of Lot 18 looking west from neighbouring Lot 92 illustrating the existing vegetation along the rear boundary that obscures the property from the neighbouring residence to the east



RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

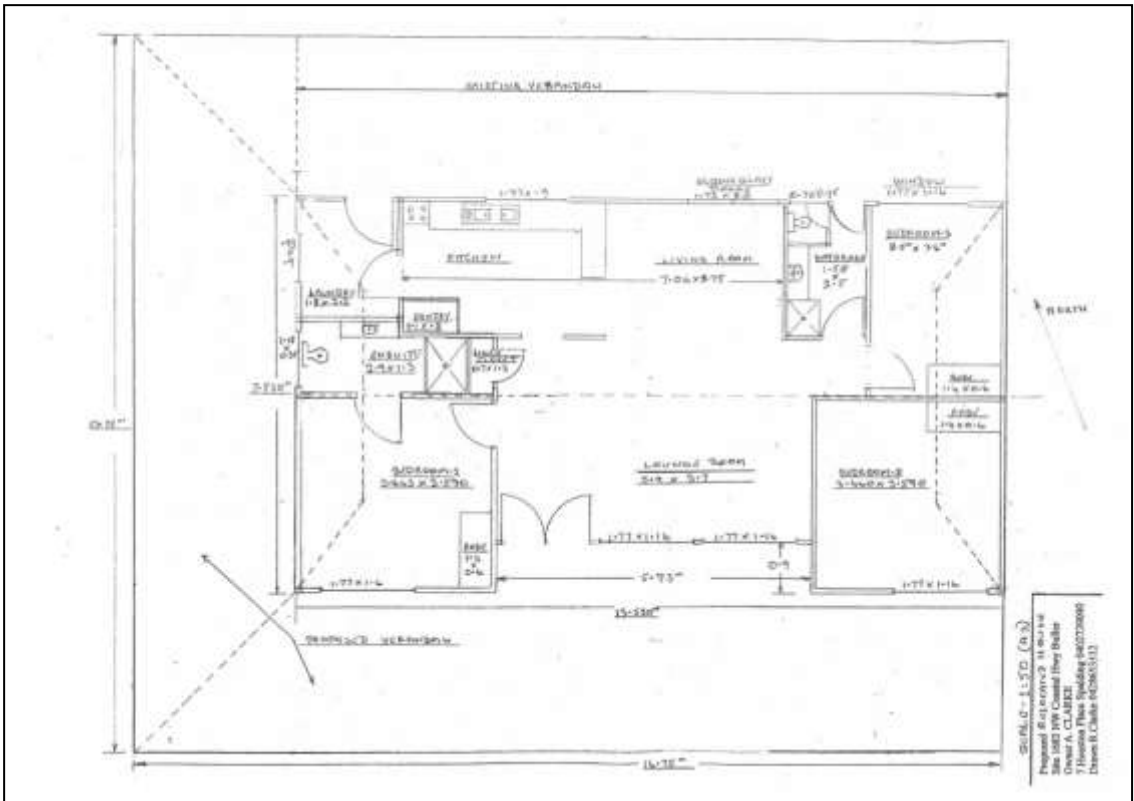
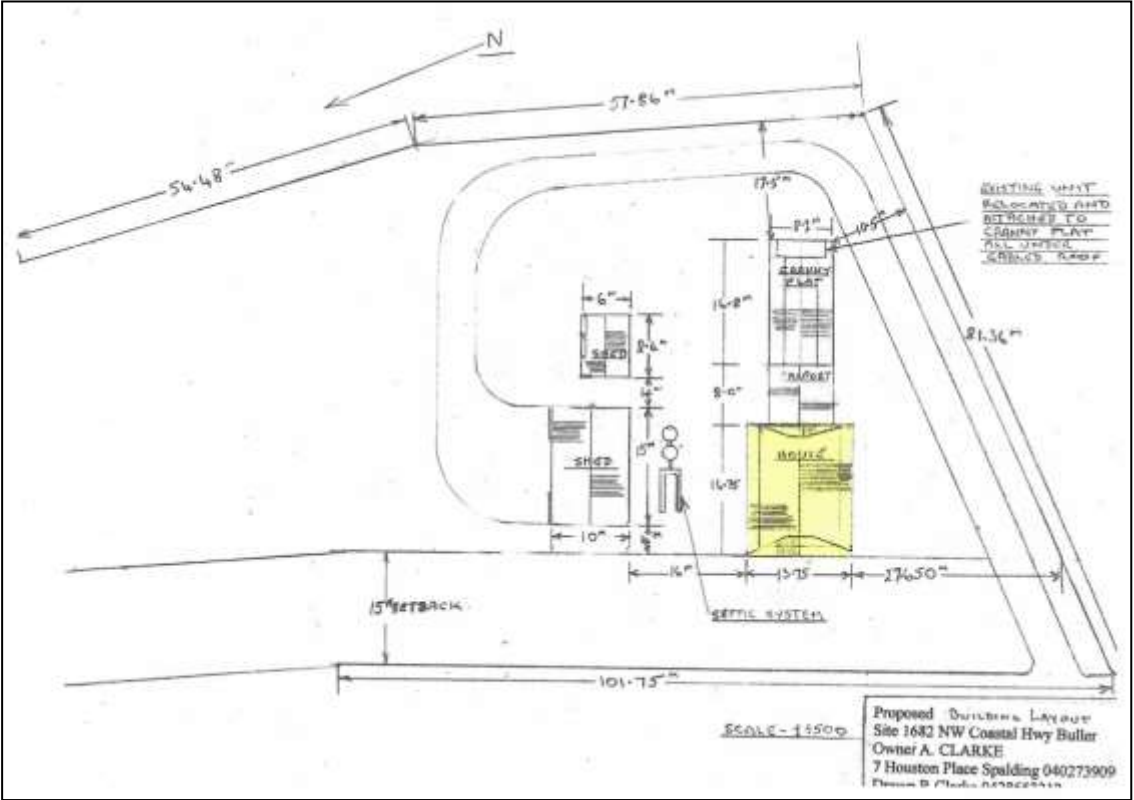
That Council grant formal planning approval for the siting of relocated buildings (residence, ancillary accommodation and 2 outbuildings), the relocation of an existing outbuilding upon the property, and the subsequent construction of a gabled roof structure over the ancillary accommodation/relocated outbuilding and carport, upon 1682 (Lot 18) North West Coastal Highway, Buller subject to compliance with the following conditions:

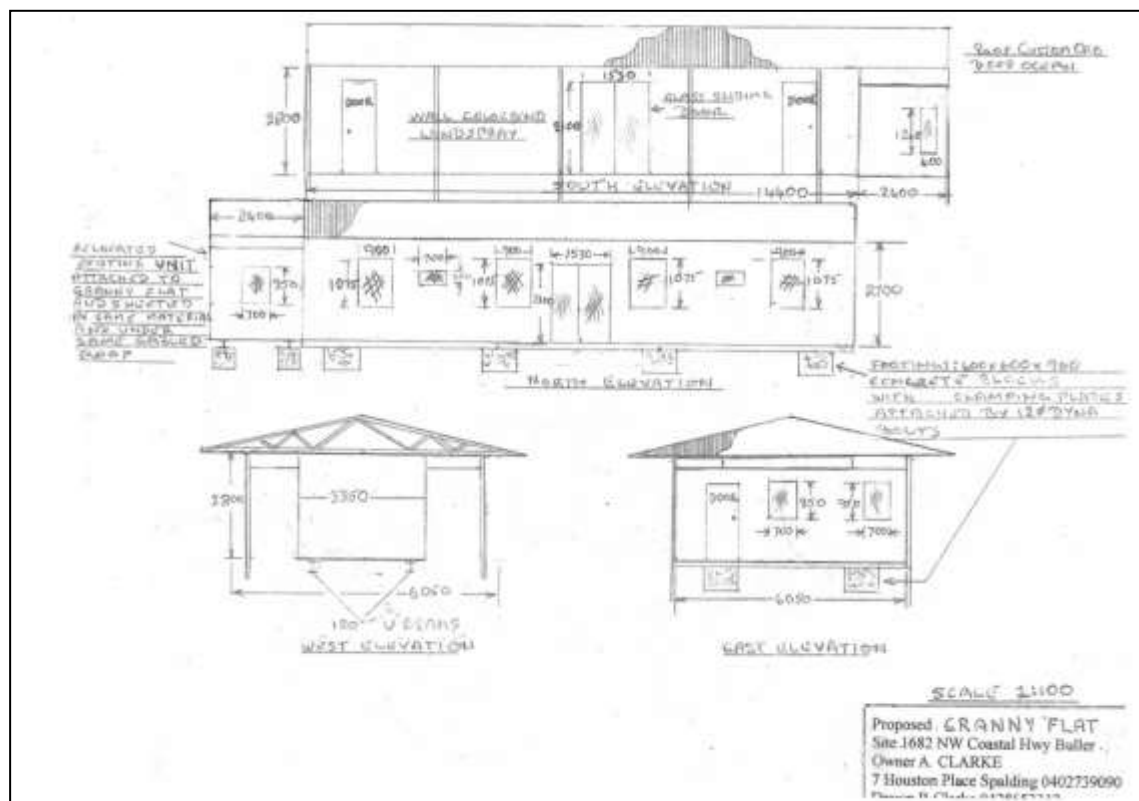
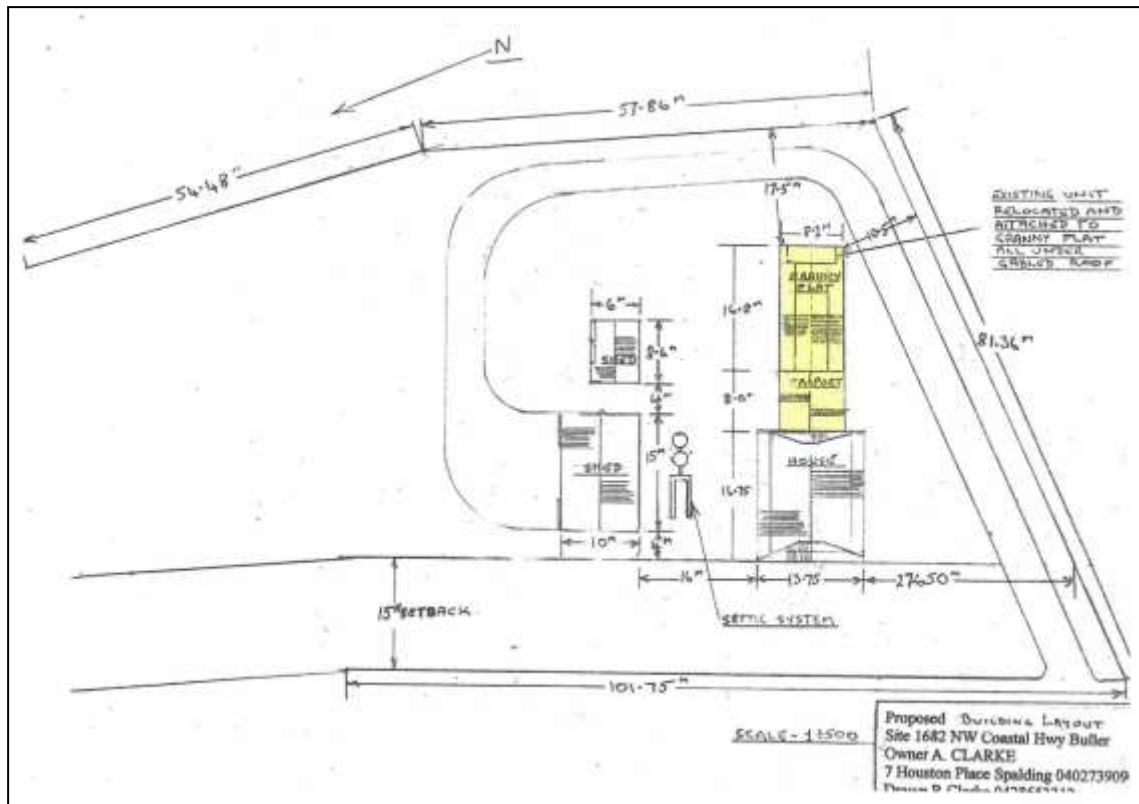
- 1 Development shall be in accordance with plans included as Attachment 9.1.1(a) to the Council Agenda report and subject to any modifications required as a consequence of any condition(s) of this approval. The endorsed plans shall not be modified or altered without the prior written approval of the local government.
- 2 Any additions to or change of use of any part of the building or land (not the subject of this consent/approval) requires further application and planning approval for that use/addition.
- 3 All asbestos must be removed and disposed of prior to the relocation of the building to Lot 18 to the approval of the local government.
- 4 The buildings upon the property are required to be externally clad in materials and colours that are complementary and of a standard to the approval of the local government.
- 5 The buildings proposed to be sited above natural ground level on stumps/blocks are required to be externally clad, between the floor level and ground level, in materials and colour that are complementary and of a standard to the approval of the local government.
- 6 Buildings must not be occupied until compliant with the Class 1 requirements of the Building Code of Australia to the approval of the local government.
- 7 Landscaping is required to be installed and maintained between the buildings and the North West Coastal Highway for the purpose of softening their visual impact to the approval of the local government.
- 8 The location, design and construction of the access point onto North West Coastal Highway shall be to the requirements of Main Roads WA and the approval of the local government.
- 9 The external works (inclusive of recladding, painting, skirting) to the relocated buildings are required to be completed to the approval of the local government within 24 months of the siting of the buildings upon the property.
- 10 A bond of \$5,000 must be lodged by the applicant with the Shire that will be returned upon completion of the requirements pertaining to the abovementioned conditions within a period of 24 months, and in the event that the works described in the application are not carried out within the 24 month timeframe the bond shall be forfeited to the Shire.

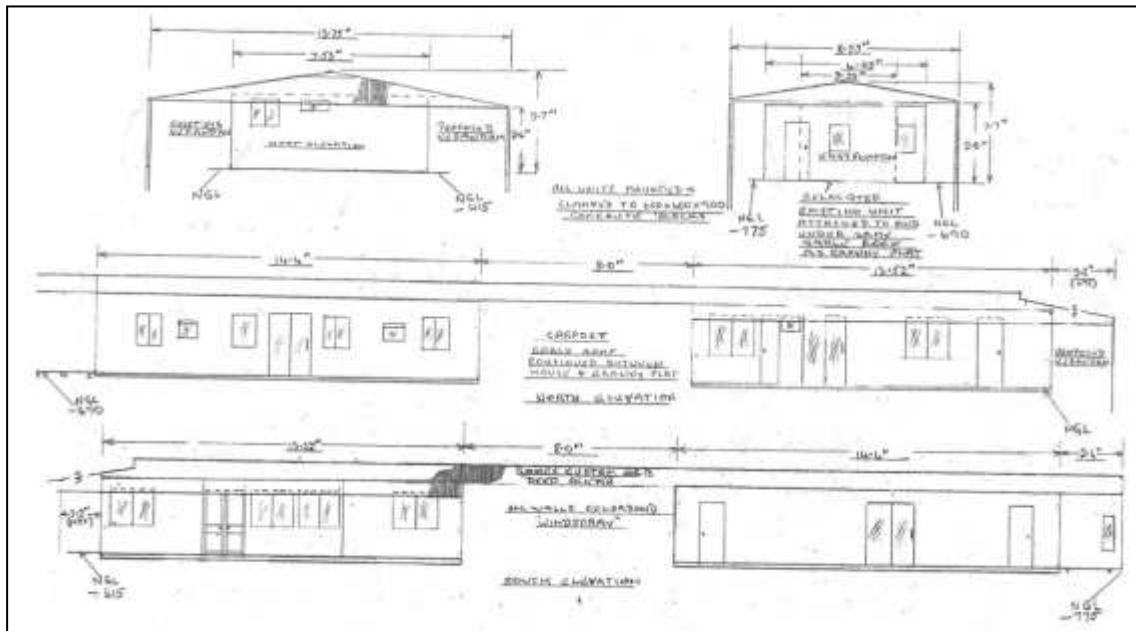
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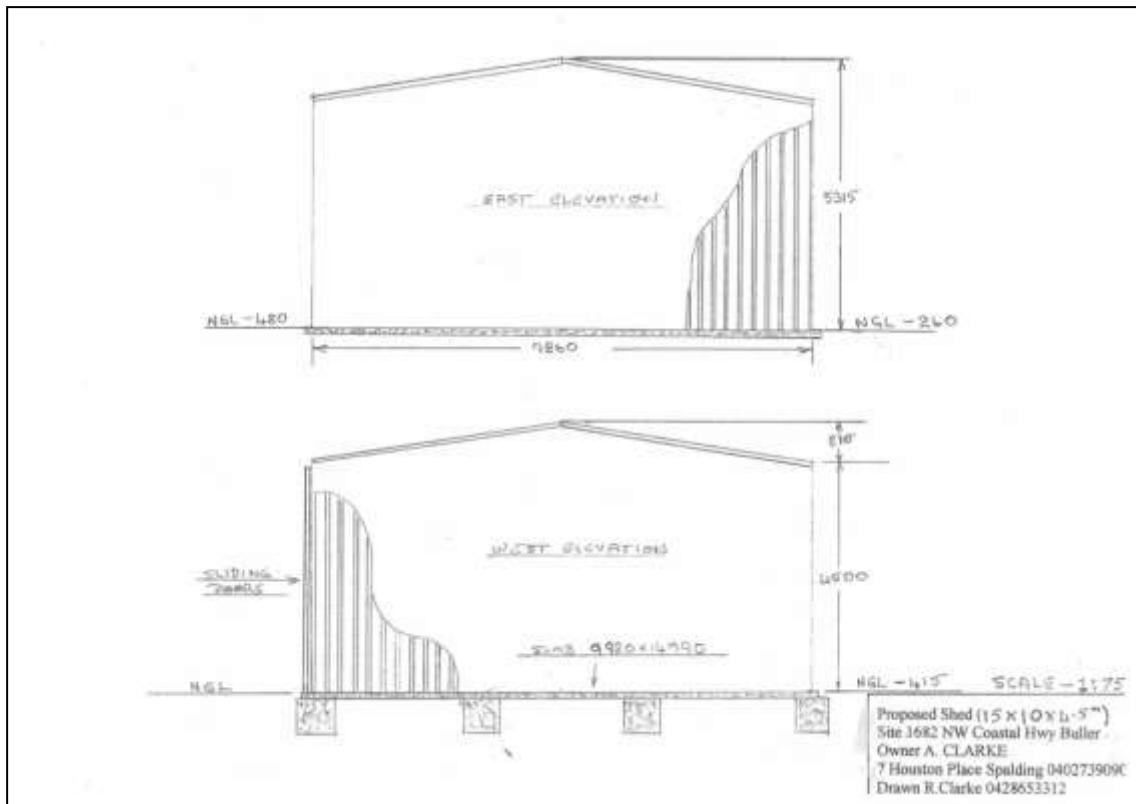
- (i) In regards to condition 10 should the bond be forfeited then Shire staff will present a report to Council for its consideration outlining how the forfeited bond monies should be expended to address the outstanding conditions.
- (ii) If an applicant is aggrieved by this determination there is a right pursuant to the *Planning and Development Act 2005* to have the decision reviewed by the State Administrative Tribunal. Such application must be lodged within 28 days from the date of determination.

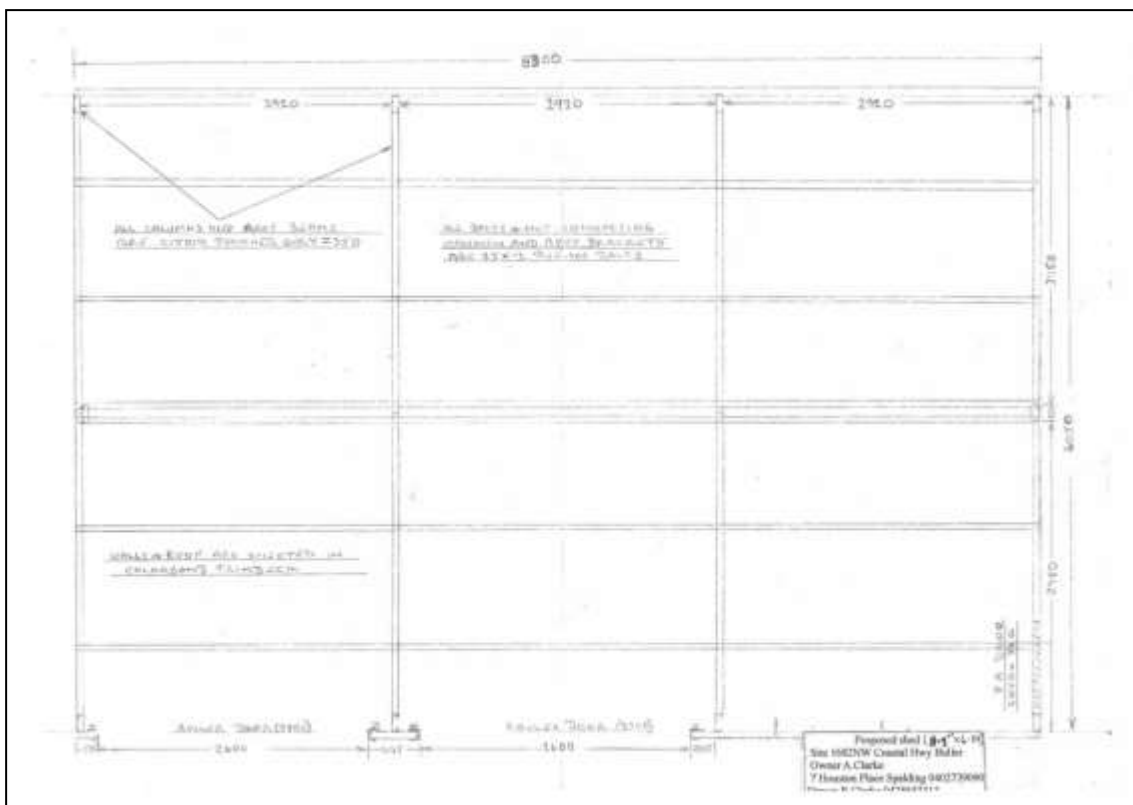
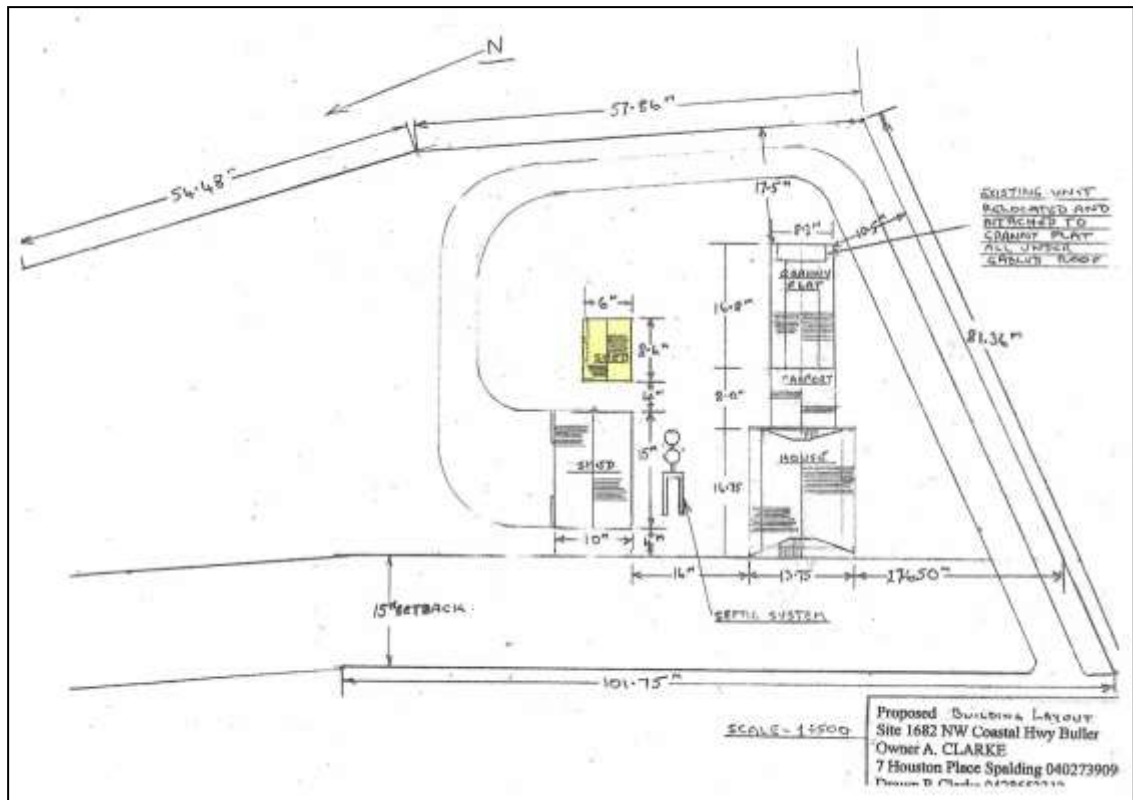
ATTACHMENT 9.1.1(a)

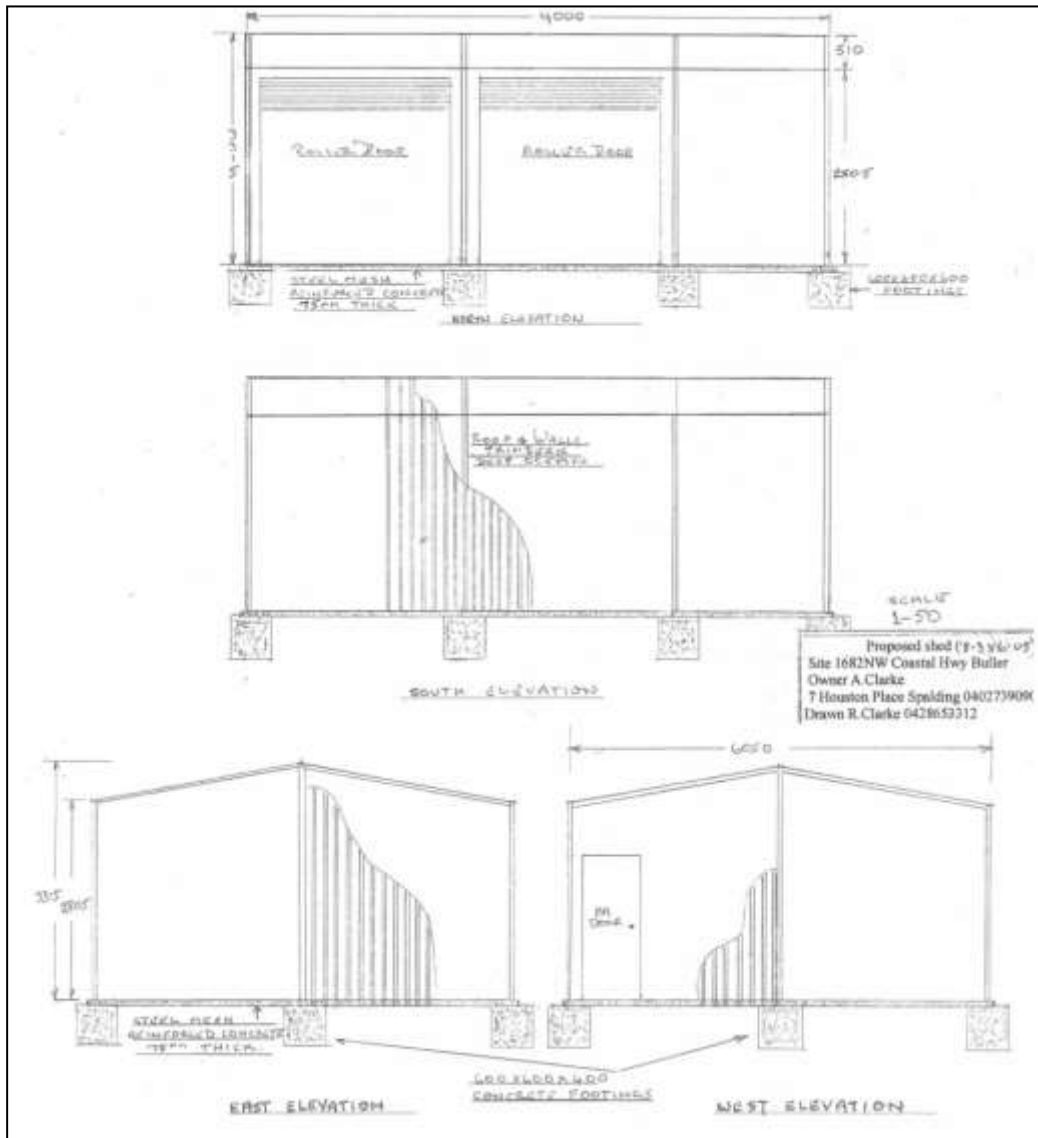












AGENDA ITEM:	9.1.2
SUBJECT:	PROPOSED SUBDIVISION, WAGGRAKINE
PROPONENT:	LANDWEST FOR KEYWISE PTY LTD (F. SPILLMAN)
SITE:	LOT 302 CHAPMAN VALLEY ROAD, WAGGRAKINE
FILE REFERENCE:	A14
PREVIOUS REFERENCE:	06/12-2
DATE:	11 JANUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

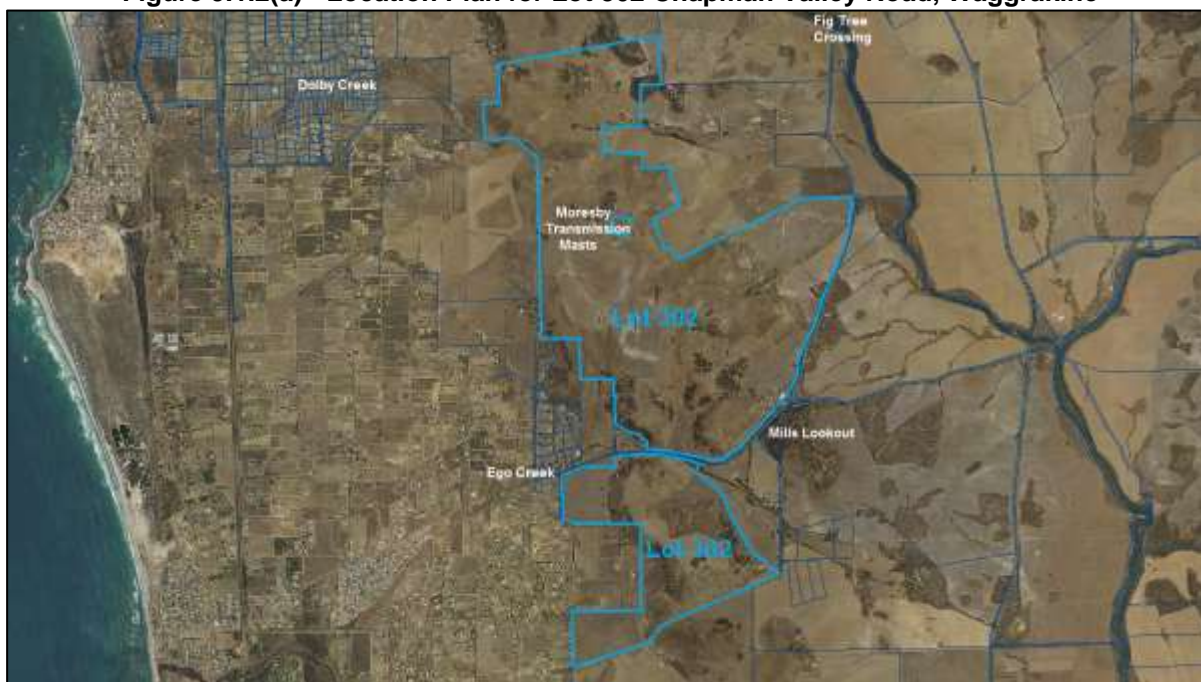
BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission ('WAPC') seeking its comment upon an application to subdivide Lot 302 Chapman Valley Road, Waggrakine (Wynarling Farm) into 3 lots. This report recommends that Council support the application.

COMMENT

Lot 302 is a 1,364.97ha property that includes the western facing Waggrakine footslopes of the Moresby Range, a portion of the flat topped mesa range area to the north and south of Chapman Valley Road, and a section of the eastern facing footslopes of the Moresby Range. The property is largely cleared and used for farming purposes and also contains a number of transmission masts.

Figure 9.1.2(a) - Location Plan for Lot 302 Chapman Valley Road, Waggrakine



Lot 302 straddles the local government boundary and the applicant is seeking to subdivide the portion that is north of Chapman Valley Road into a 1,049.2ha lot and this would be entirely located within the Shire of Chapman Valley. Shire staff raise no objection to this proposal as the proposed lot would be comparable in area to farming lots to the east and is already fenced and thus appears on-ground to be a separate land parcel already. The land is already physically divided by Chapman Valley Road and it is considered that the separation of these two land parcels would be preferable as this is a significant arterial road and the subject length is a 110km/hour winding section that stock crossing should be discouraged from.

The subdivision of Lot 302 as delineated by Chapman Valley Road/local government boundary would also simplify the governance and rate assessment of the property.

The applicant also seeks to subdivide the portion of Lot 302 that is south of Chapman Valley Road into a 282.34ha lot that would comprise the Moresby Range portion of the land, and a 33.43ha lot fronting Carnalea Road that would comprise the area identified by the Moresby Range Management Plan as

being suited to further development and has been rezoned to 'Rural Residential'. The area of Lot 302 that is south of Chapman Valley Road is within the City of Greater Geraldton local government area and this subdivision application has also been referred to the City for its comment. Shire staff raise no objection to the application as it relates to the portion south of Chapman Valley Road as it is considered in accordance with the Moresby Range Management Plan which was a joint undertaking of the two local governments.

The submitted subdivision plan has been included as **Attachment 9.1.2(a)** and the applicant's supporting information as **Attachment 9.1.2(b)** to this report.

STATUTORY ENVIRONMENT

The portion of Lot 302 north of Chapman Valley Road is zoned 'Rural' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.6 of the Scheme list the following objectives for the 'Rural' zone, and the submitted application is not considered contrary to these:

- "(a) Provide for a variety of agricultural/rural activities;*
- (b) Provide for other land-uses compatible with the predominant use of the land;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas;*
- (d) Provide appropriate protection from incompatible development for existing land-uses; and*
- (e) Protect the environmental and landscape values of the land."*

Lot 302 also falls within the 'Special Control Area 2 - Moresby Range Landscape Protection Area' zone, with the exception of the eastern portion of Lot 302 which abuts Chapman Valley Road and is below the footslopes area. Section 6.3.2 of the Scheme notes:

"The purpose of Special Control Area 2 is the protection of the Moresby Ranges and associated valleys from development and/or subdivision that will detrimentally affect the landscape values of the area, including preventing development that may lead to problems of erosion. In determining any application for planning approval on land within Special Control Area 2, the Local Government shall give consideration to the purpose of the Special Control Area.

The Moresby Range Special Control Area generally relates to assessment of the development of land and this subdivision application would not increase the number of lots under the Scheme area or alter the assessment criteria for any future development applications over this area.

Section 5.20 of the Scheme notes that subdivision within the 'Rural' zone will generally not be supported unless it is consistent with the criteria set out in WAPC Development Control Policy 3.4 – Subdivision of Rural Land.

It is considered that the subdivision application can be supported under Sections 6.1 and 6.3 of WAPC Development Control Policy 3.4 – Subdivision of Rural Land which states that:

"6.1 Significant physical divisions

The existing physical division of a lot by a significant natural or constructed feature may be formalised through subdivision. The physical division in itself however, does not warrant the creation of additional or smaller lots. A significant physical division would include, but not be limited to, a controlled access highway or a river but would not generally include minor barriers such as rural roads or creeks that are commonly crossed for farm management purposes.

The WAPC may support boundary realignment where a rural property comprises multiple small titles and there is scope to resolve the physical division by rationalising multiple lots in one ownership through boundary realignments without the creation of additional lots.

Lot boundaries that result in encroachments may be corrected through minor boundary realignments, provided the realignments do not adversely affect environmentally sensitive areas or create additional or smaller lots."

“6.3 Property rationalisation to improve land management

Many rural properties comprise multiple titles and landowners may wish to subdivide to achieve better land management. Subdivision may also present opportunities to create access to landlocked lots. Multiple lots in one ownership may be rationalised provided that:

- (a) there is no increase in the number of lots;*
- (b) the new boundaries achieve improved environmental and land management practices and minimise adverse impacts on rural land use;*
- (c) no new roads are created, unless supported by the local government;*
- (d) new vehicle access points on State roads are minimised; and*
- (e) rural living sized lots (1-40ha) created as a result of the rationalisation have appropriate buffers from adjoining farming uses and may have notifications placed on title advising that the lot is in a rural area and may be impacted by primary production.*

Former road reserves and small remnant portions of lots are not considered lots for the purpose of boundary rationalisation.”

POLICY IMPLICATIONS

Lot 302 is predominantly located within Precinct No.4 – Moresby of the Shire of Chapman Valley Local Planning Strategy ('the Strategy'), with the very eastern portion of Lot 302 that is east of the Moresby Range mesa, and slopes down to Chapman Valley Road, located in Precinct No.3 – Chapman Valley.

The following relevant criteria applies for Precinct No.4 – Moresby within the Strategy:

“Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:

- (a) For the relocation of lot boundaries that achieves improvements in environmental conditions and/or land management practices without adversely affecting the existing use of the land.***
- (b) Where an established and sustainable rural industry or agricultural pursuit is to be excised from the larger land holding (e.g. grain storage facility, abattoir, chicken/egg farm, winery, marron farm etc.) PROVIDED impact/conflict issues with surrounding land use/development are addressed (e.g. buffers).***
- (c) Where it is demonstrated that there is a substantial, sustainable and beneficial gain in environmental repair, protection and preservation of land for conservation purposes in accordance with criteria for conservation lots outlined in WAPC Policy DC 3.4 and the Moresby Ranges Management Strategy (once released).***
- (d) Subdivision associated with an established project of tourist significance.***
- (e) For lifestyle and hobby farm purposes as per Figure 3 where the subject land has been appropriately rezoned to “Rural Smallholding” (20–40 hectares).”***

The following applies for Precinct No.3 – Chapman Valley within the Strategy:

“Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:

- (a) For extensive agricultural uses including grazing and/or cropping where the lots proposed are not less than 250 hectares.***
- (b) In exceptional circumstances where lots proposed are less than 250 hectares and are suitable for extensive agricultural uses including grazing and/or cropping, subject to the compliance with the relevant provisions of WAPC Policy DC 3.4 – Subdivision of Rural Land.***

- (c) *For intensive agricultural uses where there is confirmation of suitable soil suitability and adequate water supply for the intended use and the lots proposed are not less than 80 hectares.*
- (d) *For the relocation of lot boundaries that achieves improvements in environmental conditions and/or land management practices without adversely affecting the existing use of the land.*
- (e) *Where an established and sustainable rural industry or agricultural pursuit is to be excised from the larger land holding (e.g. grain storage facility, abattoir, chicken/egg farm, winery, marron farm etc.) PROVIDED impact/conflict issues with surrounding land use/development are addressed (e.g. buffers).*
- (f) *Where it is demonstrated that there is a substantial, sustainable and beneficial gain in environmental repair, protection and preservation of land for conservation purposes in accordance with criteria for conservation lots outlined in WAPC Policy 3.4.*
- (g) *For lifestyle/hobby farm purposes as per Figure 3 where the subject land has been appropriately rezoned to "Rural Residential" (1 – 4 hectares) or "Rural Smallholdings" (20 – 40 hectares).*
- (h) *Subdivision associated with an established project of tourist significance.*

Given the proposed lot within the Shire is 1,049.2ha it is not considered that support for the proposed application would be contrary to the requirements of either Precinct No.4 – Moresby or Precinct No.3 – Chapman Valley of the Local Planning Strategy.

FINANCIAL IMPLICATIONS

Whilst a lot that straddles a local government boundary is not unknown in Western Australia it is considered preferable for Lot 302 to be subdivided as per the local government boundary given that the dividing line is a significant road. Currently the Valuer General's Office is required to set a rate amount proportionate to the land area within each local government area and two sets of duly adjusted rates are payable by the landowner. The division of Lot 302 as delineated by the local government boundary would amend this current situation.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Geraldton Region Plan (1999) seeks to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a Structure Plan for the Greater Geraldton area that was updated by the WAPC in 2011. The updated Greater Geraldton Structure Plan identifies the application area as being 'Rural' (with the exception of proposed Lot C) and within the Moresby Range.

The subject landowner has long held a vision of creating a community park for the Wynarling Farm and this is reflective of the directions of the 1976 Geraldton Region Plan that identified an area of approximately 5,000ha of the Moresby Range as future open space, and the 1989 Geraldton Region Plan that identified the Range as a Landscape Protection Area with recommendations that areas with recreation and tourism potential be acquired. The 1999 Geraldton Region Plan recommended that a Management Strategy be prepared to protect the landscape value of the Moresby Range.

The WAPC's Moresby Range Management Strategy was prepared in 2009 and provides the overarching planning framework for the Moresby Range. The Strategy addressed the larger Moresby Range with a 55,000ha study area from Isseka in the north, to Mount Erin to the east (27km inland) and the Geraldton-Mount Magnet Road to the south. The Strategy recognised that there were particular issues relating to the southern section of the Range (including the application area) that were of particular importance to the regional community, and recommended that a Management Plan be prepared for this area, with Section 5.1 noting that:

"A key recommendation of this strategy is the development of a management plan for the Detailed Investigation Area...The intent of developing a management plan is to more clearly define the objectives and recommendations of this strategy as they relate to the portion of the range identified as having the most development pressure.

The management plan will include an implementation strategy for achieving key objectives for the detailed investigation area, particularly in relating to providing for public access and recreation. It should define areas targeted for future public access and set out means to achieve this, including any necessary land acquisition."

The Moresby Range Management Plan was prepared in 2010 by a Steering Committee comprised of representatives from the following:

- Shire of Chapman Valley;
- City of Greater Geraldton;
- Department of Planning;
- Mid West Development Commission;
- Department of Environment and Conservation;
- Department of Agriculture and Food;
- Northern Agricultural Catchments Council; &
- Landowner and Community representatives.

The Moresby Range Management Plan addresses the section of the Moresby Range immediately south of White Peak Road and east of Geraldton. It is this section that is under the most immediate pressure from a range of demands including urban and rural-residential development from the west, infrastructure corridor alignments to the east and north, recreational demands from the community, economic interest from renewable venture proponents and tourism possibilities.

The preparation of the Plan was strongly informed by extensive community consultation that asked the people of the Mid West 'what future did they want to see for the Range and how did they want to engage with the Range into the future?' The major finding was that the community wanted the Range to be turned into a unique and iconic park that would become an asset and a resource for the regional, Western Australian and international communities. The Plan has recognised this concept but also that the majority of the land in the Range is privately owned at present and that the realisation of this vision must be done in partnership with landowners and will be a long term project with a nominal 20 year time frame for its creation, although the Plan also recognises that this process may take longer and that the final outcome may differ from what is proposed.

The Plan defines a 'Range Precinct' as the area that includes the flat tops and major slopes of a section of the Moresby Range but excludes the flatter areas of land that surrounds the Range. The Plan has the vision for a community park that would ultimately turn the Range Precinct into an iconic regional resource. The Plan identifies the community park not as a formal planning description, rather a statement of aspiration and intent, ideally, when a park eventuates it will be formally recognised under an appropriate planning framework.

The boundary of the Range Precinct was selected according to a number of criteria including topography, cadastral boundaries, biogeographical and biodiversity features, and existing developments. The Plan makes recommendations for land uses around the Range Precinct, particularly on the western side of the Range that is under the most immediate pressure. Here the objective is to allow limited urban development to occur in the foothills (proposed Lot C), subject to development conditions, that will create smooth and gradual visual transitions from the obviously urban centre of the city to the vegetated and green appearance of the Range.

Lot 302 is located within both the proposed community park and the surrounding area that was identified by the Plan for some future development potential. Discussions that will need to occur between all parties would have to determine exactly the area of land that might be publically acquired, and its valuation.

The ecologically degraded condition of much of the Range Precinct presents a challenge to the traditional concept of parks as it is a large geographic area with generally low ecological merit. Land management decisions by past landowners of the central and southern sections of the Precinct have very significantly diminished the ecological quality of the landscape and greatly accelerated erosion processes. In the northern areas, however, the long term landowners have preserved significant areas of bush land that are in reasonable ecological condition. Consequently, the approach taken in the Moresby Range Management Plan was to identify areas that may be suitable to return back to an approximation of their original species distribution, and identifying other areas, particularly in the Centre and South of the Precinct, where the objective would be to stabilise the landscape, improve visual amenity and to create new models of how people can live in the landscape.

An additional objective for a community park is to provide extensive, low key recreation opportunities that utilise the Range's natural assets. The Moresby Range Management Plan proposed to create a Central Facility on the southern side of Chapman Valley Road (within proposed Lot B) as the focus for this activity. The Facility would locate many varied, easily accessible, activities in one location thus keeping intensive uses contained which will also assist with the financial viability of the Facility. The Central Facility will serve as a "hub" from which people would move out into other parts of the Range.

Section 2 of the Moresby Range Management Plan elaborates upon this strategic vision with it being noted in part that:

"The Mid West Region is on the cusp of major change. Historically the region has been about farming and fishing; now mining, tourism and science, through the Square Kilometre Array, are being added to the mix. The City of Greater Geraldton has the vision of becoming the State's second major city capable of sustaining a population of 80,000 – 100,000. This is a huge vision and represents dramatic change for the whole region. The Moresby Range provides a backdrop and context for the City. They are a marker point for travel into and out of the region in which these changes are occurring. This Plan seeks to reflect these dynamic times through tangible and significant changes to the Range that will produce, in the long term, an iconic asset for the community in the form of a publicly owned Park.

...A number of different management options were considered for the Range Precinct including leaving the lands in private ownership and assisting landowners with improving their ecological management of the landscape. Such measures may be appropriate in the short term, however there was a general consensus that in the long term the Range Precinct should be in public ownership to allow the landscape to be developed in different directions and give more access for a diverse range of activities.

The community also recognised that the current landowners should receive a fair and reasonable exchange for giving up control of their land and placing it into a Park. This process of exchange should occur at a pace that suits the landowners and they should not be coerced into giving up their land through legislatively enforced acquisition measures. In this context the creation of a Park may take many years."

Section 13.1 of the Moresby Range Management Plan noted that:

"Most of the land in the Range Precinct, except for the Wokatherra Nature Reserve, is privately owned and the landowners should receive a fair and reasonable exchange for placing their land into a Park if they choose to do so. This exchange may involve a mix of purchase, land swaps and development opportunities, and would be determined on a case-by-case basis. Land would not be acquired ahead of landowner agreement as it is considered inappropriate for State or Local Government acquisition to be done before landowners are ready for such action and legislative mechanisms in place."

The Moresby Range Management Plan was endorsed as a Local Planning Policy by Council at its 20 October 2010 meeting.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 adopted by Council at its 19 June 2013 meeting lists 'making the right land available to increase housing' as a Community Strategy to achieve the outcome of 'more people and families move into the Shire' and 'explore opportunities to utilise key areas in the Shire by showcasing their natural and environmental characteristics' as an Environmental Strategy.

CONSULTATION

The WAPC is not obliged to undertake any public consultation in its assessment of subdivision applications, but has referred the application out to the Shire of Chapman Valley, City of Greater Geraldton, Department of Fire and Emergency Services, Department of Mines and Petroleum, Department of Parks and Wildlife, Department of Water, Main Roads WA, Unexploded Ordnance Branch, Water Corporation and Western Power inviting comment.

RISK ASSESSMENT

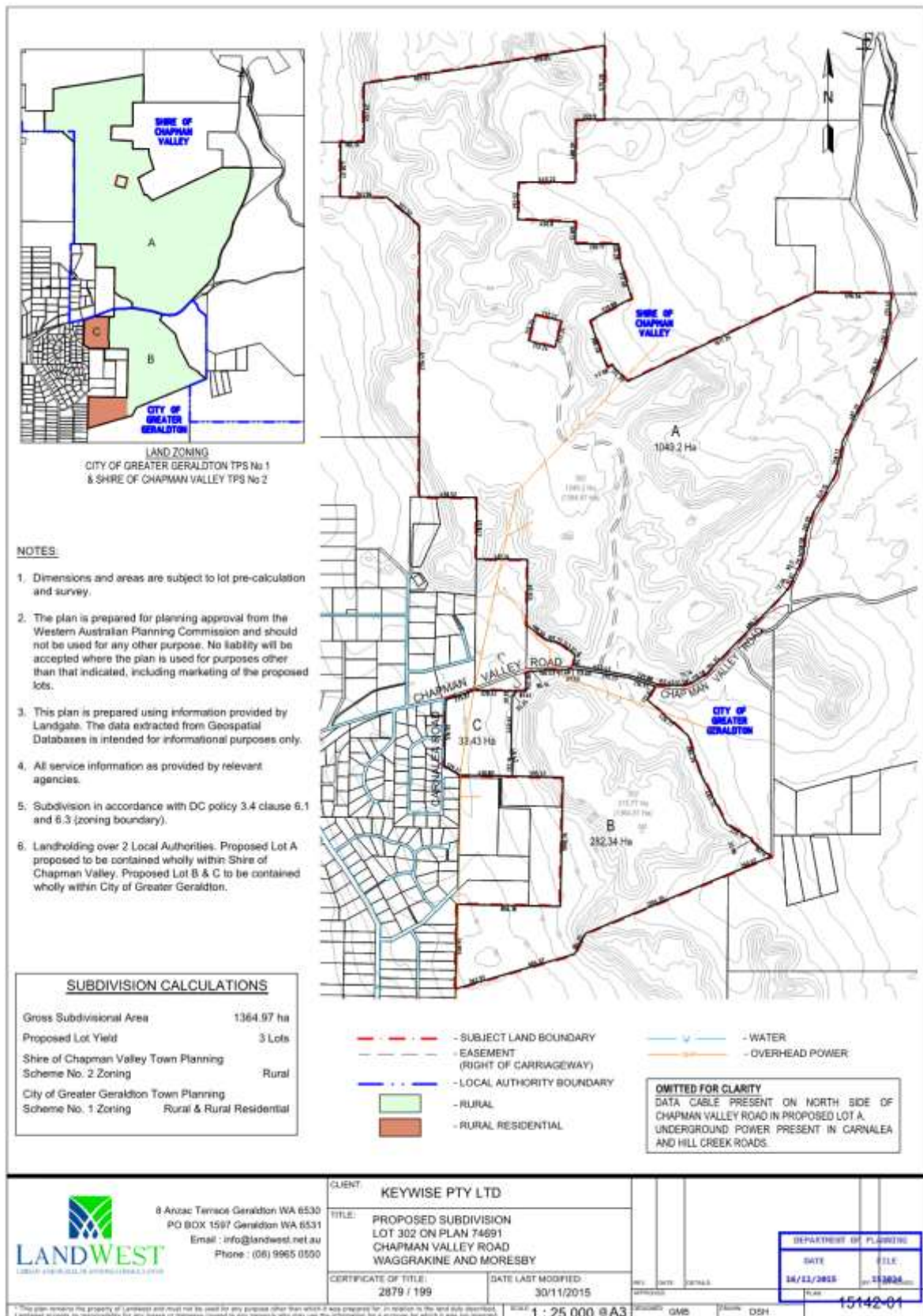
Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council advise the Western Australian Planning Commission that it supports the proposed subdivision of Lot 302 Chapman Valley Road, Waggrakine (WAPC Application No.153034) and does not request the imposition of any conditions or advice notes.





Our Ref: 15142

14 December 2015

Regional Manager
Western Australian Planning Commission
10 / 209 Foreshore Drive
GERALDTON WA 6530

Dear Sir

**PROPOSED SUBDIVISION LOT 302 ON PLAN 74691 CHAPMAN VALLEY ROAD
WAGGRAKINE/MORESBY**

On behalf of the owners of the above landholding, application is made for a subdivision of the above landholding.

Please find enclosed –

- endorsed form 1A application form;
- eight (8) copies of Plan 15142-01 dated 30/11/2015;
- certificate of title 2879/199;
- payment of \$3,111.41 being the prescribed application fee.

Introduction

Lot 302 Chapman Valley Road is located in the Moresby Range, immediately northeast of the Geraldton urban area. The lot incorporates flat tops, steep sideslopes and footslopes of the Moresby Range. The approximately 1365 ha lot straddles Chapman Valley Road and is located in both the Shire of Chapman Valley (Waggrakine locality) and the City of Greater Geraldton (Moresby locality). Chapman Valley Road forms the local government boundary in this area.

This proposed subdivision seeks to divide the existing 1364.97 ha lot into three lots of 1049.2 ha, 282.34 ha and 33.43 ha, as shown on the attached application plan.

Proposed Lot A is 1049.2 ha and is located entirely within the Shire of Chapman Valley, north of Chapman Valley Road.

Proposed Lot B is 282.34 ha and is located entirely within the City of Greater Geraldton and south of Chapman Valley Road. It incorporates land zoned Rural and land zoned

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Rural Residential. The Rural Residential zoned portion of this lot is not proposed to form a separate lot as it has no road frontage.

Proposed Lot C is 33.43 ha and is also located within the City of Greater Geraldton. It is zoned Rural Residential and has frontage to Chapman Valley, Carnalea and Hill Creek Roads.

The proposed subdivision reflects administrative and physical road infrastructure boundaries, facilitates better farm management and provides for future rural residential subdivision and development of a portion of the land zoned for that purpose.

Ownership

The subject land is Lot 302 Chapman Valley Road on Plan 74691. The land is located in Waggrakine (Shire of Chapman Valley) and Moresby (City of Greater Geraldton).

The registered proprietor is Keywise Pty Ltd.

Current use

The subject land is used for broadacre farming purposes, both cropping and grazing. Agricultural use has been concentrated on the footslopes and flat top areas of the land.

In recent years, the western footslopes on the portion of the lot south of Chapman Valley Road, now zoned Rural Residential, were removed from agricultural use due to its proximity to adjacent rural residential uses along its western boundary. This was done to avoid land use conflicts between agricultural and rural residential uses, such as spray drift and straying animals.

The subject land is physically divided by Chapman Valley Road. Chapman Valley Road is a major access route to agricultural areas northeast of Geraldton and is a high speed road where it traverses the subject land. Due to the nature and speed of traffic on the road and the topography and relatively poor sight lines in this vicinity, Chapman Valley Road is a significant constraint to the safe and effective operation of Lot 302 as a single farming unit.

Local Statutory Planning Context

Shire of Chapman Valley Town Planning Scheme No. 2

The portion of Lot 302 within the Shire of Chapman Valley is zoned Rural by the Shire's Local Planning Scheme No. 2. The majority of this portion of the lot is also within Special Control Area No. 2 (Moresby Ranges Landscape Protection).

Clause 5.20.2 of the Scheme states that subdivision of land within the Rural zone will generally not be supported unless it is rezoned to facilitate subdivision as specifically provided for in the endorsed Local Planning Strategy, or is consistent with the criteria set

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out in the Western Australian Planning Commission (WAPC)'s Development Control Policy DC 3.4 Subdivision of Rural Land.

This proposed subdivision leaves the portion of Lot 302 within the Shire of Chapman Valley as a single lot. Nonetheless, as delineated below, the proposed subdivision as a whole is consistent with the WAPC's Policy DC 3.4.

None of TPS No.2's provisions relating to Special Control Area No. 2 prevent or affect the proposed subdivision.

Shire of Chapman Valley Local Planning Strategy

The subject land falls within Precinct No. 4 (Moresby Range) of the Shire's Local Planning Strategy.

The Local Planning Strategy specifies that Council may support subdivision/amalgamation of land within this Precinct, having due regards the objectives of the Precinct in circumstances including:

- the relocation of lot boundaries that achieves improvements in environmental conditions and/or land management practices without adversely affecting the existing use of the land.

No subdivision is proposed *within* Precinct 4, as the local government boundary along Chapman Valley Road forms the boundary between proposed lots A and B. Nonetheless, this subdivision is consistent with the above criterion in that the use of Chapman Valley Road as a logical new lot boundary will improve land management practices by allowing proposed lot A to be farmed as a single farming unit.

City of Greater Geraldton Town Planning Scheme No. 1

The portion of Lot 302 within the City of Greater Geraldton is zoned Rural or Rural Residential by the City's Town Planning Scheme No. 1. The majority of this portion of the lot is also within Special Control Area No. 1.

The objectives for the Rural zone are to:

- provide for the maintenance or enhancement of specific local character.
- protect broadacre agricultural activities, such as cropping and grazing, and intensive uses, such as horticulture, from incompatible uses and minimise land use conflicts.
- provide for a range of non-rural land uses where they have demonstrated benefit and are compatible with the surrounding rural uses.

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- protect and provide for existing or planned key infrastructure, public utilities and renewable energy facilities.
- The proposal is consistent with these objectives and is similarly consistent with WAPC State Planning Policies as delineated below. It may also assist with delineation of landholdings suitable for a future public park and/or uses that are compatible with the rural zoning.

Proposed Lot C coincides with the northern of two Rural Residential zoned portions of the subject land. As such, there is no subdivision *within* the Rural Residential zone. Rather, the creation of Lot C as a separate lot will better facilitate investment in a structure plan, subdivision and development in accordance with the Rural Residential zoning by allowing separate ownership.

The southern of the two Rural Residential zoned portions of the subject land is proposed to be retained within Lot B, along with the much larger Rural zoned portion of the land south of Chapman Valley Road. The reason this area is not being separated into a further Rural Residential zoned lot, or a non-contiguous portion of Lot C, is that it currently has no road frontage.

The Scheme's provisions for Special Control Area No. 1 state that subdivision applications within the Moresby Range will generally not be supported unless the land is appropriately zoned and development is in accordance with an approved structure plan. The creation of Lot C is consistent with this clause as it is zoned Rural Residential and a structure plan will be required as a prerequisite to any further subdivision or development. No additional development potential will be conferred on proposed Lot B. The separation of Lots A and B using Chapman Valley Road as a boundary will not create any subdivision *within* Special Control Area No. 2. Nonetheless, the proposed subdivision is consistent with sub-clause 6.3.4 (c) in that it does not create potential for additional development, represents lot rationalisation for management purposes and is consistent with WAPC policy.

State Planning Statutory Context – WAPC Development Control Policy 3.4 (Subdivision of Rural Land)

The WAPC's Development Control Policy 3.4 (Subdivision of Rural Land) was published in March 2012 and sets out the principles used by the WAPC in determining applications for the subdivision of rural land. This proposed subdivision is consistent with DC Policy 3.4.

Significant physical division

Clause 6.1 of the Policy deals with significant physical divisions. It states that the existing physical division of a lot by a significant natural or constructed feature may be formalised through subdivision. It notes that a significant physical division would include a controlled access highway but would not generally include minor barriers such as rural roads that are commonly crossed for farm management purposes.

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Chapman Valley Road north of Morrell Road is a regional road controlled by Main Roads Western Australia. Whilst some traffic uses Morrell Road and Narra Tarra – Moonyoonooka Road to travel to the Geraldton Port, Narngulu Industrial Area and to the south via Brand Highway, Chapman Valley Road remains the most direct route between Chapman Valley Road and the Geraldton urban area. Main Roads Western Australia classifies this section of Chapman Valley Road in its road hierarchy as a Regional Distributor Road. Chapman Valley Road is also designated as a tourist drive in the Moresby Range Management Strategy. Chapman Valley Road, as it traverses the subject land, can be seen to be a regional road.

The role and status of Chapman Valley Road is likely to increase over time with the proposed Oakajee – Narngulu Infrastructure Corridor (ONIC), as it will remain the most direct route between the Geraldton urban area and this section of ONIC

Chapman Valley Road is a high speed road where it traverses the subject land (100 kmh according to MRWA's MRIS). Due to the topography and winding road there are no satisfactorily safe points for stock crossing. The current crossing between farm access tracks to the north and south of Chapman Valley Road is quite close to a crest.

Having regard to all of the above, it is strongly contended that Chapman Valley Road is a significant physical division as it is a significant constraint to the safe and effective operation of Lot 302 as a single farming unit.

Property rationalisation to improve land management

Clause 6.3 of the Policy addresses property rationalisation to improve land management. While technically the Policy is referring to boundary adjustments that do not increase the number of lots, it is argued that this subdivision is generally consistent with the intent of this clause.

This subdivision proposes to divide one lot into three. Of the two additional lots being created, one (Lot C) results from separating Rural Residential zoned land (which has road frontage) from Rural zoned land. This subdivision will facilitate structure planning and subdivision of this land for the rural residential purposes for which it is zoned. It will also facilitate better land management by separating land that has been retired from agricultural use due to proximity to existing rural residential use from the balance farming land on the lot. It also follows the general planning principle of avoiding split zoned lots where practicable

The division of proposed Lot B from Lot A by using Chapman Valley Road as a lot boundary also represents a logical and rational lot boundary. As well as the significant physical division that Chapman Valley Road presents, hampering safe and efficient management and operation as a single farming unit, the inclusion of the subject land in separate local governments also creates administrative inefficiency. The desirability of retaining whole lots within a single local government is recognised by the Local Government Advisory Board, which nominates transfer of part lots into a single local government. In this instance, given the size and strategic significance of the land

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involved, it would be preferable for this to be achieved by subdivision using the local government boundary along Chapman Valley Road rather than pursuing a change of local government boundaries.

The Moresby Range Management Strategy and the Moresby Range Management Plan envisage the creation of a park in the Moresby Range, particularly in this Central part of the Range. Part 10 of the Moresby Ranges Management Plan focusses on a Central Facility that could generally be located on what this subdivision proposes as Lot B. While detailed investigations would be required before this part of the land could be contemplated for a public park, the creation of proposed Lot B, separate from both land north of Chapman Valley Road and from the easily accessed Rural Residential zoned portion of the subject land, may facilitate these investigations and negotiations. This point warrants support for the proposed subdivision under sub-clause 6(e) of the Policy.

Servicing

Each of the proposed lots has substantial frontage to sealed roads. Proposed Lots A and B front Chapman Valley Road and are served by existing vehicle crossovers. While proposed Lot C also fronts Chapman Valley Road, it can gain vehicular access from Carnalea or Hill Creek Roads.

There is no expectation of servicing requirements for any of the proposed lots. Proposed Lot C specifically will be created as a 9000 series lot, due to its future subdivision potential following detailed structure planning. As a 9000 series lot, the lot will not be serviced with an individual Western Power connection.

Conclusion

The proposed subdivision reflects administrative and zoning boundaries and a significant physical division by Chapman Valley Road. The subdivision will facilitate better farm management and the structure planning, subdivision and development of Rural Residential zoned land for that purpose. The subdivision may also, in the longer term, facilitate and warrant further investigation of options for ownership and development of a public park in the central Moresby Range, consistent with strategic directions for the Range in the Moresby Range Management Strategy and Moresby Range Management Plan.

The proposal is consistent with WAPC Policy and the City of Greater Geraldton and Shire of Chapman Valley local planning schemes.

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and Appraisal | Rezoning/Scheme Amendments | Small & Large Scale Subdivisions | Strata Schemes | Development Applications | Project Management

AGENDA ITEM:	9.1.3
SUBJECT:	PROPOSED SUBDIVISION, MOUNT ERIN
PROPONENT:	HTD FOR W.A. FORBES
SITE:	LOT 23 NEWMARRACARRA ROAD, MOUNT ERIN
FILE REFERENCE:	A1678
PREVIOUS REFERENCE:	09/03-5
DATE:	1 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence from the Western Australian Planning Commission ('WAPC') seeking its comment upon an application to subdivide Lot 23 Newmarracarra Road, Mount Erin into 2 lots. This report recommends that Council support the application.

COMMENT

Lot 23 Newmarracarra Road is a 274.3ha property that is approximately 9km east of the Nanson townsite. Lot 23 is largely cleared and used for cropping purposes, with the exception of linear remnant vegetation along the watercourse tributaries that run through the property and atop a rocky outcrop.

Figure 9.1.3(a) - Location Plan for Lot 23 Newmarracarra Road, Mount Erin



The applicant is seeking to subdivide a 13.6ha lot that would contain the residence from the 260.7ha remainder of the property. The smaller lot would access Newmarracarra Road via the existing driveway alignment that would be created as a 456.9m long, 11m wide access leg that would bisect the larger lot.

The submitted subdivision plan has been included as **Attachment 9.1.3(a)**.

Figure 9.1.3(b) – Aerial Photograph of Lot 23 Newmarracarra Road, Mount Erin



STATUTORY ENVIRONMENT

Lot 23 Newmarracarra Road is zoned 'Rural' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme').

Section 4.2.6 of the Scheme list the following objectives for the 'Rural' zone, and the submitted application is not considered contrary to these:

- “(a) Provide for a variety of agricultural/rural activities;*
- (b) Provide for other land-uses compatible with the predominant use of the land;*
- (c) Prevent the establishment of land-uses more appropriately undertaken in commercial and/or industrial areas;*
- (d) Provide appropriate protection from incompatible development for existing land-uses;*
- and*
- (e) Protect the environmental and landscape values of the land.”*

Section 5.20.2 of the Scheme notes the following general requirement applicable to the 'Rural' zone:

“The occurrence of development in accordance with Clause 5.20.1 will generally not be considered as grounds for subdivision. Subdivision of land within the Rural zone will generally not be supported unless it is rezoned to facilitate subdivision as specifically provided for in the endorsed Local Planning Strategy; or is consistent with the criteria set out in the WAPC's Development Control Policy 3.4 (Subdivision of Rural Land).”

The applicant is making argument that the subdivision application could be supported under Section 6.6 of WAPC Development Control Policy 3.4 – Subdivision of Rural Land which states that:

“5 General policy provisions

It is the opinion of the WAPC that rural land uses are the highest and best use for rural zoned land. Where an alternative use is proposed, such as residential, the use must be planned in a strategy or scheme and zoned accordingly.

When determining subdivision proposals on rural land, the following measures will be applied:

- (a) the creation of new or smaller lots will be by exception;*
- (b) proposals will be considered against strategies and schemes;*
- (c) adequate buffer distances for sensitive and/or incompatible land uses can be achieved; and*
- (d) proposals will be assessed against any relevant State planning policies and/or operational policies.*

6 *Circumstances under which rural subdivision may be considered*

In considering applications under section 6 (a) to (e), the WAPC will consider rural subdivision in the following exceptional circumstances:

- (a) to realign lot boundaries with no increase in the number of lots, where the resultant lots will not adversely affect rural land uses;*
- (b) to protect and actively conserve places of cultural and natural heritage;*
- (c) to allow for the efficient provision of utilities and infrastructure and/or for access to natural resources;*
- (d) in the Homestead lot policy area (Appendix 2), to allow for the continued occupation of existing homesteads when they are no longer used as part of a farming operation; and*
- (e) for other unusual or unanticipated purposes which, in the opinion of the WAPC, do not conflict with this and other relevant policies and are necessary in the public interest.*

Although the WAPC seeks to minimise the creation of new or smaller rural lots, there are some circumstances where subdivision of rural land may be appropriate in order to promote better land management and achieve environmental, cultural and/or social benefits. These forms of subdivision, which may result in additional dwelling entitlements, are considered to provide incentives for rural subdivision. As such the remainder of this policy outlines the applicable standards for rural subdivision."

"6.6 Homestead lots

The creation of Homestead lots is intended to allow primary producers to continue to occupy their dwelling when they cease to farm, and provide settlement opportunities in areas where land fragmentation is limited and unlikely to increase. Homestead lots are to be created in a manner that is consistent with the rural character and landscape of a locality. Homestead lots may be facilitated through boundary rationalisation or the creation of a new lot.

Homestead lots may therefore be created to enable an approved existing house on a rural lot to continue to be occupied provided that:

- (a) the land is in the DC 3.4 Homestead lot policy area (refer Appendix 2);*
- (b) the homestead lot has an area between one and four hectares, or up to 20 hectares to respond to the landform and include features such as existing outbuildings, services or water sources;*
- (c) there is an adequate water supply for domestic, land management and fire management purposes;*
- (d) the dwelling is connected to a reticulated electricity supply or an acceptable alternative is demonstrated;*
- (e) the homestead lot has access to a constructed public road;*
- (f) the homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses;*
- (g) a homestead lot has not been excised from the farm in the past;*
- (h) the balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property; and*
- (i) the dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government.*

Where there are a number of existing approved dwellings on a rural lot, more than one homestead lot may be considered as a one-off application."

The applicant's supporting correspondence, in which they submit their grounds for consideration as a homestead lot, has been provided as **Attachment 9.1.3(b)** to this report.

Figure 9.1.3(c) – View of Lot 23 looking east from Heelan-Mellish Road



Figure 9.1.3(d) – View of Lot 23 looking east from Newmarracarra Road



POLICY IMPLICATIONS

Lot 23 Newmarracarra Road is located within Precinct No.2 - East Chapman of the Shire of Chapman Valley Local Planning Strategy ('the Strategy').

The stated vision for Precinct No.2 is:

"Utilising opportunities for agricultural diversification whilst ensuring the continued sustainable production from broadacre agriculture."

The proposed subdivision should be considered with regard to the following respective community, economic and environmental objectives of Precinct No.2:

"2.1.1 Discourage the fragmentation of rural landholdings through the provision of subdivision policy and the introduction of minimum lot sizes."

"2.2.1 Protect the capacity of the land for agricultural production and promote continued sustainable agricultural production."

"2.3.4 Ensure that land use conflicts (i.e. noise, dust, odour, spray drift, vermin etc.) are avoided through appropriate environmental and planning controls."

The Strategy provides the following in guidance in relation to subdivision within Precinct No.2:

“Council may support the subdivision/amalgamation of land within this Precinct, having due regard to the objectives of the Precinct, in the following circumstances:

- (a) For extensive agricultural uses including grazing and/or cropping where the lots proposed are not less than 250 hectares.***
- (b) In exceptional circumstances where lots proposed are less than 250 hectares and are suitable for extensive agricultural uses including grazing and/or cropping, subject to the compliance with the relevant provisions of WAPC Policy DC 3.4 – Subdivision of Rural Land.***
- (c) For intensive agricultural uses where there is confirmation of suitable soil suitability and adequate water supply for the intended use and the lots proposed are not less than 80 hectares.***
- (d) For the relocation of lot boundaries that achieves improvements in environmental conditions and/or land management practices without adversely affecting the existing use of the land.***
- (e) Where an established and sustainable rural industry or agricultural pursuit is to be excised from the larger land holding (e.g. grain storage facility, abattoir, chicken/egg farm, winery, marron farm etc.) provided impact/conflict issues with surrounding land use/development are addressed (e.g. buffers).***
- (f) Where it is demonstrated that there is a substantial, sustainable and beneficial gain in environmental repair, protection and preservation of land for conservation purposes in accordance with criteria for conservation lots outlined in WAPC Policy DC 3.4.”***

The proposed lot size of 13.6ha would not meet with the minimum lot size requirements outlined by the Strategy and the applicant is seeking to mount argument that it should be considered as a homestead lot as per the requirements of WAPC Development Control Policy 3.4.

FINANCIAL IMPLICATIONS

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The Department of Agriculture & Food's 'Identification of High Quality Agricultural in the Mid West Region' (2013) technical report (pages 150-151) identifies Lot 23 as being within the Northampton-Chapman Agricultural Land Area with soils characterised as follows:

“The dominant soils are red shallow loamy duplexes (Northampton series) and red loamy earths (Kojarena and Bowes series). Soils of lesser significance include red sandy earths (Bootenal series) and self-mulching cracking clays. Rock outcrops are fairly common.”

“While the combination of relatively high growing season rainfall and ‘rich’ loamy soils places this among the highest yielding country in the district (especially in seasons with above average rainfall), not all of the land is arable due to the hilly terrain. There are significant pockets of steep slopes and shallow stony soils unsuitable for cropping.”

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Strategic Community Plan.

CONSULTATION

The WAPC is not obliged to undertake any public consultation in its assessment of subdivision applications, but has referred the application out to the Shire of Chapman Valley, Department of Fire and Emergency Services, Department of Mines and Petroleum, Department of Parks and Wildlife, Department of Water, Unexploded Ordnance Branch, Water Corporation and Western Power inviting comment.

RISK ASSESSMENT

Not Applicable.

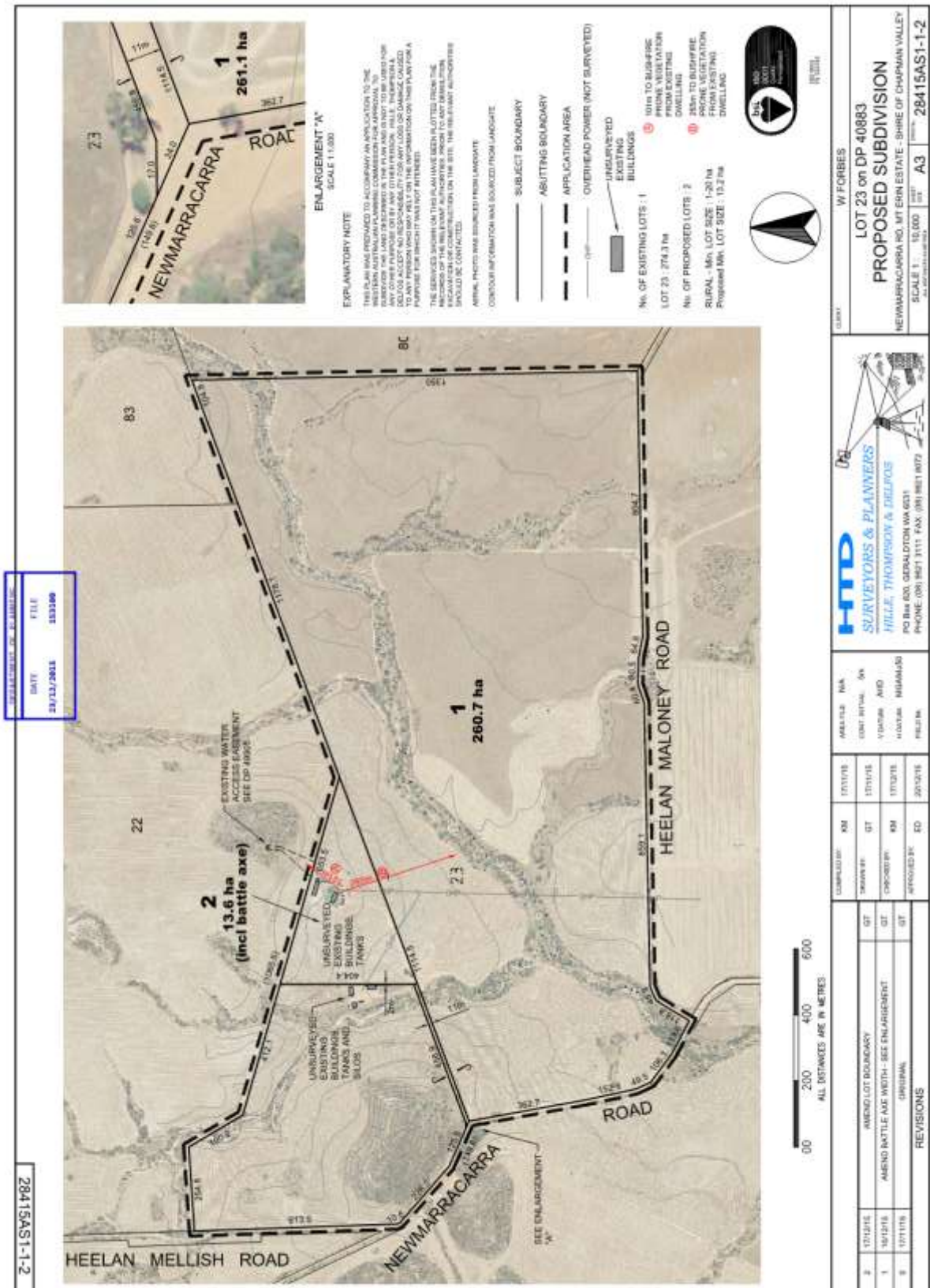
VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council advise the Western Australian Planning Commission that it supports the proposed subdivision of Lot 23 Newmarracarra Road, Mount Erin (WAPC Application No.153100) subject to the following condition:

- 1 All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia.

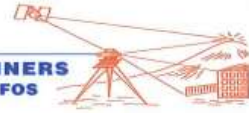




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SURVEYORS & PLANNERS
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Email: htdsurveys@htds.com.au
Website: www.htds.com.au

Our Ref: 284/15
Enquiries: Kelsey McCagh

22nd December 2015

Department of Planning
209 Foreshore Drive
Office 10, Level 2
GERALDTON WA 6530

Dear Sir/Madam,

PROPOSED SUBDIVISION – Lot 23 Newmarracarra Road, Mount Erin

Hille Thompson and Delfos act on the behalf of the owner of the above land holding.

The intention of this application on receipt of conditional approval is to create one homestead lot of 13.6ha in order to separate the existing house and associated improvements from rural pursuits through subdivision. The proposed 13.6ha lot size was chosen as this boundary follows a current cropping program and existing access track that already effectively separates the two land uses. In addition, this lot configuration allows for the continued use of the existing accessway and provides adequate land size for a buffer between the two land uses. The existing improvements proposed to be located on Lot 1 are explicitly used for farming purposes thus do not need to be located on the homestead lot.

This application will not adversely affect rural land uses as the proposed lot size of 260.7ha for proposed Lot 1 is suitable for the continuation of agricultural purposes.

Following is a detailed justification of the compliance of the proposal to the WA Planning Commission Development Control Policy 3.4 Subdivision of Rural Land section 6.6 Homestead lots:

- a) **The land is within the DC 3.4 Homestead lot policy area** – Chapman Valley is recognised in Appendix 2.
- b) **The homestead lot has an area between 1-4ha or up to 20ha to respond to the landform and include features such as existing outbuildings, services or water sources** - The homestead lot is proposed to be 13.6ha in order to respond to the distance of the existing house and outbuilding from Newmarracarra Road and for the continued use of the existing driveway.
- c) **There is adequate water supply for domestic, land management and fire management purposes** – There isn't a reticulated water service available to the subject land. Rather there is ample rainfall collection capacity from the roof areas of the existing house and sheds. Storage is in the form of five 30000 L rainwater tanks.
- d) **The dwelling is connected to a reticulated electricity supply** – The house is connected to overhead power.
- e) **The homestead has access to a constructed public road** – Newmarracarra Road is a constructed public road.
- f) **The homestead lot contains an existing residence that can achieve an appropriate buffer from adjoining rural land uses** – The homestead lot contains an

DEPARTMENT OF PLANNING	
DATE	FILE
23/12/2015	153100

existing house. As described above the boundary of the homestead lot provides adequate land size between the residential land use and rural pursuits.

- g) **A homestead lot has not been excised from the farm in the past** – A homestead lot has not been excised from the farm in the past.
- h) **The balance lot is suitable for the continuation of the rural land use, and generally consistent with prevailing lot sizes, where it can be shown that this is consistent with the current farming practices at the property** – Proposed Lot 2 is proposed to have a lot size of 260.7ha which is suitable for the continuation of rural pursuits with no adverse effects.
- i) **The dwelling on a homestead lot must be of a habitable standard and may be required to be certified as habitable by the local government** – The dwelling is of a habitable standard. It has been occupied for a number of years.

Based on the above, the application complies with the general objectives of the Rural zone and complies with the WA Planning Commission Development Control Policy 3.4 Subdivision of Rural Land section 6.6 Homestead lots.

If you have any queries or require any further information please do not hesitate to contact this office.

Yours faithfully,



Edrick Delfos
Director
ed@htds.com.au
28415AS1-1-2

DEPARTMENT OF PLANNING	
DATE	FILE
23/12/2015	153100

AGENDA ITEM:	9.1.4
SUBJECT:	PROPOSED YUNA ROAD SOUTH WIDENING
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	LOT 6699 YUNA ROAD SOUTH, YUNA SOUTH
FILE REFERENCE:	1001.1370 & A1866
PREVIOUS REFERENCE:	04/06-10, 07/06-4 & 04/07-13
DATE:	2 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council has previously realigned Yuna Road South on-ground, in agreeance with the affected landowners, and a resolution is required to finalise an aspect of the road dedication process. This report recommends that Council request the Department of Lands to complete the Yuna Road South widening action and provide the necessary indemnification.

COMMENT

The landowner of Lots 5940 & 5971 Yuna Road South (Terence & Audrey Williamson) approached Council in 2006 seeking the upgrading of Yuna Road South to better accommodate heavy vehicles. Council resolved at its 19 July 2006 meeting to support this request subject to the landowner making financial, in-kind and land contribution.

The upgrading of Yuna Road South necessitated the realignment/widening of two bends across Lots 5940 & 5971 and the ceding of a respective 6,144m² and 6,144m² from each of the properties, to which the landowner was in agreeance.

During the road upgrading it also became necessary to realign/widen a third corner of Yuna Road South that effected Lot 6699 (owned by JM Warr Pty Ltd) to better meet the requirements of increased heavy haulage.

Figure 9.1.4(a) - Location Plan for Lot 6699 Yuna Road South



Council made the necessary resolution at its 18 April 2007 meeting to take land from Lots 5940 and 5971 as public work pursuant to Part 9 of the *Land Administration Act 1997*.

HTD Surveyors were engaged by the Shire and produced Deposited Plan ('DP') of Survey 59900 & DP59901 (relevant to Williamson's Lots 5940 & 5917) and these reached 'in order for dealings' status in 2008 subject to a taking order and dedication.

However, resolution was not made in relation to DP59899 (relevant to Warr's Lot 6699) and the Department of Lands require Council to make resolution in relation to this aspect of the road widening prior to being able to progress this matter. A copy of DP59899 has been included as **Attachment 9.1.4(a)** to this report.

Figure 9.1.4(b) – Aerial Photo of portion of Yuna Road South alignment across Lot 6699



The finalisation of the road realignment/widening will ensure the following:

- formalise the existing constructed alignment of Yuna Road South by containing it within a road reserve;
- resolve any current public liability concerns for the landowner of Lot 6699;
- will not result in additional clearing of any land/vegetation;
- will not require re-fencing as the fencing works have previously been undertaken;
- will complete the process of redesign of a section of a road that was previously deemed unsafe for heavy haulage.

STATUTORY ENVIRONMENT

Section 56 of the *Land Administration Act 1997* allows for the dedication of land for road purposes.

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Final conveyancing will require the engagement of a settlement agent to complete the amendment of the landowner's title details (from the 323.6315ha Lot 6699 to the 323.5775ha Lot 100) and Account 7052 – Surveying and Land Expenses will be utilised for this cost.

• Long Term Financial Plan:

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

The subject land is located within Precinct No.1. – Yuna East of the Shire of Chapman Valley Local Planning Strategy (2008) and the proposed road widening action would be in accordance with the following precinct infrastructure objective:

“2.4.2 Identify, support and facilitate the efficient and co-ordinated use of existing road linkages.”

Figure 9.1.4(c) – View of subject portion of Yuna Road South across Lot 6699 looking south



- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Strategic Community Plan.

CONSULTATION

The Shire wrote to the landowner of Lot 6699 on 22 September 2015 seeking their renewed written support for the road widening action and a copy of the landowner's consent has been included as **Attachment 9.1.4(b)** to this report.

RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council resolve to:

- 1 Request the Hon. Minister for Lands to dedicate a 540m² portion of Lot 6699 Yuna Road South, South Yuna shown as Lot 103 on Deposited Plan 59899 pursuant to Section 56 of the *Land Administration Act 1997*, as public road; and
- 2 Indemnify the Department of Lands and the Minister for Lands against any costs and claims arising from the resumption of this land.

VER.	AMENDMENT	AUTHORISED BY	DATE
<p>TYPE: FREEHOLD</p> <p>PURPOSE: ACQUISITION</p> <p>PLAN OF:</p> <p>LOT 100 AND ROAD WIDENING (LOT 103)</p>			
<p>DISTRICT: VICTORIA DPI FILE</p> <p>TOWNSHIP: SHIRE OF CHAPMAN VALLEY</p> <p>LOCAL AUTHORITY: SOUTH YUNA</p> <p>LOCALITY: SOUTH YUNA</p> <p>FIELD BOOK: 107053</p> <p>INDEX: YUNA NW (25) NOLBA NE (25)</p> <p>SCALE: 1:10,000</p> <p>ALL DISTANCES IN METRES</p> <p>0 300 600</p>			
<p>HTD</p> <p>SURVEYORS & PLANNERS</p> <p>HILL, THOMPSON & DELLOS</p> <p>PO Box 803 GERALDTON WA 6531</p> <p>PH (08) 9621 1111 Fax (08) 9621 8072</p> <p>JOB REF: 396306/1982</p> <p>APPROVED BY: WESTERN AUSTRALIAN PLANNING COMMISSION</p> <p>FILE</p> <p>DELEGATED UNDER S 161 PD 41 2005</p> <p>DATE</p>			
<p>Landgate</p> <p>Western Australian Land Information Authority</p> <p>DEPOSITED PLAN</p> <p>59899</p> <p>SHEET 1 OF 1</p> <p>VERSION 1</p>			

LIMITED IN DEPTH TO 60.96 METRES

YUNA ROAD SOUTH

WARR ROAD

LOT 100 323.5779ha

LOT 103 540m²

ROAD WIDENING 540m²

LOT 103 TO BE ACQUIRED FOR PUBLIC PURPOSES (ROAD WIDENING)

INTERESTS & NOTIFICATIONS

SUBJECT	PURPOSE	STATUTORY REFERENCE	ORIGIN	LAND BURDENED	BENEFIT TO	COMMENTS
5913 DP 82899						
9794 DP 181895						
3620 DP 232241						
102 DP 59801						



LANDOWNER CONSENT FORM

This is to certify that we, JM Warr Pty Ltd being the owner of Lot 6699 on DP82900 Yuna Road South, South Yuna, hereby consent to the taking of 540m² land to be ceded free of cost to the Crown, for the expressed purpose of widening of the Yuna South Road, in accordance with DP59899.

Conditions of Consent:

That the Shire accepts responsibility for all liability and costs associated with the taking and dedication for the road widening inclusive of surveying and conveyancing costs.

Signature

Name of Signatory

John Warr

Date

2/10/15

AGENDA ITEM:	9.1.5
SUBJECT:	PROPOSED REZONING
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	PART LOT 271 CHAPMAN VALLEY ROAD, YETNA
FILE REFERENCE:	A337 & 204.04.04
PREVIOUS REFERENCE:	12/07-8 & 09/14-5
DATE:	5 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire has prepared a rezoning application to correct a zoning anomaly relevant to Part Lot 271 Chapman Valley Road, Yetna. This report recommends initiation of the rezoning application as Scheme Amendment No.4 to Shire of Chapman Valley Local Planning Scheme No.2.

COMMENT

Lot 271 is a triangular shaped 5,126m² property bordered by Chapman Valley Road on its south-eastern frontage, the Chapman River on its northern boundary and a closed road reserve along its western boundary. Lot 271 is located immediately south of the Fig Tree Crossing bridge and approximately 250m south of the Fig Tree Crossing Roadside Rest Area entry point.

Figure 9.1.5(a) – Location Plan for Lot 271 Chapman Valley Road & closed road reserve



This rezoning application proposes to correct a historic zoning anomaly where Part Lot 271 has been identified as 'Parks and Recreation' zone, by rezoning it to the 'Rural' zone, consistent with surrounding landholdings and its status as privately owned land.

Council resolved at its 17 September 2014 meeting to support the landowner of Lot 271 in their application to the Department of Lands to acquire the 2,684m² closed road reserve that runs along the western boundary and its subsequent amalgamation into Lot 271. Council support was made on the basis that:

- the closed road reserve is not constructed on-ground and does not provide access currently to any party;
- the closed road reserve was considered surplus to Shire requirements;
- the closed road reserve was not required to be constructed as it does not provide a sole means of access to the greater road network to any otherwise 'land-locked' third party;

- the amalgamation of the closed road reserve would provide Lot 271 with an increased land area in which to site a future residence with improved setback to Chapman Valley Road and Chapman River;
- the amalgamation of the closed road reserve into Lot 271 will provide the property with a safer future driveway/crossover access point onto Chapman Valley Road that is located further west where the sightlines can be improved and access is at an improved grade;
- the road component of the proposed Oakajee Narngulu Infrastructure Corridor ('ONIC')/Geraldton Outer Bypass is proposed to run 950m north-east of Lot 271, and the rail component 1km north-east of Lot 271 (and the service component 450m north-east) and would not directly impact upon the property.

Figure 9.1.5(b) – Cadastral Plan for Lot 271 and adjoining closed road reserve

The rezoning application also proposes to rezone the 2,684 m² closed road reserve from the 'Parks and Recreation' zone to the 'Rural' zone to recognise the advance state of proceedings for the disposal and amalgamation of the land into adjoining Lot 271.

STATUTORY ENVIRONMENT

Part 5 of the *Planning & Development Act 2005* provides for the amendment of a Scheme.

Figure 9.1.5(c) – Aerial Photograph of Lot 271 and adjoining road reserve



Figure 9.1.5(d) – View of Lot 271 looking north along Chapman Valley Road



POLICY IMPLICATIONS

Lot 271 Chapman Valley Road, Yetna and the closed road reserve are located within Precinct No.3 – Chapman Valley of the Shire of Chapman Valley Local Planning Strategy ('the Strategy') the vision for which is *"a diverse range of rural pursuits and incidental tourist developments that complement the sustainable use of agricultural resources."*

The 2008 Strategy pre-dates the relocation of the ONIC/Geraldton Outer Bypass alignment from west of Chapman River in the vicinity of Lot 271 to the eastern side of Chapman River and the review of the Strategy, that Council has commenced, will attend to the necessary updating.

Figure 9.1.5(e) – Local Planning Strategy Map extract (containing superseded ONIC)

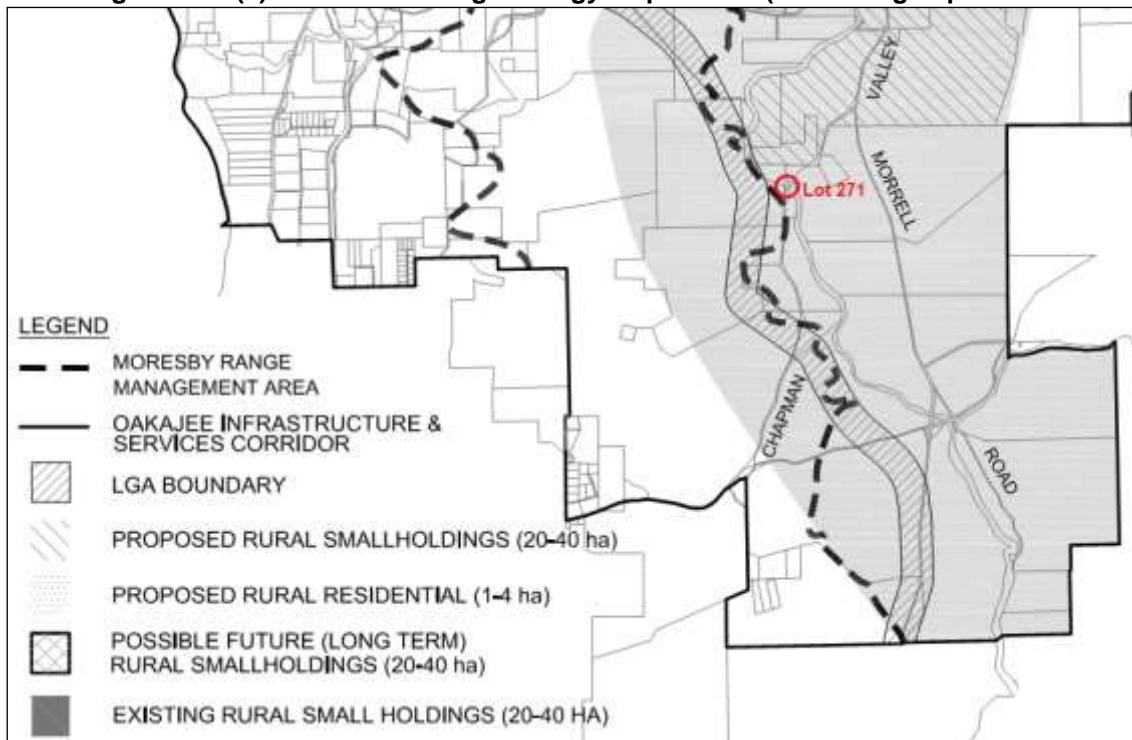
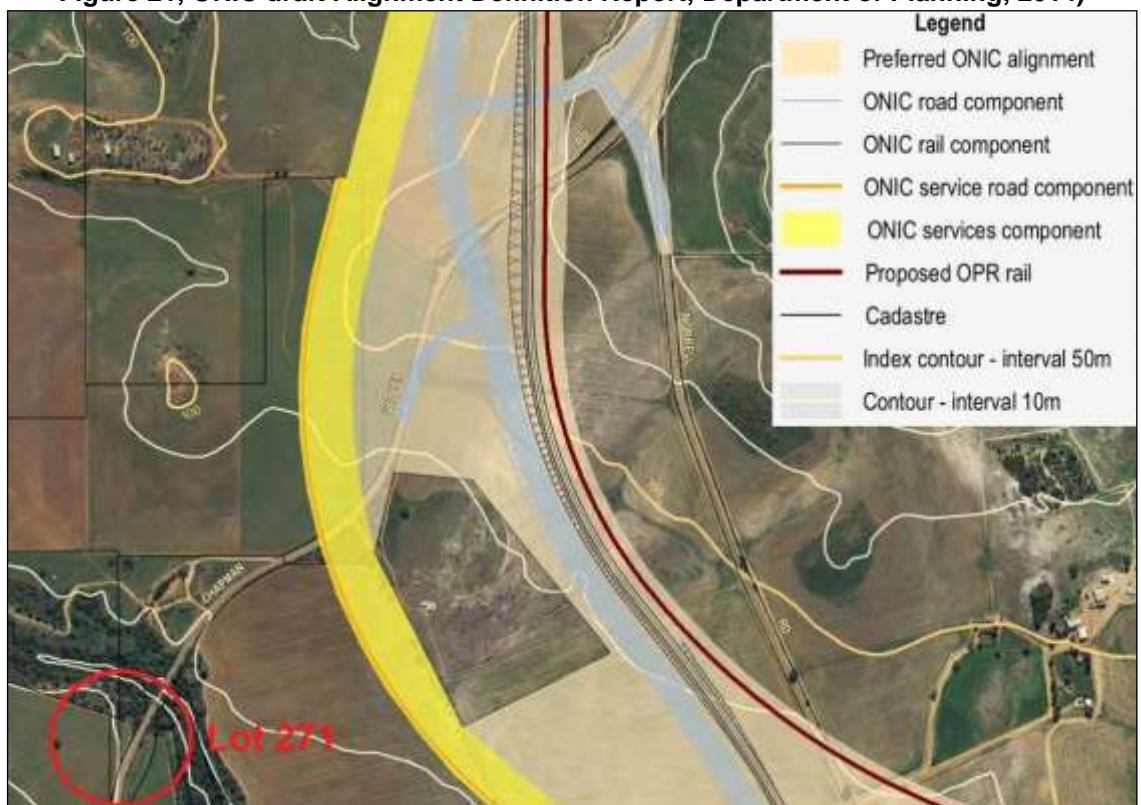


Figure 9.1.5(f) – Proposed ONIC alignment in relation to Lot 271 and closed road reserve (Ref: Figure 21, ONIC draft Alignment Definition Report, Department of Planning, 2014)



FINANCIAL IMPLICATIONS

The rezoning application has been prepared by the Shire and the landowner of Lot 271 has not been charged a rezoning application fee as the Scheme Map identifies private land under a public zoning, and given that the Shire do not intend to resume this land, and the original rezoning designation from 1982 onwards appears to have been made in error then it is considered the matter should be attended to in-house.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

Sections 11.5 and 11.6 of the Scheme address the issue of compensation and taking of land, however, given that the Shire does not intend to acquire the land and would be attending to the removal of a public zoning from over private land, through the initiation of Scheme Amendment No.4, then this section of the Scheme would not be required in this instance.

STRATEGIC IMPLICATIONS

The Geraldton Region Plan was released in 1999 by the WAPC to provide a framework for the future management, protection and coordination of regional planning in the region. The Region Plan incorporates a Structure Plan for the Greater Geraldton area that was updated in 2011 which identifies Lot 271 as 'Regional Park, Recreation and Conservation' and it is considered likely that this identification has taken its lead from the Shire Scheme Map.

The draft Scheme Amendment No.4 documentation provided as **Attachment 9.1.5** provides detailed reference to the various strategic planning documents relevant to Lot 271.

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Strategic Community Plan.

CONSULTATION

Were Council to initiate the rezoning, and the WAPC to grant consent to advertise the Scheme Amendment, then the Shire would undertake the following actions of consultation, inviting comments and responses within a 42 day advertising period:

- erect a public notification sign upon the site;
- place a notice within a locally circulating newspaper;
- place a copy of the Scheme Amendment documentation on the Shire website;
- place a copy of the Scheme Amendment documentation in the Shire office/library for public viewing;
- write directly to all surrounding landowners; &
- write directly to all relevant government agencies and service authorities.

At the completion of the advertising period all received submissions would be presented for Council's consideration, and should the Scheme Amendment be given final approval at this point by Council then the rezoning documents would be forwarded to the WAPC seeking final assessment and approval.

RISK ASSESSMENT

Not applicable.

VOTING REQUIREMENTS

Simple majority of Council

STAFF RECOMMENDATION

That Council pursuant to Part 5 of the *Planning and Development Act 2005* amend Shire of Chapman Valley Local Planning Scheme No.2 by:

- 1 Rezoning Part Lot 271 Chapman Valley Road, Yetna and the adjoining closed road reserve from 'Parks and Recreation Reserve' to 'Rural'; and
- 2 Modifying the Scheme Map accordingly.

1.0 INTRODUCTION

This Amendment proposes to correct a historic zoning anomaly whereby a small privately owned lot, Part Lot 271 Chapman Valley Road, Yetna, has been reserved for Parks and Recreation. The Amendment will include this lot in the Rural Zone, consistent with adjacent landholdings.

This Amendment also reflects the current well advanced amalgamation of an adjacent 2684 m² of closed road reserve into Part Lot 271, by also removing that closed road reserve from the Parks and Recreation Reserve zone and including it in the Rural Zone.

2.0 THE LANDHOLDING

2.1 Location

Part Lot 271 Chapman Valley Road, Yetna is located approximately 18 km northeast of the Geraldton City Centre. The lot fronts Chapman Valley Road, and along its northeast boundary abuts Unallocated Crown Land along the Chapman River. The lot is immediately south of the Fig Tree Crossing bridge over the Chapman River. The site is approximately 10 km northeast of schools and shopping facilities in Waggrakine and Sunset Beach, and approximately 11 km south of the town of Nanson.

The closed road reserve is located immediately to the west of Part Lot 271 and its southern end also abuts adjoining Chapman Valley Road.

2.2 Legal Description

Part Lot 271 Chapman Valley Road, Yetna is contained in Certificate of Title 1643-88 and included on Plan 231529. The registered proprietor is Mumbemarra Pty Ltd.

The adjacent land also part of this Amendment is a 2684 m² closed road reserve. The process of disposal of the closed road reserve and its amalgamation with Part Lot 271 is well advanced.

2.3 Historical and Existing Use

The southern portion of Part Lot 271 and the closed road reserve are currently farmed (for cropping) by the separate landowner of a much larger 326 ha farming lot to the west (Lot 2390 Chapman Valley Road). The northern portion of Part Lot 271 contains regrowth native vegetation. There is currently no dwelling on the lot.

The closed road reserve has never been constructed as a road. It does not provide access to any property or land parcel, nor is it required for this purpose. The closed road reserve is entirely cleared and used for farming purposes.

2.4 Proposed amalgamation

This Amendment will reflect the proposed amalgamation of the closed road reserve with Part Lot 271 into a single lot of 7810 m². The resultant larger lot will provide an increased land area to site a future dwelling with improved setback to the Chapman River and to Chapman Valley Road. It will also provide a safer future crossover for vehicular access that is further southwest with better sight lines and at an improved grade.

At its meeting in September 2014, the Shire of Chapman Valley considered and expressed no objection to the amalgamation of the closed road reserve with Part Lot 271. The Shire has been working with the Department of Lands and the owner of Part Lot 271 on the disposal of the closed road reserve and its amalgamation with Part Lot 271 and this process is well advanced.

2.5 Adjoining Land Use and Development

Adjacent and surrounding land is primarily used for broadacre farming. There is a range of lot sizes in the nearby area, from 7 ha to in excess of 300 ha. The nearest dwelling is located on a 7 ha lot to the south, around 300 m from the subject land. Adjacent and surrounding land is currently zoned Rural.

3.0 SITE DESCRIPTION

3.1 Topography

The subject land is located in the Chapman Valley, between Chapman Valley Road and the Chapman River. The Unallocated Crown Land along the Chapman River forms the north-eastern boundary of the lot.

The subject land slopes down to the northeast towards the bank of the Chapman River and sits at approximately 72m AHD. The southwest of the subject land, including the closed road reserve, is the highest point on the subject land at approximately 80m AHD. Accordingly, the amalgamation of the closed road reserve with Part Lot 271 will provide for a safer future crossover for vehicular access that is further southwest with better sight lines and at an improved grade.

3.2 Flora/Fauna

The southwest portion of the subject land, including the closed road reserve, has been cleared for farming purposes. The northern portion of Part Lot 271 contains vegetation, as a result of re-vegetation programs.

The adjacent Unallocated Crown Land along the Chapman River is well vegetated with remnant vegetation. The Chapman River Foreshore Assessment Report (Water and Rivers Commission, 2001) noted foreshore vegetation along a stretch of the river including adjacent to the subject land was in Moderate condition. While fauna was not the primary focus of the 2001 foreshore assessment, it was noted that few animals were seen or heard during the survey (conducted in May 2000) along stretch of the river including adjacent to the subject land.

Mapping in the Moresby Range Management Strategy (based on a vegetation types study by J.S. Beard and A.C. Burns (1976) indicates that vegetation on and adjacent to the subject land falls within Vegetation Type 35: shrublands and jam scrub.

3.3 Hydrology – Groundwater and Chapman River environs

The Chapman River Foreshore Assessment Report (2001) noted the importance of protecting the long-term survival of the vegetation along this stretch of the Chapman River including adjacent to the subject land. It indicates that management needs to aim at maintaining a sufficient level of natural regeneration at all times, with implications for stock and pest management.

Recommendations of the Foreshore Assessment Report for the stretch of the Chapman River including adjacent to the subject land include:

- protect remnant vegetation from livestock damage by fencing;
- investigate opportunities to provide financial support or material assistance to landholders willing to implement rehabilitation activities;
- support regeneration of overstorey and understorey species to ensure stream cover is provided in the long-term;
- continue to control stock access to ensure that sufficient groundcover is maintained all year round;
- encourage natural regeneration of the foreshore area by limiting stock access to that required for effective weed control;
- monitor for sufficient regeneration and if inadequate consider planting supplementary tubestock.

The Report also makes a range of recommendations regarding weed control.

One of the recommendations of the Moresby Range Management Strategy (see Section 4.3.3. below) is implementing the recommendations of the Chapman River Foreshore Assessment Report WRM23 (Waters and Rivers Commission, 2001) to restore and manage the Chapman River and associated tributaries.

3.4 Bushfire Hazard

The State Government has recently released mapping to delineate bushfire prone areas across Western Australia. The subject land is identified as being within a bush fire prone area given the partial inclusion of, and proximity to, vegetation.

Whilst the southwest portion of the subject land (including the closed road reserve) is cleared farmland and has relatively flat topography, and would comprise a Low bushfire hazard the remnant vegetation in the adjacent Chapman River reserve results in its classification as bushfire prone due to its proximity to the intact parcel of bushland. The vegetation on the northern part of the subject land may also be classified as bushfire prone vegetation. As such, a 100 metre buffer from that bushfire prone vegetation would also be classified as bushfire prone.

Under the bushfire planning reforms that have now taken effect, a Bushfire Attack Level [BAL] assessment will be required for any dwelling (or other habitable building) on land within a bushfire prone area. This assessment would be required to be in accordance with Australian Standard AS 3959 *Construction of Buildings in Bushfire Prone Areas*. The BAL assessment will determine required construction standards.

Development on existing Lot 271 would require a BAL Assessment to be undertaken, however, it should be noted that the amalgamation of the closed road reserve with Part Lot 271 will create a larger lot with the opportunity for a greater setback for a dwelling from the remnant vegetation in the UCL and regrowth vegetation on the subject land for an improved bushfire safety outcome.

3.5 Land Capability

The 7810 m² lot resulting from the amalgamation will have adequate separation distance, both horizontal and vertical, from the Chapman River to accommodate on-site effluent disposal for a dwelling. A building envelope may need to be determined to ensure this outcome is achieved.

3.6 Servicing

The subject land is not currently serviced. At development stage, a proponent would need to demonstrate a suitable supply for potable water, in accordance with local planning scheme provisions. Western Power services may be available to the proposed lot after amalgamation.

3.7 Aboriginal Heritage

A review of the Department of Aboriginal Affairs' Aboriginal Heritage Inquiry System shows no recorded sites of Aboriginal heritage significance on the subject land. However, the adjacent Chapman River is a Registered Aboriginal Site of historical and mythological type (ID 30063).

Development of the subject land for a dwelling or any related purpose should not involve any disturbance of the adjacent Chapman River. Any disturbance of the Chapman River, as a registered site, would require consent from the Minister for Aboriginal Affairs under section 19 of the *Aboriginal Heritage Act 1972*.

3.8 European Heritage

The subject land is not listed on any state or national heritage list or register, nor the Shire of Chapman Valley's municipal Heritage Inventory.

4.0 STATUTORY PLANNING CONSIDERATIONS

There are several state government planning policies and documents which guide rural land use planning in Western Australia in general and the Geraldton Region and Shire of Chapman Valley in particular.

4.1 State Planning Policies

4.1.1 SPP No. 2 Environmental and Natural Resources Policy

State Planning Policy No. 2 is a broad policy addressing environmental and natural resource issues. The policy measures most relevant to consideration of this Amendment include:

- actively seeking opportunities for improved environmental outcomes including support for development which provides for environmental restoration or development; and
- having regard to the capability of land to accommodate different land uses and developments, including erosion hazard, absorptive capacity of soils and slope stability.

This Amendment is consistent with the above requirements. It reflects an amalgamation of a closed road reserve with an existing privately owned lot to create a larger lot that will enable a future dwelling to achieve a greater setback from the Chapman River.

4.1.2 SPP No. 2.5 Land Use Planning in Rural Areas

The latest version of SPP No. 2.5 was gazetted in November 2013. The objectives of SPP 2.5 are:

- a) To protect rural land from incompatible uses by:
 - i) requiring comprehensive planning for rural areas;
 - ii) making land use decisions for rural land that support existing and future primary production and protection of priority agricultural land, particularly for the production of food; and
 - iii) providing investment security for the existing and future primary production sector.
- b) To promote regional development through provision of ongoing economic opportunities on rural land.
- c) To promote sustainable settlement in, and adjacent to, existing urban areas.
- d) To protect and improve environmental and landscape assets.
- e) To minimise land use conflicts.

The Amendment is consistent with the above objectives of the SPP. The Amendment relates to an existing privately owned lot and a closed road reserve being amalgamated with it to create a larger single lot, and proposes Rural zoning of the subject land. Accordingly, the SPP's policy measures for rural living precincts do not apply to this Amendment.

Nonetheless, the Amendment is generally consistent with the policy measures for rural living precinct in section 5.6 of the SPP,

especially in regards to demonstration of adequate potable water supply, which would be required to be addressed at development application stage as required by town planning scheme provisions.

4.1.3 SPP No. 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning

The land subject of this Amendment may be impacted by noise from a future railway line providing access to the Oakajee Port and/or Industrial Estate.

Table 1 of the SPP sets out outdoor noise criteria that apply to proposals for new noise-sensitive development or new major roads and railways. A Noise Limit of 60 dB(A) applies during the day (6am – 10pm) and 55dB(A) at night. A lower Noise Target of 55dB(A) applies during the day and 50dB(A) at night. Relevant to the subject land, given the findings of the Oakajee – Narngulu Infrastructure Corridor (ONIC) Draft Alignment Definition Report, is the following statement in Section 5.3.1 of the SPP:

In areas where the noise target is likely to be exceeded, but noise levels are likely to be within the 5dB margin, mitigation measures should be implemented by the developer with a view to achieving the target levels in at least one outdoor living area on each residential lot.

The SPP goes on to address issues including possible noise management and mitigation measures and Notifications on Title.

Section 4.2.5 of this Amendment report addresses the ONIC Draft Alignment Definition Report and its implications under SPP 5.4.

Closing the road and amalgamating it provides the opportunity for greater separation distance between future development and the ONIC alignment.

4.2 Regional Planning

4.2.1 Geraldton Region Plan

The Greater Geraldton Structure Plan, contained within the WAPC's Geraldton Region Plan (1999) identifies the subject land as Foreshore and River Systems, but outside of the Moresby Range. The Structure Plan shows surrounding land as Rural. It also shows a Possible Future Rail Line on or immediately adjacent to the subject land (this alignment now superseded).

The Foreshore and River Systems classification likely merely reflects the Recreation reservation under the then current Shire of Chapman Valley Town Planning Scheme No. 1. As outlined below, detailed study has identified a route for a future rail line that is now approximately 1 km away from the subject land.

4.2.2 Greater Geraldton Structure Plan Update 2011

In June 2011, an updated Greater Geraldton Structure Plan was released. This 2011 plan is to be used in conjunction with the Greater Geraldton Structure Plan (1999), and is to guide amendments to and reviews of the local planning schemes and strategies of the City of Greater Geraldton and the Shire of Chapman Valley.

The 2011 Structure Plan identifies the subject land as "regional park, recreation and conservation". This classification reflects the Recreation reservation under the then current Shire of Chapman Valley Town Planning Scheme No. 1. Part 5 of this report will argue that the reservation in the previous and current local planning scheme is inappropriate. As with the 1999 Structure Plan, it identifies the subject land as Rural and lying outside of the Moresby Range.

The 2011 Structure Plan shows an indicative Oakajee Port and Rail rail alignment and indicative proposed Oakajee – Narngulu Infrastructure Corridor well to the northeast of the subject land, but notes that the final alignment of both is subject to further investigation. This is addressed in Section 4.2.5 of this report below.

4.2.3 Moresby Range Management Strategy

The Western Australian Planning Commission's Moresby Range Management Strategy (August 2009) addresses land in and around the Moresby Range, from Isseka in the north and Nabawa in the east to the Geraldton – Mount Magnet Road in the south.

The objectives of the strategy are to:

- protect, conserve and enhance the natural values of the range;
- protect the indigenous and non-indigenous cultural values;
- improve public access and recreation opportunities;
- manage the risk of erosion and bushfires; and
- ensure a consistent and coordinated policy approach by local and state government to planning decisions.

The subject land is located within the study area, near to but outside the Detailed Investigation Area. The land is located outside of the footslopes of the Moresby Range.

Map 5 (Environment and Conservation) in the Strategy does not identify any Declared Rare or Priority Flora on the subject land, but notes the presence of remnant vegetation along the Chapman River on and adjacent to the subject land. Map 6 identifies Chapman Valley Road as a tourist drive, but does not identify the subject land as a visually sensitive area. It notes a public viewing area immediately to the north of the Chapman River from the subject

land (the Fig Tree Crossing roadside rest area). Map 7 notes the adjacent Chapman River as having natural landscape significance.

Given that the subject land is located outside of the Moresby Range footslopes and is not subject to key environmental or landscape constraints, the Strategy has few recommendations directly relevant to the subject land. The recommendations that are most relevant to the subject land are:

17. Implement the recommendations of the Chapman River Foreshore Assessment Report WRM23 (Waters and Rivers Commission, 2001) to restore and manage the Chapman River and associated tributaries.
18. Ensure that the assessment of land use and development proposal on land containing, or adjacent to, watercourses provides for appropriate levels of public access, foreshore management and, where necessary, foreshore reserves. Determining appropriate setbacks and buffers from waterways should be based on the proposed land use; consideration of State Planning Policy 2.9: Water Resources (WAPC, 2006); and a biophysical criteria assessment, as defined in the Foreshore Policy 1 – Identifying the Foreshore Area (Water and Rivers Commission, 2002).
47. Minimise development in key corridors and travel route corridors (Map 5 and Map 6 respectively); advocate the siting and design of buildings and structures to have minimum possible impact on key view corridors and from travel routes, and to reflect the surrounding character:
 - particular attention should be paid to the location and orientation of large sheds and screening to minimise their impact on views to the range; and
 - lower sites should be chosen, sheds should be orientated perpendicular to the primary view and screening should be provided, whether by vegetation or other development.

4.2.4 Moresby Range Management Plan

The Moresby Range Management Plan, prepared for the City of Greater Geraldton and the Shire of Chapman Valley, was released in June 2010. The Management Plan fulfils a recommendation of the Moresby Range Management Strategy and provides more detailed guidance over a portion of the Moresby Range nearest Geraldton. The subject land lies outside of the Study Area for the Moresby Range Management Plan and is thus not affected by any of the plan's recommendations. Figure 04.4 of the Management Plan document confirms that the subject land is not in a visually sensitive area.

4.2.5 ONIC – Oakajee – Narngulu Infrastructure Corridor

The Oakajee – Narngulu Infrastructure Corridor (ONIC) is a proposed rail, road and services corridor linking the Narngulu industrial estate with the proposed Oakajee industrial estate and port (the southern boundary of the ONIC is the Geraldton – Mount Magnet Road and rail line). The road component will form part of the Geraldton Outer Bypass, which will allow heavy freight vehicles to bypass the built up areas of Geraldton.

The Oakajee – Narngulu Infrastructure Corridor Draft Alignment Definition Report (February 2014) outlines the recommended alignment for the ONIC. It is located further from the subject land, being located well to the east along Morell Road and crossing Chapman Valley Road much further north than the 1999 Geraldton Region Plan alignment.

The road alignment of the ONIC is now proposed to run approximately 950m northeast of Part Lot 271, while the rail component is proposed approximately 1 km northeast of Part Lot 271. The service component is proposed approximately 450 m northeast.

Given the findings of the ONIC Draft Alignment Definition Report, it is no longer considered that the issue of the road and rail alignments as being an impediment to the amalgamation proceeding.

The ONIC Draft Alignment Definition Report identifies land near the preferred corridor alignment that will exceed outdoor noise limits (>55 dB) set out in State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning. The subject land lies outside of those identified areas, but within an area that would exceed the lower noise target (>50 dB). As set out in SPP 5.4, the design of a dwelling falling within this margin between the noise target and noise limit can address the issue by implementing mitigation measures with a view to achieving the target levels in at least one outdoor living area on the lot.

The Oakajee – Narngulu Infrastructure Corridor Draft Alignment Definition Report was advertised for public comment in February and March 2014. At the time of writing a final State Government confirmation of the corridor alignment is still pending.

4.3 Shire of Chapman Valley Local Planning Strategy

The objectives of the Local Planning Strategy include:

- maintain and promote the rural character and distinctive rural lifestyle of the Shire;
- provide a range of lifestyle and housing opportunities;
- protect and preserve the physical resources upon which the agricultural industry is based and manage these resources in a sustainable manner;

- ensure that water resources are conserved and their quality protected; and
- minimise the clearing of vegetation and maximise retention and replanting of native vegetation to link areas of remnant bushland with roadside vegetation and nature reserve.

The subject land is contained within the Chapman Valley precinct and the amendment is consistent with the overarching strategy objectives, and the objectives of the particular precinct in which it is located.

4.4 Shire of Chapman Valley Local Planning Scheme No. 2

The subject land, both Part Lot 271 and the closed road reserve, are reserved Parks and Recreation in the Shire's Local Planning Scheme No. 2. This reflects the Recreation reservation over the subject land in the Shire's previous Town Planning Scheme No. 1.

The adjacent Unallocated Crown Land along the Chapman River is also within the Parks and Recreation Reserve. Chapman Valley Road, adjacent to the subject land, is merely a Road Reserve, not a Major Road Reserve. No Special Control Areas affect the subject land.

4.4.1 Proposed zoning: Rural

The objectives of the Rural zone are to:

- (a) provide for a variety of agricultural/rural activities;
- (b) provide for other land uses compatible with the predominant use of the land;
- (c) prevent the establishment of land uses more appropriately undertaken in commercial and/or industrial areas;
- (d) provide appropriate protection from incompatible development for existing land uses; and
- (e) protect the environmental and landscape values of the land.

A dwelling may be approved under the Rural zone. A wide range of other uses are permissible or discretionary within the Rural zone, but the small lot size may preclude many of these.

Subdivision of land within the Rural zone will generally not be supported.

All surrounding privately owned land is zoned Rural.

For the reasons set out in Part 5 of this Amendment Report, it is contended that Rural is the most appropriate zone for the subject land (Part Lot 271 and the closed road reserve).

Development on the lot (once zoned Rural), will not be exempt from the requirement to make application for planning approval as per sections 8.2 (b)(vi) providing the opportunity for conditions of approval to be set which are relevant to building location, fencing, access location, fire management and effluent disposal.

5.0 PROPOSED SCHEME AMENDMENT

This section outlines the proposed Scheme Amendment, specifying and providing justification for the proposed Rural zoning.

5.1 Scheme Amendment Proposal

This Amendment proposes to remove Part Lot 271 Chapman Valley Road, Yetna and an adjacent closed road reserve from the Parks and Recreation reserve and include them in the Rural zone. The two land parcels are currently being amalgamated and have a combined total area of 7810 m².

5.2 Justification

5.2.1 Private ownership

Part Lot 271 has been in private ownership for many years. The southwest portion of the lot is currently farmed (for cropping) in conjunction with the adjoining closed road reserve and the adjoining farming lot to the west.

At its September 2014 meeting, Council supported the amalgamation, noting that the closed road reserve is not required by the Shire and that the amalgamation would help facilitate the use of the resultant lot for a dwelling with improved setbacks and road access. The disposal and amalgamation of the closed road reserve is now well advanced.

The Shire of Chapman Valley clearly has no intention to purchase the subject land and the original identification of a public zoning over private land was made in error. As there is no intention for the land to be brought into public ownership, it is not appropriate to retain a reservation over the land in the Shire's Local Planning Scheme.

5.2.2 Land not required for recreation

There is no requirement for the subject land to be used for parks or recreation purposes, nor for public access to the Chapman River. In the absence of facilities, easy public access to this section of the Chapman River may not be desirable. Nonetheless, public access is available from the Chapman Road reserve and the Fig Tree Crossing roadside rest area on the opposite, northern side of the river. That roadside rest area also provides for any passive recreation requirements taking advantage of proximity to the river.

Again, this reiterates that it is not appropriate to retain a reservation over the land in the Shire's Local Planning Scheme.

5.2.3 Distance from ONIC (Oakajee – Narngulu Infrastructure Corridor)

The February 2014 Oakajee – Narngulu Infrastructure Corridor Draft Alignment Definition Report has made it clear that the subject land will not be required for a possible road, rail or services alignment for the ONIC. This report has given the Shire confidence to support the amalgamation of Part Lot 271 and the closed road reserve, whereas uncertainty over the railway and corridor alignments was previously considered a constraint.

Further, the ONIC presents no constraint to the proposed Rural zoning of the subject land.

5.2.4 Suitability for dwelling

Given the size of the subject land, it is likely to only be used for a dwelling and ancillary purposes.

The subject land, particularly when the amalgamation of Part Lot 271 with the closed road reserve has been completed, will have sufficient area to accommodate a dwelling having regard to:

- any potential flooding from the Chapman River;
- minimum 100 m setback to the Chapman River for watercourse protection;
- bushfire hazard and the requirement for BAL assessment;
- on-site effluent disposal capacity, including adequate setback (horizontal and vertical) from the Chapman River;
- appropriate vehicular access to/from Chapman Road; and
- servicing requirements for a dwelling on Rural zoned land.

A plan showing a building exclusion area and site access is attached that demonstrates that an adequate area will be available in the southwest of the lot (after the amalgamation) to satisfy the above requirements.

5.2.5 Rural Zone most appropriate zone

Despite its size being far smaller than the prevailing lot size in the area, it is appropriate to zone the land Rural. This is consistent with surrounding land use context and expected range of future uses.

A Rural Residential zoning (which would match the proposed lot size) would create an undesirable zoning anomaly, and may give rise to an undesirable precedent for the immediate area and throughout the Shire more generally.

It should also be noted that the amalgamation of the closed road reserve will increase the land area of an already existing privately owned lot.

It is understood that the Shire will shortly be reviewing the Local Planning Strategy. It is also understood that in this review, given the removal of uncertainty around the ONIC alignment, the Shire may consider land in this general area for Rural Smallholdings.

However, until the extent of this Rural Smallholdings area is considered and defined by an endorsed strategy, it would be premature to include the subject land in a Rural Smallholdings (or Rural Residential) zone.

5.2.6 Absence of environmental and planning constraints

The subject land is not subject of any environmental or planning constraints that preclude Rural zoning, the development of a dwelling and/or other appropriate uses that may be considered under the Rural zone.

The southwest portion of the subject land has long been cleared of native vegetation for agricultural use. There are no recorded Aboriginal or European heritage sites on the subject land. There is no recorded Declared Rare or Priority Flora on the subject land. Detailed analysis for the Moresby Range Management Strategy and Moresby Range Management Plan has shown that the subject land is not in a visually sensitive area.

6.0 CONCLUSION

The proposed Rural zoning is appropriate for the subject land. The subject land is privately owned and not required for parks and recreation purposes, nor for public access to the Chapman River or any other landholding. The Shire has supported amalgamation of Part Lot 271 with the closed road reserve and this process is now well advanced. The amalgamation will better accommodate the use of the land for a dwelling by allowing improved setbacks from the Chapman River and adjacent bushland and an improved vehicular access point to/from Chapman Valley Road with gentler grade and better sight lines than currently possible from Part Lot 271. The constraint of infrastructure corridor planning has been removed by the recommendation of a final Oakajee – Narngulu Infrastructure Corridor alignment well to the east of the subject land. The land is not subject to environmental or planning constraints.

The Amendment is justified and will rectify a zoning anomaly of a reserve zoning over private land and better accommodate development which is appropriate to the land's rural location and particular characteristics.

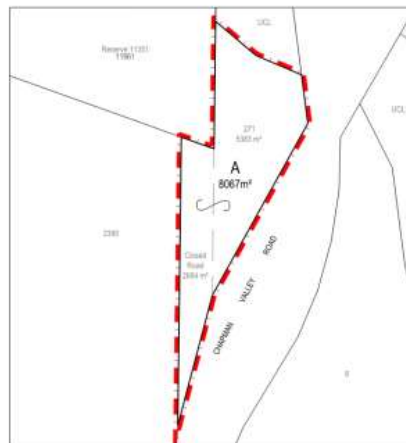


ZONING AS DEPICTED IN
SHIRE OF CHAPMAN VALLEY
LOCAL PLANNING SCHEME No.2

LEGEND
 - - - SUBJECT LAND
 ■ PARKS AND RECREATION

PROPOSED ZONING

LEGEND
 - - - SUBJECT LAND
 ■ RURAL



PROPOSED AMALGAMATION

NOTE: Lot area after amalgamation indicative only and subject to final survey and Deposited Plan preparation.

LEGEND
 - - - SUBJECT LAND

Figure 9.1.6(b) – Cadastral Plan for Reserve 17233 Nolba Stock Route, Nolba

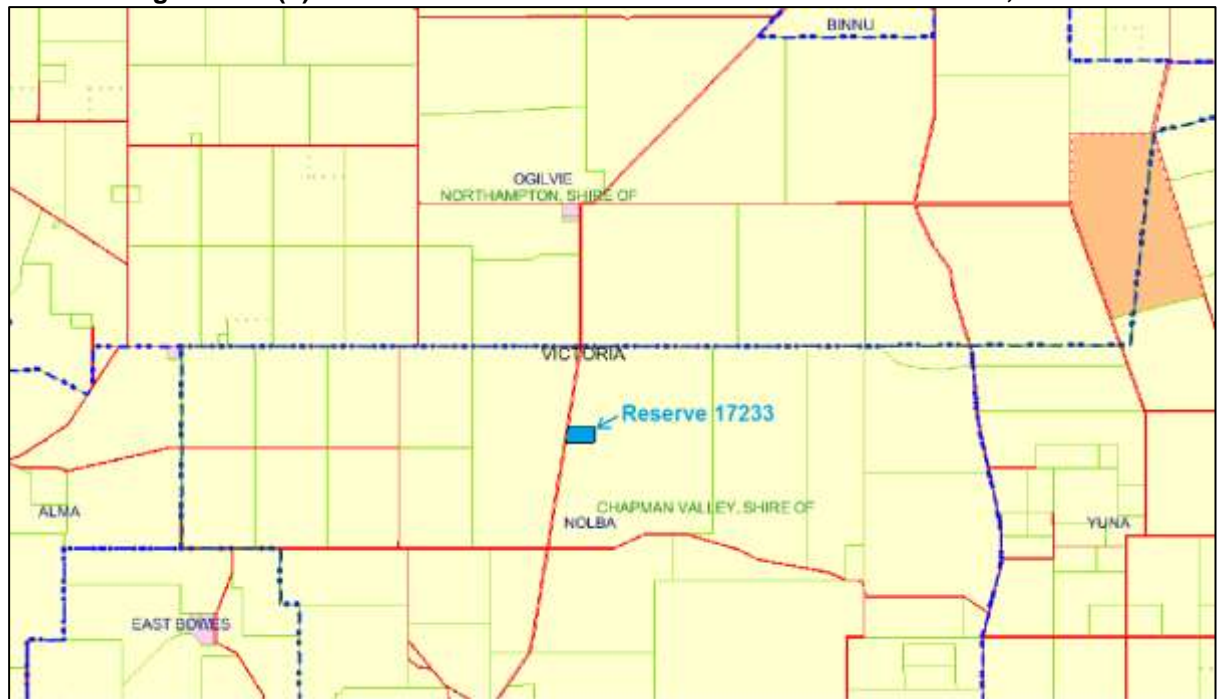


Figure 9.1.6(c) – Aerial Photograph of Reserve 17233 Nolba Stock Route, Nolba



POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Should Council accept a management order for Reserve 17233 from the Department of Lands then the Shire will be responsible for ongoing management (similar to its other reserves) this would include fire, rubbish, access and environmental responsibilities.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Long Term Financial Plan.

Figure 9.1.6(d) – Reserve 17233 looking south-east from Nolba Stock Route



STRATEGIC IMPLICATIONS

Section 5.11.1 of the Shire of Chapman Valley Local Planning Strategy ('the Strategy') notes that:

"5.11.1 Reserves and National Parks - Major reserves and remnant vegetation within the Chapman Valley Shire are in the east and north east and the steeper slopes and mesa tops of the Moresby Ranges. The East Yuna and Wandana Reserves are the most notable and are included in System 5. Protection measures are planned for the Moresby Ranges, which were also recognised in System 5. Here vegetation communities are significant and contain a number of Rare and Priority species. Some land has been acquired by Government and other land may be taken up as the opportunities are presented.

There is merit in retaining strips of indigenous vegetation as wind and wildlife belts between cleared arable land, and consideration should be given to preserving additional areas of remnant vegetation, with Government now tending to a 'No Clearing Policy'."

Section 5.12.4 of the Strategy notes that:

"5.12.4 Gravel - Laterite gravel is present on mesa tops and on the plateau remnants. However these areas also frequently remain covered by remnant vegetation. There is a current trend to produce road making materials by crushing laterite (ferricrete duricrust) using portable crushing equipment. Consideration should be given for the protection of strategic gravel sources by the planning process."

Reserve 17233 is located within Precinct No.1 – Yuna East of the Strategy and by assuming responsibility for the reserve Council would be in position to implement either of the following Precinct No.1 objectives, or a combination thereof:

"Economic Objective 1.2.4 - Support the extraction of basic raw materials (except radioactive materials or minerals), pursuant to the provisions of the Mining Act 1978 and conducted in accordance with the 'Mining Code of Conduct' and 'Farmer Mining Guide'."

"Environmental Objective 1.3.1 - Encourage re-vegetation and retention of existing vegetation in order to minimise soil erosion and salinity levels through the promotion of natural resource management measures."

"Environmental Objective 1.3.5 - Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements."

The Department of Agriculture & Food's 'Identification of High Quality Agricultural in the Mid West Region' (2013) technical report (pages 154-155) identifies Reserve 17233 as being within the Yuna-Binnu Sandplain Agricultural Land Area with the area characterised as follows:

"These areas are dominated by broad expanses of undulating yellow sandplain with some areas of dune ridges. Currently they are used mainly for cropping (mostly wheat), though the grazing of livestock (mostly sheep with a few cattle) is also significant. No significant irrigated agriculture exists. This area is typified by relatively large properties (mostly between 1000 and 5000 ha) comprised of relatively large parcels. Most of this area is cleared with only about 8 per cent of the remnant vegetation remaining. Much of this lies on the land least suited to agricultural production."

"Good quality yellow deep sands, with some yellow sandy earths, (Eradu series) cover most of this area, along with fair quality yellow deep sands (Eurangoa). Other soils include the poorer quality coarse yellow deep sands—generally on dunes (Indarra series); grey deep sandy duplexes (Heaton series); and in the north, red shallow loamy duplexes (Northampton series). Most of these soils are well drained."

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Strategic Community Plan.

CONSULTATION

In the event that the Department of Lands were unable to find a government agency willing to accept the management of Reserve 17233 it may approach the adjoining landowner of Lot 4039 Nolba Stock Route (BRW Enterprises Pty Ltd) enquiring whether they wished to purchase the land.

RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council write to the Department of Lands advising that it would accept the management order for Reserve 17233 Nolba Stock Route, Nolba subject to the purpose of the reserve being amended to 'Water & Road Purposes' or 'Local Government Requirements'.

AGENDA ITEM:	9.1.7
SUBJECT:	RESERVE 29078 WANDIN ROAD, EAST YUNA
PROPONENT:	DEPARTMENT OF LANDS
SITE:	RESERVE 29078 WANDIN ROAD, EAST YUNA
FILE REFERENCE:	R29078
PREVIOUS REFERENCE:	N/A
DATE:	4 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council is in receipt of correspondence from the Department of Lands enquiring whether it would be prepared to accept the management order for Reserve 29078 Wandin Road, East Yuna that the Department of Water have identified as surplus to their requirements. This report recommends that Council advise the Department of Lands that it would accept the management order for Reserve 29078 subject to the amendment of the reserve purpose from 'Water' to 'Water & Road Purposes' or 'Local Government Requirements'.

COMMENT

Reserve 29078 Wandin Road is a 41.8748ha property containing remnant vegetation located on the north-western corner of the Wandin Road and Saint John Road intersection, approximately 20km east of the Yuna townsite.

Reserve 29078 was gazetted as a 'Water' reserve on 26 April 1968, and still retains the management purpose of 'Water'. The current responsible agency is the Department of Water who have advised the Department of Lands that they no longer require the property.

Figure 9.1.7(a) - Location Plan for Reserve 29078 Wandin Road, East Yuna



STATUTORY ENVIRONMENT

Reserve 29078 Wandin Road is zoned 'Parks & Recreation' under Shire of Chapman Valley Local Planning Scheme No.2 ('the Scheme'), were Council to accept the management of the reserve this could be amended to a 'Public Purposes' zoning as part of a future omnibus Scheme Amendment or during the next Scheme Review.

The Department of Lands have advised that native title has been extinguished for Reserve 29078.

Figure 9.1.7(b) – Cadastral Plan for Reserve 29078 Wandin Road, East Yuna



Figure 9.1.7 (c) – Aerial Photograph of Reserve 29078 Wandin Road, East Yuna



POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Should Council accept a management order for Reserve 29078 from the Department of Lands then the Shire will be responsible for ongoing management (similar to its other reserves) this would include fire, rubbish, access and environmental responsibilities.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Long Term Financial Plan.

Figure 9.1.7(d) – Reserve 29078 looking south-west from Saint John Road



Figure 9.1.7(e) – Reserve 29078 looking north from Wandin Road



STRATEGIC IMPLICATIONS

Section 5.11.1 of the Shire of Chapman Valley Local Planning Strategy ('the Strategy') notes that:

"5.11.1 Reserves and National Parks - Major reserves and remnant vegetation within the Chapman Valley Shire are in the east and north east and the steeper slopes and mesa tops of the Moresby Ranges. The East Yuna and Wandana Reserves are the most notable and are included in System 5. Protection measures are planned for the Moresby Ranges, which were also recognised in System 5. Here vegetation communities are significant and contain a number of Rare and Priority species. Some land has been acquired by Government and other land may be taken up as the opportunities are presented.

There is merit in retaining strips of indigenous vegetation as wind and wildlife belts between cleared arable land, and consideration should be given to preserving additional areas of remnant vegetation, with Government now tending to a 'No Clearing Policy'."

Section 5.12.4 of the Strategy notes that:

"5.12.4 Gravel - Laterite gravel is present on mesa tops and on the plateau remnants. However these areas also frequently remain covered by remnant vegetation. There is a current trend to produce road making materials by crushing laterite (ferricrete duricrust) using portable crushing equipment. Consideration should be given for the protection of strategic gravel sources by the planning process."

Reserve 29078 is located within Precinct No.1 – Yuna East of the Strategy and by assuming responsibility for the reserve Council would be in position to implement either of the following Precinct No.1 objectives, or a combination thereof:

“Economic Objective 1.2.4 - Support the extraction of basic raw materials (except radioactive materials or minerals), pursuant to the provisions of the Mining Act 1978 and conducted in accordance with the ‘Mining Code of Conduct’ and ‘Farmer Mining Guide’.”

“Environmental Objective 1.3.1 - Encourage re-vegetation and retention of existing vegetation in order to minimise soil erosion and salinity levels through the promotion of natural resource management measures.”

“Environmental Objective 1.3.5 - Ensure fire prevention measures are implemented and maintained in accordance with statutory requirements.”

The Department of Agriculture & Food’s ‘Identification of High Quality Agricultural in the Mid West Region’ (2013) technical report (pages 154-155) identifies Reserve 29078 as being within the Ajana-East Yuna Sandplain Agricultural Land Area with the area characterised as follows:

“This area is dominated by broad expanses of yellow sandplain with areas of dune ridges and red soil flats on relict alluvial plains. Currently it is mainly used for cropping wheat, as well as lupins and canola. There is also grazing of livestock (mostly sheep, some cattle and a few pigs). Integration of oil mallee plantations into the farming mix is also becoming more prominent. No significant irrigated agriculture exists. This area is typified by large properties with a variety of lot sizes. About 22 per cent of the area is uncleared.”

“Good quality yellow deep sands with some yellow sandy earths (Eradu series) cover much of this area, along with fair quality yellow deep sands (Eurangoa) and pale deep sands (Allanooka series). There are significant areas of the poorer quality coarse yellow deep sands (Indarra series). Depressions in the sandplain contain red-brown hardpan shallow loams (Mindage and Wilroy series). Most of these soils are well drained.”

- **Strategic Community Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 was adopted by Council at its 19 June 2013 meeting. It is not considered that the determination of this application by Council would have an impact in relation to the Strategic Community Plan.

CONSULTATION

In the event that the Department of Lands were unable to find a government agency willing to accept the management of Reserve 29078 it may approach the adjoining landowner of Lot 989 Wandin Road (Glenridge Downs Pty Ltd) enquiring whether they wished to purchase the land.

RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple majority required.

STAFF RECOMMENDATION

That Council write to the Department of Lands advising that it would accept the management order for Reserve 29078 Wandin Road, East Yuna subject to the purpose of the reserve being amended to ‘Water & Road Purposes’ or ‘Local Government Requirements’.

AGENDA ITEM:	9.1.8
SUBJECT:	EXTENSION OF LEASES
PROPONENT:	E O'DONNELL
SITE:	RESERVE 27944 O'DONNELL ROAD & RESERVE 43025 CHAPMAN VALLEY ROAD, NABAWA
FILE REFERENCE:	R27944 & R43025
PREVIOUS REFERENCE:	02/05-11, 06/10-8 & 2/11-7
DATE:	9 FEBRUARY 2016
AUTHOR:	SIMON LANCASTER

DISCLOSURE OF INTEREST

The applicant is an employee of the Shire of Chapman Valley.

BACKGROUND

The lessee of Reserve 27944 O'Donnell Road and Reserve 43025 Chapman Valley Road, Nabawa has written to the Shire seeking to continue the current grazing lease agreement. This report makes recommendation that new agreements be entered into with the lessee for a further five (5) years.

Figure 9.1.8(a) – Location Plan for Reserves 27944 & 43025, Nabawa



COMMENT

Reserve 27944 is a vacant 5.2987ha property located 1km north of the Nabawa townsite that has a management order dating back to 1966 issued to the Shire of Chapman Valley for the purpose of 'Gravel'.

Reserve 27944 has been leased to the current lessee since 1988 and prior to the lease there was also an unofficial arrangement made between the lessee and the Shire for the use and maintenance of this land that dates back to the 1960's. The current lease agreement is due to expire on 31 December 2016 and the lessee has written to the Shire seeking the extension of this lease.

Figure 9.1.8(b) – Aerial photograph of Reserve 27944 O'Donnell Road, Nabawa



Reserve 43025 is a vacant 11.5521ha property located in between the Chapman River and Chapman Valley Road, 500m south-west of the Nabawa townsite that has a management order issued to the Shire of Chapman Valley for the purpose of 'Recreation'.

Reserve 43025 has been leased to the current lessee since 1994, prior to the lease there was an unofficial arrangement made between the lessee and the Shire for the use and maintenance of this land that dates back to the 1970's. The current lease agreement is due to expire on 30 June 2016 and the lessee has written to the Shire seeking the extension of this lease.

Figure 9.1.8(c) – Aerial Photograph of portion Reserve 43025 that is used for grazing lease (area shown in blue) and lessee's neighbouring landholding (area shown in red)



Council previously resolved at its 16 February 2011 meeting to lease Reserves 27944 and 43025 to the current lessee for the purpose of grazing for a period of 5 years at an annual fee of \$150 (GST ex).

The applicant has both formally and informally managed this parcel of land for many years as an adjoining landowner and no complaints have been received by the Shire in regards to the use and management of the land.

The Shire has no current plans to utilise or develop the land parcels and therefore no objection is raised to the renewal of the current lease, however, it is suggested that as per the current lease agreements, that the Shire retain the ability to terminate the agreement at any time, subject to 3 months' notice should it require the land for some unforeseen purpose.

It is recommended that two new lease agreements should be drafted as per the previous lease agreements, that is for a period of five (5) years with an annual fee of \$150 (GST ex). A draft lease agreement for Reserve 27944 has been included as **Attachment 9.1.8(a)** with this report for Council's consideration (the wording for Reserve 43025 would be similar excepting reference to the subject land and lease period).

STATUTORY ENVIRONMENT

Reserve 43025 is zoned 'Recreation' under the Shire of Chapman Valley Local Planning Scheme No.2, Reserve 27944 is zoned 'Public Purposes-Gravel'.

The Council may under Section 3.54 of the *Local Government Act 1995* issue a licence for the private use of Crown land under its control in the interest of controlling and managing that land.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Were the reserve not leased then Council would be required to undertake maintenance upon the property (e.g. fencing, firebreaks, weed control and general maintenance) which would require mobilising of staff and equipment. It has been previously considered by Council that these resources could be better utilised elsewhere and that leasing the property is a more appropriate means of management. Although the property has only been leased at a relatively low rate it has been considered that such a lease has reduced a cost to Council.

- **Long Term Financial Plan:**

The Shire of Chapman Valley Long Term Financial Plan (2013) was received by Council at its 18 September 2013 meeting. It is not considered that the determination of this application by Council would have impact in relation to the Long Term Financial Plan.

STRATEGIC IMPLICATIONS

- **Strategic Community Plan/Corporate Business Plan:**

The Shire of Chapman Valley Strategic Community Plan 2013-2023 adopted by Council at its 19 June 2013 provides a framework that aims to ensure that assets are affordable and support the right services. The Plan includes the following environmental strategy:

"Ensure we adequately protect and manage the land across the Shire, including weed eradication, mining developments and fire management services."

CONSULTATION

The current lessee has advised that they would like to continue the lease agreement.

RISK ASSESSMENT

Not Applicable.

VOTING REQUIREMENTS

Simple Majority required.

STAFF RECOMMENDATION

That Council under Section 3.54 of the *Local Government Act 1995* resolve to:

- 1 Issue a formal licence to Earl O'Donnell for the use of Crown Reserve 27944 O'Donnell Road, Nabawa for the expressed purpose of grazing. This licence will be valid for a period of five (5) years at an annual fee of \$150 (GST ex).
- 2 Issue a formal licence to Earl O'Donnell for the use of Crown Reserve 43025 Chapman Valley Road, Nabawa for the expressed purpose of grazing. This licence will be valid for a period of five (5) years at an annual fee of \$150 (GST ex).

**AGREEMENT TO LICENSE USE OF RESERVE 27944
FOR PURPOSE OF GRAZING**

An AGREEMENT made on 17 February 2016 between the SHIRE OF CHAPMAN VALLEY having its office at 3270 (Lot 7) Chapman Valley Road, Nabawa in the State of Western Australia (hereinafter called 'the Shire') of the one part and EARL O'DONNELL of 3200 (Lot 328) Chapman Valley Road, Nabawa (hereinafter called 'the licensee') of the other part.

WHEREAS

- (a) Reserve No.27944 (hereinafter called 'the said land') is vested in or placed under the control of the Shire for the purpose of 'Recreation' and by virtue of Section 5 of the *Parks and Reserves Act 1895* and Section 3.54 of the *Local Government Act 1995*, and subject to the approval of the Minister for Lands, the Shire may grant licenses for the purpose of grazing of animals upon the same.
- (b) The licensee has applied to the Shire for a license to graze animals on the said land and the Shire has agreed to grant a license to him on these terms and conditions hereinafter set forth.
 1. Subject to the provisions hereafter contained the licensee shall have the exclusive right to graze stock on the said land for the period 1 January 2017 to 31 December 2022, however, the agreement may be terminated at any time at the expiration of three months notice in writing by either party.
 2. The licensee will pay to the Shire for the License aforesaid the yearly rent of one hundred and fifty dollars (\$150 + GST) or such other amount as the Shire may in respect of any year other than the first year at any time and from time to time determine yearly in advance on or before the first day of January in every year after the commencement of the said term.
 3. The land shall not be used for any purpose other than grazing.
 4. The licensee shall not without the previous consent in writing of the Shire, and approval of the Minister of Lands, transfer, mortgage, sublet or part with the possession of the demised land.
 5. The licensee shall not cut down, fell, injure or destroy any living timber or scrub upon the demised land except for the purpose of destroying poisonous growth or by the agistment of stock in reasonable numbers.
 6. The licensee shall indemnify the Shire and the Minister of Lands against all claims for damage to property or persons arising from the use of the demised land for the purpose of grazing.
 7. The licensee shall effect no improvements to the demised land without the prior written permission of the Shire.

8. Compensation shall not be payable to the licensee in respect of any improvements effected by her on the demised land and remaining thereon at the expiration or earlier determination of the lease.
9. Power is reserved to the Shire to direct that the number of stock grazing on the demised land shall be reduced if the Shire is of the opinion that the demised land is overstocked to an extent sufficient or likely to cause permanent damage to the land; failure to comply with any such direction will result in the forfeiture of the license.
10. The licensee shall be responsible for the maintenance of fencing and the construction and maintenance of firebreaks or other fire management measures to the requirements of the Shire.

WITNESS whereof this agreement has been signed the day and the year first before written.

The **COMMON SEAL** of the **SHIRE OF CHAPMAN VALLEY**

Was hereunto fixed in the presence of

PRESIDENT

CHIEF EXECUTIVE OFFICER

Signed by the said of

EARL O'DONNELL

In the presence of:

Print Name

Signed

Approved

MINISTER FOR LANDS

9.2 Finance February 2016

Contents

9.2 AGENDA ITEMS

9.2.1 Financial Reports for December 2015 & January 2016

9.2.2 Annual Budget Review 2015/2016

AGENDA ITEM:	9.2.1
SUBJECT:	FINANCIAL REPORTS FOR DECEMBER 2015 & JANUARY 2016
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	307.04
PREVIOUS REFERENCE:	N/A
DATE:	9 FEBRUARY 2016
AUTHOR:	KRISTY WILLIAMS & DIANNE RAYMOND

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Financial Regulations require a monthly statement of financial activity report to be presented to Council.

COMMENT

Attached to this report are the monthly financial statements for December 2015 & January 2016 for Council's review.

STATUTORY ENVIRONMENT

Local Government Act 1995 Section 6.4

Local Government (Financial Management) Regulations 1996 Section 34

POLICY IMPLICATIONS

Policy 5.70 Significant Accounting Policies

Extract:

"2. Monthly Reporting

In accordance with Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Financial Management Regulations 1996, monthly reporting will be provided as follows:

- 1. Statement of Financial Activity*
 - 2. Balance Sheet and statement of changes in equity*
 - 3. Schedule of Investments*
 - 4. Operating Schedules 3 – 16*
 - 5. Acquisition of Assets*
 - 6. Trust Account*
 - 7. Reserve Account*
 - 8. Loan Repayments Schedule*
 - 9. Restricted Assets*
 - 10. Disposal of Assets*
- A value of 10 percent is set for reporting of all material variances."*

FINANCIAL IMPLICATIONS

As presented in December 2015 & January 2016 financial statements.

- **Long Term Financial Plan (LTFP):**

No significant affect on the LTFP

STRATEGIC IMPLICATIONS

Nil

- **Strategic Community Plan/Corporate Business Plan:**

Nil

CONSULTATION

Not applicable

RISK ASSESSMENT

The associated risk would be the failure to comply with Local Government Financial Regulations requiring monthly reporting of financial activity.

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

That Council receives the financial report supplied under separate attachment for the month of December 2015 & January 2016 comprising the following:

- Summary of Payments
- Summary of Financial Activity,
- Net Current Assets
- Detailed Statement of Financial Activity,
- Details of Cash and Investments,
- Statement of Significant Variations,
- Summary of Outstanding Debts
- Reserve Funds
- Information on Borrowings
- Disposal of Assets
- Acquisition of Assets
- Rating Information
- Trust Fund Reconciliations
- Bank Reconciliation

AGENDA ITEM:	9.2.2
SUBJECT:	ANNUAL BUDGET REVIEW 2015/2016
PROPONENT:	CHIEF EXECUTIVE OFFICER
SITE:	CHAPMAN VALLEY SHIRE
FILE REFERENCE:	306.13
PREVIOUS REFERENCE:	NIL
DATE:	17th FEBRUARY 2016
AUTHOR:	DIANNE RAYMOND & KRISTY WILLIAMS

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Local Government Act and Regulations require a local government to review its annual budget between 1st January and 31st March in each year. Regulation 33A of the Local Government (Financial Management) Regulations 1996 states:

“33A Review of budget

- (1) *Between 1 January and 31 March in each year a local government is to carry out a review of its annual budget for that year.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the Council.*
- (3) *A Council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*
** Absolute Majority required*
- (4) *Within 30 days after a Council has made a determination, a copy of the review and determination is to be provided to the Department.”*

COMMENT

Prudent management of the Shire's Annual Budget includes a full review of the Shire's progress halfway through the financial year. This review process has been undertaken having regard for:

- actual revenues and expenditures for the first six (6) months of the financial year,
- forecast revenue and expenditure levels for the remaining six (6) months of the year,
- the more significant (in \$ terms) variances to budget rather than the many minor 'under & over's' which, history has shown, will generally balance out.

Council's adopted budget, at times will need variations made, to reflect changes which occur after the original budget has been adopted. There are a number of amendments identified in the review document (attached) which accommodate unforeseen situations, grant variations, reallocation of works and services, etc, since the Original Budget was adopted.

The items listed in the *Financial Implications* section of this report have been identified as variations required to the Budget with a nil overall effect on the 2015/2016 Adopted Budget.

This report seeks Council consideration of variations as per the attached financial statements, for the mid-year budget review and determination of whether or not to authorise these proposed variations according to both operating and capital income/expenditure (nature and type).

For compliance purposes, the attached December 2015 financial statements include the budget figures as per the budget adopted by Council 29 July 2015. The mid-year review figures incorporate all budget amendments already authorised by Council post budget adoption, up to the period of the budget review.

The original 2015/2016 budget as adopted by Council forecast a closing position of \$1,618,266. After the annual audit and mid-year review the audited closing position is \$1,806,954; an increase in the carried forward surplus of \$188,688. The change in position is primarily due to over estimating 30 June 2015 creditors to be paid in July 2016.

The depreciation budget provision requires amendment as a result of the revaluation of road infrastructure at the 30th June 2015. The revaluation was not complete at the time of preparing the

budget therefore depreciation of roads was estimated based on the previous financial year of \$750,000. The revaluation report by Talis Consulting provides for an annual depreciation on roads of \$3,617,580. It is therefore recommended that the budget for roads be amended as such resulting in the total annual budgeted depreciation increasing from \$1,280,034 to \$4,147,614. This is a non-cash item however will have some impact on Council's ratios at the end of the financial year.

STATUTORY ENVIRONMENT

Local Government Act (1995) – Division 2 - Annual Budget - Section 6.2

Local Government (Financial Management) Regulations - Review of Budget - Reg 33A

POLICY IMPLICATIONS

The budget is based on the principles contained in all Councils Plans for the Future.

FINANCIAL IMPLICATIONS

Attached is a summary of Budget Variations being requested which has a nil overall budget effect.

- **Long Term Financial Plan (LTFP):**

No significant affect on the LTFP

STRATEGIC IMPLICATIONS

Nil

- **Strategic Community Plan/Corporate Business Plan:**

All the above mentioned variations are consistent with the Corporate Business Plan.

CONSULTATION

All Senior Management have been consulted to determine the various budget amendments required.

RISK ASSESSMENT

Associated risk would be a failure to comply with relevant Financial Management Regulations requiring local governments to review their annual budget. The proposed changes to the 2015/2016 Adopted Budget does not have an increased/decreased financial impact, simply a NIL affect overall. The proposed increase adjustments to expenditures are offset by reducing expenditure allocations elsewhere in the budget, increase to income not previously allocated and reduction of loan funds required, with the view to ensuring that the budget outcome for the year achieves or delivers a better overall result than the original budget.

VOTING REQUIREMENTS

Absolute Majority

STAFF RECOMMENDATION

1. Council adopts the 2015/2016 Statutory Budget Review, which includes all amendments listed below; and
2. The 2015/2016 roads depreciation budget allocation be amended in accordance with the recent road infrastructure revaluations. This is a non-cash item therefore will have a nil affect on Council's operating budget.

COA	Description	2015/2016 Adopted Budget	2015/2016 Amended Budget	Budget Variation	Comments
	Estimated Surplus July 1	\$ 1,618,266	\$ 1,806,954	-\$ 188,688	Additional Funds Available at 1/7/15
0192	Members Conference & Training Expenses	\$ 15,000	\$ 20,000	\$ 5,000	Increased expenditure
0202	Members Insurance Expense	\$ 14,552	\$ 11,000	-\$ 3,552	Reduced expenditure
0232	Consultancy & Legal Expenses	\$ 20,000	\$ 23,500	\$ 3,500	Increased expenditure
0312	Admin - Max 3% Council Additional Contr	\$ 16,600	\$ 13,600	-\$ 3,000	Reduced expenditure
0372	Admin Workers Compensation Expense	\$ 21,328	\$ 17,000	-\$ 4,328	Reduced expenditure
0482	Office Telephone & Internet Expenses	\$ 21,840	\$ 27,525	\$ 5,685	Increased expenditure
0562	Administration LSL Expense	\$ -	\$ 5,150	\$ 5,150	Increased expenditure
0573	Reimbursements & Contributions	-\$ 6,500	-\$ 13,000	-\$ 6,500	Increased revenue
0992	Pre-School Repairs & Maintenance	\$ 7,200	\$ 2,000	-\$ 5,200	Reduced expenditure
0993	Lease/Rental Income - Pre-School	-\$ 8,022	\$ -	\$ 8,022	Reduced revenue
2042	Declared Species Group Expenses	\$ 22,646	\$ 11,405	-\$ 11,241	Reduced expenditure
2080	Tfr to Landcare Reserve	\$ 500	\$ 3,968	\$ 3,468	Transfer Reserve
2112	Salary & Wages Expense-T/Plan	\$ 187,674	\$ 158,725	-\$ 28,949	Reduced expenditure
2232	Legal Expenses - Town Planners	\$ 10,000	\$ 15,000	\$ 5,000	Increased expenditure
3132	Community Development Expenses	\$ 28,250	\$ 39,100	\$ 10,850	Increased expenditure
2722	Public Halls & Showgrounds Expense	\$ 69,368	\$ 51,783	-\$ 17,585	Reduced expenditure
2644	Capital Exp. - Land & Buildings	\$ 155,146	\$ 168,146	\$ 13,000	Increased expenditure
1482	Sporting Clubs Expenses	\$ 66,037	\$ 71,037	\$ 5,000	Increase expenditure
2642	Parks, Gardens Expense	\$ 141,786	\$ 152,286	\$ 10,500	Increased expenditure
2772	Minor Gardening Equipment.	\$ 1,500	\$ 5,500	\$ 4,000	Increased expenditure
3124	Roads to Recovery (R2R) Expenditure	\$ 596,095	\$ 601,570	\$ 5,475	Increased expenditure
3184	Council Funded Roadworks Expenditure	\$ 1,002,024	\$ 1,007,499	\$ 5,475	Increased expenditure
3372	Road Maintenance Expense	\$ 569,491	\$ 694,491	\$ 125,000	Increased expenditure
3393	Hudson Resources - Dartmoor Road	-\$ 12,585	-\$ 22,368	-\$ 9,783	Increased revenue
3583	Contributions & Reimbursements	\$ -	\$ 7,292	-\$ 7,292	Increased revenue
3532	Street Trees	\$ 3,131	\$ 7,131	\$ 4,000	Increased expenditure
4152	Provision for LSL	\$ 18,500	\$ 10,000	-\$ 8,500	Reduced expenditure
4183	Contributions & Reimbursements (Building Control)	\$ -	-\$ 2,805	-\$ 2,805	Increased revenue
4263	Income Received	\$ -	-\$ 3,875	-\$ 3,875	Increased revenue
4312	Superannuation - Max 3% Works Staff	\$ 17,976	\$ 13,976	-\$ 4,000	Reduced expenditure
6782	Workers Compensation Insurance	\$ 19,391	\$ 15,391	-\$ 4,000	Reduced expenditure
0342	Provision for LSL	\$ 19,060	\$ 5,859	-\$ 13,201	Reduced expenditure
4422	Works LSL Expense	\$ -	\$ 32,060	\$ 32,060	Increased expenditure
4442	Occupational Health & Safety Expense	\$ 9,752	\$ 11,752	\$ 2,000	Increased expenditure
4552	Cutting Edges & Tips	\$ 9,500	\$ 12,500	\$ 3,000	Increased expenditure
7135	Loan Funds Rec'd.	-\$ 140,199	-\$ 73,885	\$ 66,314	Balancing Item - reduction to loan funds
	Budget amendment impact			\$ 0	

9.3

Chief Executive Officer

February 2016

Contents

9.3 AGENDA ITEMS

9.3.1 Annual Electors Meeting

9.3.2 Finance & Audit Committee

9.3.3 Management Procedure – Voluntary Care & Maintenance works on Shire controlled owned land

9.3.4 Greenough Western Riding Club – Management Licence

AGENDA ITEM:	9.3.1
SUBJECT:	ANNUAL ELECTORS MEETING MINUTES
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	413.01
PREVIOUS REFERENCE:	MINUTE REF: 12/15-10
DATE:	17th FEBRUARY 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

At the December 2015 OCM Council resolved the following:

MOVED: CR FARRELL

SECONDED: CR HUMPHREY

Council:

- 1 *Receives and accepts the Auditors Report for 2014/2015;*
- 2 *Receives and accepts the Auditors Management Letter 2014/2015;*
- 3 ***Sets the date for the Annual General Meeting of Electors for Tuesday 2 February 2016 commencing 6.00pm at the Nabawa Council Chamber and advertise this meeting.***
- 4 *Approves the CEO to give local public notice of the availability of the Annual Report as required by s5.55 of the Act;*
- 5 *Provides a copy of the Shire of Chapman Valley 2014/2015 Annual Report to the Director General of the Department of Local Government.*

Voting 7/0

CARRIED

Minute Reference 12/15-10

Council held its Annual Electors Meeting on 2nd February 2016 and a copy of the unconfirmed minutes from the meeting have been included as **Attachment 1**.

COMMENT

This item is presented to Council at its next ordinary meeting following an Annual Electors meeting to enable its consideration of the issues raised. There being no decisions or resolutions from the Annual Electors meeting requiring Councils consideration Council only need receive the Minutes.

STATUTORY ENVIRONMENT

Section 5.33 of the *Local Government Act 1995* requires that:

- “(1) *All decisions made at an electors meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
- (a) *At the first ordinary council meeting after that meeting; or*
 - (b) *At a special meeting called for that purpose.*
- which ever happens first.*
- (2) *If at a meeting of the Council a local government makes a decision in response to a decision made at an electors meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.”*

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

- **Long Term Financial Plan (LTFP):**

No effect

STRATEGIC IMPLICATIONS

Not applicable

- **Strategic Community Plan/Corporate Business Plan:**

Transparent decision-making is important to us	Active engagement with the community to inform decision-making	Contribution to how local issues are managed
	Maintain a strong customer focus	Effective communication on key decisions

CONSULTATION

Meeting was advertised and attended by electors.

RISK ASSESSMENT

Not applicable

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

The Minutes of the Annual Electors meeting dated 2nd February 2016 be received.



Shire of
Chapman Valley
Love the Rural Life

UNCONFIRMED MINUTES

**ANNUAL GENERAL MEETING OF ELECTORS
TUESDAY 2ND FEBRUARY 2016
COUNCIL CHAMBERS NABAWA
6.00PM**

DISCLAIMER



No responsibility whatsoever is implied or accepted by the Shire of Chapman Valley for any act, omission or statement or intimation occurring during Council Meeting. The Shire of Chapman Valley disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Meeting does so at that person's or legal entity's own risk.

The Shire of Chapman Valley warns that anyone who has any application or request with the Shire of Chapman Valley must obtain and should rely on

WRITTEN CONFIRMATION

Of the outcome of the application or request of the decision made by the Shire of Chapman Valley.

A handwritten signature in black ink, appearing to read 'M. Battilana', written over a large, stylized loop.

Maurice Battilana
CHIEF EXECUTIVE OFFICER

UNCONFIRMED MINUTES

FOR ANNUAL GENERAL MEETING OF ELECTORS TO BE HELD IN THE COUNCIL CHAMBERS NABAWA ON TUESDAY 2 FEBRUARY 2016 AT 6.00PM

Order of Business:

1.0 Declaration of Opening / Announcements of Visitors

The Chairman, Cr Collingwood declared the meeting open at 6.03pm.

2.0 Record of Attendance

2.1 Present

a. Councillors

Member	Ward
Cr John Collingwood (President)	North East Ward
Cr Pauline Forrester	North East Ward
Cr Trevor Royce	North East Ward
Cr Kirrilee Warr	North East Ward
Cr Peter Humphrey	South West Ward
Cr Veronica Wood	South West Ward
Cr Ian Maluish	South West Ward

b. Staff

Officer	Position
Maurice Battilana	Chief Executive Officer
Simon Lancaster	Manager of Planning
Karen McKay	Executive Assistant (Minute Taker)
Dianne Raymond	Manager of Finance & Corporate Services
Kristy Williams	Accountant
Esky Kelly	Manager of Works & Services

c. Visitors

Name	Name
Sue Collingwood	Darren Cole
Lisa Cole	

2.2 Apologies

Name	
Cr Anthony Farrell (Deputy President)	North East Ward
Tom & Tana Davies	Parkfalls Residents

3.0 Confirmation of Minutes of previous Annual Electors Meeting held on 3 February 2015

MOVED: CR FORRESTER

SECONDED: CR WOOD

That the Minutes of the Annual General Meeting of Electors held on Tuesday 3 February 2015 be confirmed as a true and accurate record.

CARRIED

Minute Reference AEM 02/16 - 1

4.0 Receiving of Annual Report 2014/2015 (Incorporates)

- 2014/2015 Annual Financial Statements
- 2014/2015 Audit Report
- Presidents Report
- Chief Executive Officers Report

MOVED: CR WOOD

SECONDED: CR HUMPHREY

That the 2014/2015 Annual Report including Annual Financial Statements, Audit Report, Presidents Report and Chief Executive Officer Report be received.

CARRIED

Minute Reference AEM 02/16 - 2

5.0 General Business

MOVED: MRS COLLINGWOOD

SECONDED: MR COLE

A vote of thanks to Councillors for their representation and to staff for their work over the past 12 months

CARRIED

Minute Reference AEM 02/16 - 3

6.0 Closure

The Presiding Member thanked members, ratepayers, visitors and staff for attending and declared the electors meeting closed at 6.27pm

AGENDA ITEM:	9.3.2
SUBJECT:	FINANCE & AUDIT COMMITTEE MINUTES
PROPONENT:	SHIRE OF CHAPMAN VALLEY
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	403.05
PREVIOUS REFERENCE:	NIL
DATE:	17th FEBRUARY 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire of Chapman Valley Finance & Audit Committee met on the 4th February 2016 in the Council Chambers Nabawa. The Minutes of the meeting have been included. **(Supplied under separate attachment).**

COMMENT

The Minutes and recommendations from the Finance & Audit Committee meeting dated 4th February 2016 are presented for Council consideration.

STATUTORY ENVIRONMENT

Local Government Act 1995 & Local Government Audit Regulations 1996.

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

Not Applicable

CONSULTATION

Committee Members and staff have discussed the Finance and Management Audits with the Auditors (Moore Stephens) with the outcome being the Shire is in quite a sound financial position and management procedures are sound.

RISK ASSESSMENT

Low risk as it is considered the Council remains in a sound financial position and management procedures are sound.

VOTING REQUIREMENTS

Simple Majority

COMMITTEE RECOMMENDATION

That Council receives the Minutes of the Finance and Audit Committee meeting held on the 4th February 2016 and endorse the following recommendations i.e.

1. The Finance and Audit Committee recommends to Council the Management Report for year ending 30 June 2015 be received and, other than monitoring the levels and trends of all ratios, there are no actions required out of the report;

2. The Finance and Audit Committee recommends to Council the Final Audit Report of the Chief Executive Officer the year ending 30 June 2015 be received and it be noted there are no further actions required from the report.
3. That the Finance and Audit Committee recommends the following to Council:
 - a) The 2015 Compliance Audit Return be signed by the CEO and Shire President
 - b) The 2015 Compliance Audit Return be received and recorded in the Minutes of Council
 - c) The 2015 Compliance Audit Return is submitted to the Department of Local Government & Communities.
4. The Committee receives the revised *Risk Management Procedure (CMP-028)* as presented for information only.

AGENDA ITEM:	9.3.3
SUBJECT:	PROPOSED VOLUNTARY CARE & MAINTENANCE WORKS ON SHIRE CONTROLLED/OWNED LAND MANAGEMENT PROCEDURE
PROPOSER:	CHIEF EXECUTIVE OFFICER
SITE:	SHIRE OF CHAPMAN VALLEY
FILE REFERENCE:	411.01
PREVIOUS REFERENCE:	CONCEPT DISCUSSION FORUMS
DATE:	17th FEBRUARY 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

Council has discussed and various forums the need to establish a procedure for volunteers to undertake care and maintenance works on land under the ownership/control of the Shire. After many months of negotiations and discussions with Council's insurer (Local Government Insurance Services (LGIS)) the attached *Draft Voluntary Care & Maintenance Works on Shire Controlled/Owned Land Corporate Management Procedure (CMP-071)* is presented for Council consideration.

COMMENT

It is unfortunate the process of establishing a Draft Corporate Management Procedure has taken so long; however, I have been subject to the availability of LGIS legal representatives and their internal resources to develop something which would not affect Council's liability, yet still satisfy the requirements of Council and the landowners.

This document has been established to hopefully cater for the whole Shire, rather than being specific to particular areas, zoning, etc. This has created some challenges; however, I believe the draft Corporate Management Procedure is broad enough, yet still detailed, to cover most situations. I suppose the content and suitability of the Procedure will not be fully known until it is tested.

It will be noted in the *Objectives* section of the draft Procedure where it is stated Local Laws will always take precedence over the Procedure to ensure if there is any conflict or contradiction the Local Laws will always be the overarching process to be followed. This is a standard approach.

The establishment of a Management Procedure is far more flexible than incorporating this into a Local Law as the Procedure can be amended as part of the Shire standard review process, whereas an amendment to a Local Law is far more complex and cumbersome. The disadvantage of Procedures is they are not legally enforceable, whereas a Local Law is. However, I do not see this as being an issue here.

STATUTORY ENVIRONMENT

As previously mentioned, Local Laws will always take precedence over the Procedure to ensure if there is any conflict or contradiction the Local Laws will always be the overarching process to be followed.

POLICY IMPLICATIONS

If Council endorses the *Voluntary Care & Maintenance Works on Shire Controlled/Owned Land Corporate Management Procedure (CMP-071)* with or without amendment, this will then become part of Council's Management Procedures Manual to guide staff with the operations of the organisation.

FINANCIAL IMPLICATIONS

No financial affected envisaged.

- **Long Term Financial Plan (LTFP):**

Nil affect

STRATEGIC IMPLICATIONS

It is important to establish guidelines and conditions for the operational aspects of the organisation and to provide clear information to the Shire's constituents.

- **Strategic Community Plan/Corporate Business Plan:**

Objective	Strategy	Actions
We want a representation and governance model that reflects our community's unique attributes	The President and Councillors to be representative of the community and provide strong leadership	Develop Council appropriate policies that enable good: governance, development, services and growth

CONSULTATION

Extensive consultation and discussion was undertaken with LGIS to ensure the Draft Management Procedure did not adversely affect Council legal liability and existing insurance policies.

The Draft Procedure was also provided to Leanne Lind, who is undertaking the review of the Shires Local laws to ensure there are no conflicts here. However, the Local Law will always take precedence over a Procedure

RISK ASSESSMENT

A risk assessment was part of the discussions with LGIS, and it was considered there is a low (or no) risk envisaged with the introduction of the proposed Procedure.

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

Council adopts the following *Voluntary Care & Maintenance Works on Shire Controlled/Owned Land* Corporate Management Procedure (CMP-071):

MANAGEMENT PROCEDURE No.	CMP-071
MANAGEMENT PROCEDURE	VOLUNTARY CARE & MAINTENANCE WORKS ON SHIRE CONTROLLED/OWNED LAND)
RESPONSIBLE DIRECTORATE	WORKS & SERVICES
RESPONSIBLE OFFICER	MANAGER WORKS & SERVICES
PREVIOUS POLICY No.	NIL
RELEVANT DELEGATIONS	NIL

OBJECTIVES:

The verge (nature strip) is the area between the edge of the road and the private property boundary. Street verges are public domain and important for the installation of necessary services such as drainage, power and communication lines, it is important to have rules to manage the safety, access and appearance.

Shire controlled verges are owned by the Crown but vested in the Shire. The purpose of a street verge is to:

- provide a buffer between the road and private property where common public facilities may be placed; and
- provide a section of land where essential services such as power, gas and telecommunications can be placed.

This Management Procedure aims to establish clear and concise conditions and guidelines for volunteers to undertake care and maintenance works on land under the control and or ownership of the Shire.

This Corporate Management Plan needs to be read in conjunction with the Shire of Chapman Valley's Activities in Thoroughfares and Public Places and Trading Local Law. In the event there is any contradiction between the Local Law and Procedure the Local law will take precedence.

MANAGEMENT PROCEDURE STATEMENT/S:

Volunteers undertaking care and maintenance works on land under the control and/or ownership of the Shire are to adhere to the following conditions:

1. Work on Road Verges and Reserves

- (i) All activities and work being undertaken by volunteers on land under the control/ownership of the shire must not adversely affect the public use of such land.

Pedestrians and other public users of land under the control/ownership of the shire will always have primary use of the land and all activities and work being undertaken by volunteers on this land is to cease immediately when such public use is occurring;

- (ii) Unless otherwise approved by the Chief Executive Officer, spaying of chemicals is strictly prohibited to ensure there is no spray-drift onto adjacent land;
- (iii) Burning materials is strictly prohibited;
- (iv) Use of Ride On, Self-Propelled, push mowers, slashers, brush-cutters, etc. is permitted under the condition all mowed material is always discharged away from the road running surface. Such use is permitted subject to the volunteer staying a safe distance away from the road running surface at all times;
- (v) Use of all machinery during total fire ban periods is strictly prohibited;
- (vi) Manual weeding, edging, etc. is permitted subject to the volunteer staying a safe distance away from the road running surface;
- (vii) Disturbing the horizontal and/or vertical alignment of the road verge, table drains, culverts, footpaths, etc. is strictly prohibited and any such disturbance, which requires reinstatement will be undertaken by the Shire at the volunteers costs;
- (viii) Any damage to property crossover(s) (permanent or temporary) incurred by the volunteer whilst undertaking works on Shire controlled/owned land is to be rectified by the volunteer, to the Shire's satisfaction and at the volunteers cost;
- (ix) Any damage to all other private property (e.g. fences, signs, buildings, plant & equipment, flora, fauna, vehicles, etc.) whether on private or public land incurred by the volunteer whilst undertaking works on Shire controlled/owned land is responsibility of the volunteer;
- (x) No structure, item of plant or machinery is to be left on the Shire controlled/owned land under any circumstance. If such items are left on the land the shire has the right to impound these items and seek recompense from the owner of the items and/or the volunteer(s) involved;
- (xi) Declared rare and protected flora is not to be disturbed under any condition. The volunteer(s) undertaking work on Shire controlled/owned land will be responsible to ensure there is no such disturbance and will be liable for any fines and charges as stipulated in legislation if such disturbance occurs;

It is imperative the volunteers enquire into the existence of declared rare and protected flora before proceeding with any works on the land;

- (xii) The volunteer must not disturb any roadside furnishings (e.g. signs, guidepost, etc.). Any such disturbance must be reported to the Shire immediately. The Shire will arrange reinstatement of the item(s) and may seek recompense of cost associated with this work from the volunteer(s);
- (xiii) Fire hydrants cannot be disturbed under any circumstances. This includes, yet is not limited to:
 - a) Damage to the hydrant lid;
 - b) Covering the hydrant lid with any material;
 - c) Damage or relocation of any signage or indicators associated with the hydrant.
- (xiv) All rubbish deposited on the land under the control/ownership of the Shire resulting from works undertaken by the volunteer(s) is to be removed by the volunteer(s). If such removal does not occur to the satisfaction of the Shire this work can be undertaken by the Shire and cost recovered from the volunteer(s);
- (xv) Controlled grazing of Shire road reserves is strictly prohibited. Such an activity on other controlled/owned shire land may be considered upon application, yet no guarantee is given on approval;

2. Work on Medium Strips on Road Reserves

- (i) Due to safety and liability issues work on medium strips on Shire controlled road reserves is strictly prohibited.

3. Public Works

- (i) The Shire will always retain the right to carry out public works on land under the Shire's control/ownership and is not liable to replace or restore any verge treatment and, in particular, any plant or any acceptable material or other hard surface or sprinklers, pipes or other reticulation equipment, etc.

4. Firebreaks

- (i) A person shall not construct a firebreak on a thoroughfare without first obtaining a permit from the Shire. Some areas of the Shire do not permit firebreaks as a fire control measure; therefore permission for firebreaks on thoroughfares in these areas will not be granted;

5. Public Liability Insurance

The Shire has cover for Public Liability protection, which provides cover for the Shire in relation to all sums for which the Shire shall become legally liable to pay by way of compensation in respect of:

- Public Liability
 - a) Personal Injury
 - b) Damage to Property
- Products Liability
- Professional Indemnity

(The above are defined in the protection wording)

Council volunteers conducting authorised Shire activities are deemed to be protected under this policy, subject to the wording limits, extensions and exclusions.

If a volunteer is approached by a third party in relation to personal injury or damage to

property, for which they believe the Shire (or the volunteer) to be responsible, the volunteer must direct the person to their responsible manager.

Under no circumstances does the Shire give permission for the volunteer to admit liability or attempt to resolve the issue.

ADDITIONAL EXPLANATORY NOTES:

ADOPTED/REVIEWED/AMENDED (OTHER THAN ANNUAL REVIEW OF ALL PROCEDURES):

Adopted – Council Resolution:	
Reviewed/Amended – Council Resolution:	

AGENDA ITEM:	9.3.4
SUBJECT:	MANAGEMENT LICENCE – NANSON SHOWGROUNDS
PROPOSER:	GREENOUGH WESTERN RIDING CLUB
SITE:	NANSON SHOWGROUNDS (RESERVE 52196)
FILE REFERENCE:	803.06 & R52196
PREVIOUS REFERENCE:	NA
DATE:	17th FEBRUARY 2016
AUTHOR:	MAURICE BATTILANA, CHIEF EXECUTIVE OFFICER

DISCLOSURE OF INTEREST

Nil

BACKGROUND

The Shire has been working on a Management Licence for the multiuser facility at the Nanson Showground's (Reserve 52196) for a number of years.

The draft presented is based upon the template used for all the users of Shire owned/controlled facilities. The Chapman Valley Agricultural Society, Men's Shed and Yuna Multipurpose Community Centre building have already established Management Licences for the use of building and facilities relevant to them.

There will no doubt be minor changes to individual Management Licences to accommodate for the intricate differences of each building/property and user requirement. However, the basis of the template will be retained.

The intention is the eventually bring all users of Council owned/controlled facilities into line with a standard Management Licence Template for such use - Something which has been lacking in the past.

COMMENT

The Draft Management Licence is presented with this report (**Attachment 1**).

Staff have met with representatives of the Greenough Western Riding Club (GWRC) on a number of occasions over the past six months to develop the attached draft.

Items unique to this draft Management Licence are as follows:

- Clause 3.3 – Exclusive use of particular areas, yet the Stock Pens will remain a shared use area. This was included as the Stock Pens are used on Show day and recently by someone camping at the grounds over night who had a horse;
- Clause 5.1 – The Shire will insure the Stock Pens as this will be shared use area, whereas the GWRC will insure all other licensed areas where they have exclusive use. The Shire is currently insuring these pens under its existing insurance policies;
- Schedule (Item 5) Annual Fee – Set at \$400 (GST Exclusive) and reviewed annually as part of the Shire's Budget process. Current annual fee is \$339 (GST Exclusive).

STATUTORY ENVIRONMENT

The Management Licence will be a legally binding document, which both parties will be required to adhere to.

The Management Licence will also cover the Shire's legal obligation under the Local Government Act for the disposition of property, which includes lease, licence and sale of property under the control/ownership of the local government authority.

POLICY IMPLICATIONS

Council has a number of Policies/Procedures which deal with specific conditions associated with the use of properties under the control/ownership of the Shire. It is anticipated the development of Management Licences will incorporate some of these Policies/Procedures and remove these from policy.

FINANCIAL IMPLICATIONS

The *Licence Fee* set at *Schedule (Item 5)* being linked to *Outgoings*.

Outgoings are clarified under *Clause 1 (Definitions)* of the Draft Agreement and means:

- (a) *local government rubbish collection charges for the Reserve (only if applicable);*
- (b) *water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges (only if applicable);*
- (c) *telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring or telephone connection;*
- (d) *premiums and other costs arising from the insurance obtained by the Lessor pursuant to clause 5.1 (only if applicable). For the avoidance of doubt, the parties agree such insurance will include insurance for the full replacement value of the buildings constructed on the Reserve; and*
- (e) *any other consumption charge or cost, statutory impost or other obligation incurred or payable by the Shire in respect of the Reserve, yet does not include equipment.*

- **Long Term Financial Plan (LTFP):**

The LTFP will not be affected by the Draft Management Licence.

The Draft Management Licence is also explicit on how capital upgrades and/or replacements are to be dealt with i.e.

4.6 No alterations Capital Upgrades and/or Replacement

- (1) *The Shire is not obliged to make any alterations to the Licensed Area or Other Amenities or install any fixtures or fittings that are additional to those installed at the Commencement Date.*
- (2) *Any alteration, capital upgrades/replacements or installation effected by the Association will be at the sole cost of the Association. (see Clause 5.4 for financial assistance). All alterations must fully comply with all building codes, planning and other relevant legislation (e.g. building permits, planning approvals, demolition licences).*
- (3) *The Club agrees that if it effects any alteration or installation in a manner that does not meet the Shire's standards, the Shire may, at the Club's cost, take any action the Shire considers necessary to remove or rectify the alteration or installation, and the cost of doing so will be a liquidated debt payable by the Club on demand and recoverable in a Court of competent jurisdiction.*

STRATEGIC IMPLICATIONS

It is important Council has set Management Licences/Agreements established for the use of facilities controlled/owned by the Shire.

- **Strategic Community Plan/Corporate Business Plan:**

Objective	Strategy	Actions
We need good services to support our development as a Shire	Maintain existing services and facilities	Provide and maintain community buildings and facilities, including roads

CONSULTATION

The establishment of a Management Licence for the Nanson Showground's has been through a consultation period over the past six months with members of the GRWC Members and Shire Staff. In addition there has been prior significant consultation with Council's legal advisors (McLeod's Barristers & Solicitors) to develop a Management Licence Template to use as a basis for establishing other Licences with users of other Shire controlled/owned facilities.

RISK ASSESSMENT

Ineffective Management of facilities/Venues

Failure to effectively manage the day to day operations of facilities and / or venues - This includes:

- Inadequate procedures in place to manage the quality or availability.
- Ineffective signage
- Booking issues
- Financial interactions with hirers / users
- Oversight / provision of peripheral services (e.g. cleaning / maintenance)

VOTING REQUIREMENTS

Simple Majority

STAFF RECOMMENDATION

Council endorses the “*Management Licence for the use of portions of Nanson Showground’s*” at Reserve 52196 as presented and authorise the Chief Executive Officer to finalise the Licence and implement the conditions to be effective immediately, other than the Licence Fee, which will be effective from the 1st July 2016.

Management Licence for use of portions of Nanson Showgrounds

(Reserve 52196)

Shire of Chapman Valley

Greenough Western Riding Club Incorporated



McLEODS

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Details

Parties

Shire of Chapman Valley

of PO Box 1, Nabawa, Greenough Western Australia, 6535
(**Shire**)

Greenough Western Riding Club Incorporated

of PO Box 2185, Geraldton, Greenough Western Australia, 6531
(**Club**)

Background

- A The Shire is the management body of the Reserve, known as Nanson Showgrounds (**Reserve**).
- B The Shire has agreed to grant to the Club a licence to use that part of the Reserve, described in **Item 1** of the schedule (**Licensed Area**), together with any additional rights that are specified in this Licence.
- C In addition, the Shire and the Club have agreed to form the Management Committee, with other users of the Reserve, to deal with the day to day management of the Reserve.
- D The Shire and the Club enter into this agreement to set out the terms and conditions of their agreement.

Agreed terms

1. Definitions

In this Licence, unless otherwise required by the context or subject matter:

Agreed Hours means the hours agreed in advance with the Shire from time to time and specified in **Item 8** of the Schedule;

Club means the Greenough Western Riding Club Incorporated to which this licence is granted;

CEO means the Chief Executive Officer of the Shire;

Commencement Date means the date that the Licence commences;

CPI means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

Good Repair means good and substantial tenantable repair and in clean, good working order and condition;

Licence means this deed as supplemented, amended or varied from time to time;

Licensed Area means those parts of the Reserve that the Club is permitted to use in accordance with the terms of this Licence, as specified in **Item 1** of the Schedule;

Licence Fee means the fee stipulated in **Item 5** of the Schedule;

Management Committee means the management committee established pursuant to **clause 6** of this Agreement;

Minister for Lands means the Minister for Lands in her or his capacity as the body corporate continued under section 7 of the *Land Administration Act 1997*;

Other Amenities means any part of the Reserve or its surrounds that the Club is permitted to use in conjunction with the other users of the Reserve, as specified in **Item 4** of the Schedule;

Outgoings means

- (a) local government rubbish collection charges for the Reserve (only if applicable);
- (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges (only if applicable);
- (c) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring or telephone connection;
- (d) premiums and other costs arising from the insurance obtained by the Lessor pursuant to **clause 5.1** (only if applicable). For the avoidance of doubt, the parties agree such insurance will include insurance for the full replacement value of the buildings constructed on the Reserve; and
- (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by the Shire in respect of the Reserve, yet does not include equipment.

Reserve means Reserve 52196;

Schedule means the schedule to this Licence;

Shire means the Shire of Chapman Valley and its employees and agents; and any other local government authority of the district which may at any time in the future replace the Shire of Chapman Valley

Term means the period of time for which the Licence is granted.

2. Licence condition upon Minister for Lands' consent

This Licence is subject to and conditional on the approval of the Minister for Lands under the *Land Administration Act 1997*.

3. Grant of Licence

3.1 Licence of Licensed Areas

The Shire grants a licence to the Club to use, under the terms and conditions provided for in this agreement, the Licensed Area for the Term.

3.2 Use of Other Amenities

The Licence includes the right to use the Other Amenities.

3.3 Agreed Hours

- (1) The Club is to have use of the following Licensed Areas:

Exclusive Use

Conditional upon the GWRC being able to authorise use of these facilities by others at their discretion

- Western Riding Club Rooms
- Western Riding Club Cutting Arena
- Western Riding Club Arena
- Western Riding Club Sea Container (Storage)

Shared Use

Conditional upon the GWRC have first option over the use of this area for its own functions and organisational needs.

- Western Riding Club Stock Pens –

- (2) The Club must advise the Shire in writing of their preferred hours for the following calendar year by 1 December in each year of the Term for use of the Other Amenities and the Reserve.

3.4 Common Use Areas

All areas not listed as Licensed Areas or Other Amenities are to be considered common use areas available to all user.

4. Club's Obligations

4.1 Licence Fee for Licensed Areas

- (1) The Club must pay annually in advance the Licence Fee for the Licensed Area.
- (2) Unless otherwise agreed by the Shire, the Licence Fee will be reviewed on the dates specified in **Item 7** of the Schedule by CPI. A Licence Fee review based on CPI may (at the Shire's discretion) increase the amount of Licence Fee payable during the immediately preceding period by the percentage of any increase in CPI having regard to the quarterly CPI published immediately prior to the later of the Commencement Date or the last Licence Fee Review

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Date as the case may be and the quarterly CPI published immediately prior to the relevant Licence Fee Review Date. If there is a decrease in CPI having regard to the relevant CPI publications the Licence Fee payable from the relevant Licence Fee Review Date will be the same as the Licence Fee payable during the immediately preceding period.

- (3) If any GST is payable on the Licence Fee or any other supply made as a result of this Licence, the Club must pay that GST.

4.2 Fees for Other Amenities

The parties acknowledge that additional fees may be charged, in accordance with the Shire's standard fees and charges, for use of the Other Amenities.

4.3 Permitted Purpose of Licensed Area

The Club agrees to ensure that the use of the Licensed Area and the Reserve is at all times consistent with the Permitted Purpose (see Item 6 of the Schedule).

4.4 Condition of Reserve and Licensed Area

The Licensed Area and the Other Amenities are made available to the Club in the condition that they are in at the Commencement Date.

4.5 Compliance with Legislation

The Club agrees to comply with all laws, local laws and regulations including (but not limited to) restrictions and obligations imposed by the *Liquor Licensing Act 1988*, the *Food Act 2008* and *Health Act 1911* in respect of the Club's use of any part of the Reserve.

4.6 No alterations Capital Upgrades and/or Replacement

- (1) The Shire is not obliged to make any alterations to the Licensed Area or Other Amenities or install any fixtures or fittings that are additional to those installed at the Commencement Date.
- (2) Any alteration, capital upgrades/replacements or installation effected by the Club will be at the sole cost of the Club (see Clause 5.4 for financial assistance). All alterations must fully comply with all building codes, planning and other relevant legislation (e.g. building permits, planning approvals, demolition licences).
- (3) The Club agrees that if it effects any alteration or installation in a manner that does not meet the Shire's standards, the Shire may, at the Club's cost, take any action the Shire considers necessary to remove or rectify the alteration or installation, and the cost of doing so will be a liquidated debt payable by the Club on demand and recoverable in a Court of competent jurisdiction.

4.7 Security of Licensed Area and its contents

The Club agrees to ensure at all times that the Licensed Area is kept secure and that proper care is taken for the security of fixtures, fittings, plant and equipment owned by the Shire within the Licensed Area.

4.8 Indemnity

- (1) The Club agrees to indemnify the Shire and the Minister for Lands from and against all claims, demands, writs, actions and suits of any kind which may be brought or made against

the Shire and/or the Minister for Lands as a result of the Club's use of the Licensed Area, Other Amenities or its access to the Reserve.

- (2) The Club agrees that the Shire or the Minister for Lands will not be responsible for, or liable in any way in regard to, any property of the Club, or its members, that might be brought onto the Reserve as a result of the Club's use of the Licensed Area and Other Amenities.

4.9 Insurance

- (1) The Club must take out and maintain for the Term, a public liability insurance policy with an insurer approved by the Shire.
- (2) The insurance policy identified in paragraph (1) above must cover both the Shire and the Club for any public liability claim that arises out of, or is connected in any way with, the Club's use of the Licensed Area, Other Amenities or the Reserve generally.
- (3) The amount of the cover given by the insurance policy identified in paragraph (1) above must be a minimum of \$10,000,000 for any one claim or such greater amount as the Shire may reasonably require from time to time.
- (4) The Club must not do anything in the Licensed Area, Other Amenities or the Reserve generally that may affect any insurance taken out by the Shire, or render any such insurance void.
- (5) The Club shall effect and keep effected policies of insurance in relation to any risk relating to the Club's ownership or interest in the Reserve and buildings located on the Reserve including, without limitation, insurance for buildings comprising the Licensed Area

4.10 Entry and Inspection

The Club must permit the Shire to enter the Licensed Area at any reasonable time to inspect and view the area, to carry out any maintenance work or to rectify any breach of the conditions of this Licence.

4.11 Outgoings

- (1) The Shire will be responsible to pay all Outgoings for the Reserve.
- (2) In respect of the recovery of excessive outgoing costs, the parties agree as follows:
 - (a) the Shire will seek to recover such outgoing costs from user group(s) of the Reserve (including the Club) on the basis of an appropriate apportionment determined by the Shire acting reasonably;
 - (b) where an outgoing is incurred due to a user group's specific use of the Reserve, the Shire will seek (where appropriate) for that user group to pay that outgoing; and
 - (c) the Club must pay any invoice issued by the Shire pursuant to paragraph (2) within 30 days of receipt.

4.12 Maintenance and Cleaning

- (1) The Club agrees during the Term to maintain, replace, repair, clean and keep the Licensed Area clean and in Good Repair.

- (2) The Club must keep the Licensed Area clean, tidy and free from rubbish.
- (3) The Club in common with other users of the Reserve must keep the Other Amenities clean, tidy and free from rubbish.
- (4) The Club must leave the Licensed Area and Other Amenities at the end of each period of use in the condition those areas were in at the beginning of the period of use.
- (5) The Shire will take all reasonable steps to ensure that any third party leaves Other Amenities at the end of each period of use in the condition those areas were in at the beginning of the period of use.
- (6) Maintenance for the purposes of paragraph (1) and the standard of the maintenance and the frequency of the repairs and replacements will be the responsibility of the Club and covers:
 - (a) all structural maintenance;
 - (b) general building repairs; and
 - (c) the ongoing repair and replacement of fixtures and fittings.

4.13 Subletting, Assignment or Hire

- (1) The Club may assign, hire or sublet the Licensed Area.
- (2) The Club shall not assign, hire or sublet Other Amenities or parts of the Reserve outside the Licensed Area.

4.14 Club's equipment and possessions

The Club acknowledges that it is responsible to obtain all relevant insurances to cover any damage and/or theft to its property. The Shire does not take any responsibility for the loss or damage of the Club's property.

5. Shire's Obligations

5.1 Building Insurance to be Effected by Shire

The Shire shall effect and keep effected policies of insurance in relation to any risk relating to the Shire's ownership or interest in the Reserve and buildings located on the Reserve other than the Exclusive Use Licensed Area specified in this Licence.

5.2 Shire responsible for Other Amenities

The Shire will maintain the Reserve (excluding the Licensed Area) and the Other Amenities in accordance with the Shire's maintenance standards.

5.3 Shire responsible for Outgoings

Subject to **clause 4.11**, the Shire agrees to be responsible for the Outgoings for the Reserve.

5.4 Consider request for financial assistance

The Shire agrees to consider requests from the Club for financial assistance to assist the Club in the upgrade, repair, structural maintenance and replacement of the Licensed Area.

6. Management Committee

6.1 Establishment

The parties must establish a Management Committee to advise and assist the Shire in the management of the Reserve.

6.2 Role of Committee

The parties acknowledge and agree that the role of the Management Committee is to make recommendations to the Shire in respect of the:

- (a) day-to-day management of the Reserve;
- (b) development of the Reserve;
- (c) the use of the Reserve, including the grant of leases, licences and management agreements over parts of the Reserve; and
- (d) rules and regulations in relation hire of the Licensed Area, the Reserve and the Other Amenities.

6.3 Representatives

- (1) The parties agree that the Management Committee will be comprised of the following representatives:
 - (a) two councillors of the Shire, appointed by the Council of the Shire;
 - (b) two representatives from the Club appointed annually by the Club at its annual general meeting;
 - (c) two representatives of the Chapman Valley Agricultural Society Incorporated appointed annually by the Chapman Valley Agricultural Society Incorporated at its annual general meeting; and
 - (d) any other representative(s) from user groups appointed pursuant to **clause 6.4**.
- (2) A Party may change its nominated Committee Member by written notice to the other Parties.
- (3) The Chairperson of the Management Committee meetings will be one of the Shire's representatives.
- (4) The CEO (or a senior Shire officer as his or her proxy in the event they are unable to attend) will attend the meeting and perform the function of minute taker and advisor to the meeting.

6.4 Additional user groups

- (1) The parties acknowledge and agree that the Management Committee may from time to time by written notice to the other parties, appoint additional community groups to be a member of the Management Committee.
- (2) Upon a community group being appointed by the Management Committee pursuant to paragraph (1), that community group will be entitled to nominate up to two Committee Members.

6.5 Voting

Each Committee Member will have one vote.

6.6 Timing of Meeting

- (1) Meetings of the Management Committee must be held at least once every six months, unless otherwise agreed by the Management Committee.
- (2) The Chairperson in consultation with the CEO will schedule and call meetings of the Management Committee.

6.7 Attendance

Each Party must use all reasonable endeavours to ensure that its Committee Member attends all meetings of the Management Committee.

6.8 Chairperson's obligations

The Chairperson is responsible for:

- (a) ensuring that minutes of all meetings of the Management Committee are kept;
- (b) arranging and co-ordinating minutes of the meetings;
- (c) providing notice of meetings to Committee Members; and
- (d) ensuring that reports are provided to the Shire and all other Management Committee members after each meeting.

6.9 Notice of meetings

A notice of meeting of the Management Committee:

- (a) must be given to each Committee Member of the parties at least 5 Business Days prior to the meeting;
- (b) must describe the business to be conducted at the meeting; and
- (c) In the case of an emergency (as determined by the Chairperson) the Chairperson may call an urgent meeting with prior notice being less than stipulated in clause 6.9(a).

6.10 Reporting

The Management Committee must report any decisions made by it to the Shire.

6.11 Decisions not binding on Shire

The parties acknowledge and agree that the decisions and recommendations of the Management Committee are advisory only, and are not binding on the Shire or the Shire's Council.

7. Default

- (1) This Licence is granted subject to the terms and conditions in this agreement and any failure by the Club to comply with any of those terms or conditions may result in the termination of the Licence by the Shire.
- (2) To terminate the Licence the Shire must give the Club a written notice stipulating the default and requiring the Club to remedy the default within one month of the service of the notice.
- (3) If the default is not remedied to the satisfaction of the Shire within one month of the service of a notice under paragraph (2) above the Licence will be terminated on the date of the expiration of the notice without prejudice to any rights the Shire may have under this agreement.
- (4) A notice under paragraph (2) above is to be sent by prepaid post to the Club at the address given in this agreement and will be deemed to have been served on the date it would have been delivered in the ordinary course of the post.

8. Dispute Resolution

- (1) Any dispute between the Club and the Shire in regard to anything arising from the Licence or this agreement is to be addressed in the first instance by a meeting between representatives of the Club, appointed for that purpose, and the officer of the Shire responsible for administering the Reserve.
- (2) If the dispute cannot be resolved, in a manner that is satisfactory to both parties through such a meeting, the Club agrees that the CEO of the Shire will have the power to make a final determination in resolution of the dispute, but only after giving due consideration to all of the matters discussed at the meeting referred to in paragraph (1) above and setting out in writing the reasons for his or her decision.
- (3) The Club may request the CEO consider the use of an independent arbitrator other than the CEO, which the CEO may take to the Shire for consideration if he/she consider this appropriate.

9. Acknowledgements

The Club acknowledges and agrees that:

- (a) it only has use of the Reserve and Other Amenities during the Agreed Hours and that other users of the Reserve may be permitted to use the Reserve (excluding the Licensed Areas) at other times;
- (b) the Club must book in advance its use of the Reserve and Other Amenities (other than the Licensed Area) through the Shire's booking system;
- (c) the Agreed Hours may for the use of the Reserve and Other Amenities (other than the Licensed Area) be modified from time to time provided any proposed modification is agreed in advance with the Shire and recorded in the Shire's booking system;
- (d) this Licence will automatically terminate if the management order that the Shire holds the Reserve under is revoked;
- (e) if the Licence is terminated in accordance pursuant to paragraph (d) above the Club will not be entitled to any form of compensation or damages as a result of the termination; and
- (f) the Club must not obstruct any person or other organisation from using the Licensed Area and the Reserve outside the Agreed Hours;
- (g) if the Licence is terminated in accordance pursuant to paragraph (d) above the Club will be given 30 days (or an alternative period determined by the Shire) to remove buildings, structure, etc. from the Reserve if requested to do so by the Shire.

10. General Provisions

10.1 Acts by Agents

All acts and things which the Shire is required to do under this Licence may be done by the Shire, the CEO, an officer or the agent, solicitor, contractor or employee of the Shire.

10.2 Governing Law

This Licence is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

10.3 Severance

If any part of this Licence is or becomes void or unenforceable, that part is or will be severed from this Licence to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

10.4 Variation

This Licence may be varied only by deed executed by the parties subject to such consents as are required by this Licence or at law.

10.5 Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Licence do not, to the fullest extent permitted by law, apply to limit the terms of this Licence.

10.6 Further Assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Licence.

10.7 Interpretation

- (1) In this Licence, unless expressed to the contrary -
- (a) words importing -
 - (i) the singular includes the plural and vice versa; and
 - (ii) a gender or genders include each other gender;
 - (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
 - (c) a reference to -
 - (i) a natural person includes a body corporate or local government;
 - (ii) a body corporate or local government includes a natural person;
 - (iii) a professional body includes a successor to or substitute for that body;
 - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
 - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;
 - (vi) a right includes a benefit, remedy, discretion, authority or power;
 - (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - (viii) this Licence or provisions of this Licence or any other deed, agreement, instrument or contract includes a reference to -
 - (A) both express and implied provisions; and
 - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;

- (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
 - (x) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a Club of things or persons is a reference to any one or more of them; and
 - (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Licence;
- (d) the covenants and obligations on the part of the Club not to do or omit to do any act or thing include -
- (i) covenants not to permit that act or thing to be done or omitted to be done by an person authorised by the Club; and
 - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.
- (2) Except in the Schedule, headings do not affect the interpretation of this Licence.

Schedule

Item 1 Licensed Area

- (i) Western Riding Club Rooms;
- (ii) Western Riding Club Cutting Arena
- (iii) Western Riding Club Arena
- (iv) Western Riding Club Sea Container (Storage); and
- (v) Western Riding Club Stock Pens

located on the Reserve (being Reserve 52196, Lot 500 on Deposited Plan 405981) and generally labelled on the sketch annexed hereto as **Annexure 1**.

Item 2 Commencement Date

_____ 2015

Item 3 Term

20 years commencing on _____ 2015 and expiring on _____ 2035.

Item 4 Other Amenities

- (i) Toilets;
- (ii) Trade Display Area; and
- (iii) Bar

located on the Reserve and generally labelled on the sketch annexed hereto as **Annexure 1**.

Item 5 Licence Fee

An annual fee set at a commencement amount of \$400.00 (GST Exclusive) to be review annually at the time Council considers its Draft Budget for the forthcoming year.

Item 6 Permitted purpose

Recreation and showground purposes and uses reasonably ancillary thereto.

Item 7 Licence Fee Review Dates

Each anniversary of the Commencement Date.

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Item 8 Agreed Hours

The Club may use the Licensed Area. However Other Amenities and the Reserve can only be used at times agreed by the Shire in writing.

The Club may use the Other Amenities, in common with other members of the public at times when the Other Amenities are open to the public.

Signing page

EXECUTED

2015

THE COMMON SEAL of the **Shire of Chapman Valley** was affixed by authority of a resolution of the Council in the presence of -

President

Chief Executive Officer

THE COMMON SEAL of Greenough Western Riding Club Incorporated

was hereunto affixed pursuant to the constitution of the Greenough Western Riding Club Incorporated in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in the Greenough Western Riding Club Incorporated indicated under his or her name-

Office Holder Sign

Office Holder Sign

Name:

Name:

Address:

Address:

Office Held:

Office Held:

Minister for Lands Consent

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Annexure 1 – Sketch of Licensed Area & Other Amenities



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10.0 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.0 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

11.1 Elected Member Reports

12.0 URGENT BUSINESS APPROVED BY THE PRESIDING MEMBER OR BY A DECISION OF THE COUNCIL

13.0 MATTERS FOR WHICH MEETING TO BE CLOSED TO MEMBERS OF THE PUBLIC

13.1 Tender 6-15/16 – Supply one (1) Articulated Motor Grader

14.0 CLOSURE